

# **REPORT OF THE AUDITOR-GENERAL ON TANA AND ATHI RIVERS DEVELOPMENT AUTHORITY FOR THE YEAR ENDED 30 JUNE, 2019**

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## **REPORT ON THE FINANCIAL STATEMENTS**

### **Qualified Opinion**

I have audited the accompanying financial statements of Tana and Athi Rivers Development Authority set out on pages 32 to 54, which comprise the statement of financial position as at 30 June, 2019, and the statement of financial performance, the statement of changes in equity, statement of cash flows and the statement of comparison of budget and actual amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I 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 Tana and Athi Rivers Development Authority 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 Tana and Athi Rivers Development Authority Act and the Public Finance Management Act, 2012.

### **Basis for Qualified Opinion**

#### **1. Going Concern Uncertainty**

The Authority recorded a deficit of Kshs.728,814,336 during the year under review raising the cumulative deficit to Kshs.14,682,826,790 (2018: Kshs.13,954,012,453). Further, the current liabilities of Kshs.361,240,530 exceeded the current assets of Kshs.250,233,263 resulting to a negative working capital of Kshs.111,007,267. The Authority was therefore unable to meet its financial obligations as and when they fell due. The deficit was attributed mainly to depreciation charges of Kshs.387,984,973 on Masinga and Kiambere Hydro power facilities and non-remittance of accrued revenue due from the Kenya Power and Lighting Company (KPLC) and Kenya Electricity Generating Company (KenGen) following a Government directive that all revenue from hydroelectric power facilities be remitted to The National Treasury.

The Management has further attributed the negative trend on revenue to the transfer of power generating and transmission assets to KPLC and KenGen in 1987/1988 without commensurate compensation to the Authority. Before the transfer of the assets, the Authority had signed a commercial lease agreement with KPLC whereby Kshs.258,000,000 was to be paid annually for bulk power sales. Based on the Commercial Agreement, a total of Kshs.3,996,000,000 should have been paid to the Authority between 1987/1988 and 1998/1999 before KenGen took over the power generation role from KPLC. However, total payments received for the same period amounted to Kshs.238,333,000 leaving an outstanding balance of Kshs.3,757,667,000.

The Authority's financial statements have therefore been prepared on a going concern basis on the assumption of continued financial support from the National Government, bankers and creditors. The material uncertainty relating to going concern has not been disclosed in the financial statements.

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

### **2.1 Land Without Ownership Documents**

The statement of financial position reflects property, plant and equipment balance of Kshs.9,501,709,070 which includes Kshs.90,903,600 representing the value of three (3) parcels of land located at Kibwezi, Lamu and Kitui measuring 5,392.7 hectares. However, the ownership documents for the parcels have not been provided for audit verification.

### **2.2 Expiry of Lease for the Emali Farm**

The Authority leased Emali Farm situated in Kajiado County for livestock multiplication and breeding. Available information indicates that the lease for the land measuring one hundred and seventy (170) hectares lapsed in 2017 and had not been renewed by the County Government of Kajiado. Although the lease lapsed three years ago, the Authority has not provided evidence of progress towards renewal of the lease, casting doubt on the sustainability of the Authority's operations at the Station.

### **2.3 Fully Depreciated Assets**

Included in the property, plant and equipment balance of Kshs.9,501,709,070 as at 30 June, 2019 are assets whose original cost was Kshs.1,942,275,373 which are fully depreciated but are still in use. These assets have not been revalued and therefore the depreciation has been overstated over the years. Further, Management has not put in place any policy on revaluation of fully depreciated assets.

### **2.4 Masinga Hydro Electric Power Station and Kiambere Hydro Electric Power Station**

The property, plant and equipment balance of Kshs.9,501,709,070 includes Kshs.6,134,385,600 and Kshs.9,385,013,300 relating to Masinga HEP and Kiambere HEP with an accumulated depreciation of Kshs.3,067,192,800 and Kshs.4,692,506,645 respectively. However, the assets were not under the use and maintenance of the Authority.

From the foregoing, the ownership and accuracy of the property, plant and equipment balance of Kshs.9,501,709,070 could not be confirmed.

## **3. Unsupported Revaluation Reserve**

As reported previously, the statement of financial position reflects a revaluation reserve of Kshs.19,697,833,221. However, no documentary evidence was presented for audit to support the revaluation reserve.

In the circumstances, it has not been possible to confirm whether the revaluation reserve balance of Kshs.19,697,833,221 as at 30 June, 2019 is fairly stated.

#### 4. Unremitted Statutory Deductions, Taxes and Unsupported Payables

The statement of financial position reflects a balance of Kshs.361,240,530 under trade and other payables which, as disclosed in Note 24 to the financial statements, includes an amount of Kshs.212,048,366 in respect of un-remitted statutory deductions and other sundry creditors. The latter balance comprised of Kshs.79,180,200 unpaid pension, unremitted Pay As You Earn (PAYE) of Kshs.126,493,784 and other statutory accruals of Kshs.6,374,382. The Authority may incur interest and penalties for failure to remit statutory deductions and taxes on a timely basis.

Included in trade and other payables balance of Kshs.361,240,530 is also an amount of Kshs.129,028,546 relating to creditors account which includes Value Added Tax (VAT) arrears of Kshs.4,768,176 from Masinga Dam Resort, Kshs.12,047,980 being Tana Delta Irrigation Project liabilities for 2014 and earlier years, and Kshs.17,766,418 due to Economic Stimulus Programme (ESP) Contractors. However, no supporting documentation was provided for audit verification in support of the liabilities.

In the circumstances, it has not been possible to confirm the accuracy, validity and completeness of the reported trade and other payables balance of Kshs.361,240,530.

#### 5. Trade and Other Receivables

The statement of financial position reflects a balance of Kshs.168,366,673 under trade and other receivables. However, as disclosed at Note 18 to the financial statements, the balance was net of Kshs.1,261,117,834 specific provision for bad debts relating to bulk power sales to KPLC for periods prior to April 1988. Although Management has explained that the matter was being handled by the Public Investments Committee, the dispute had not been resolved as at the time of the audit.

Further, the reported receivables balance included long outstanding receivables totalling Kshs.44,491,484 as tabulated below:

Details	Amount (Kshs.)
Ex-staff debtors	12,574,315
Tana Delta Irrigation Project	6,093,994
External Debtors	5,693,710
Staff Debtors	1,049,519
Tana Delta Resort External Debtors	5,728,746
Staff Debtors	1,036,448
Masinga Dam Resort Debtors	8,766,107
KenGen Bills	2,865,875
Individual Bills	682,770
<b>Total</b>	<b>44,491,484</b>

In the circumstances, it has not been possible to confirm the accuracy, validity and full recoverability of the reported trade and other receivables balance of Kshs.168,366,673.

#### 6. Unsupported Work In Progress

The statement of financial position reflects a balance of Kshs.257,273,943 under work in progress which, as disclosed in Note 14 to the financial statements, includes an amount of Kshs.234,152,289 relating to the Tana Delta Irrigation Project. The works related to construction of staff houses in Garsen and commenced in 1990. However, as previously reported, no documents were provided for audit verification in respect of the Project. Further, the physical condition of the works has continued to degenerate thereby raising doubts on the value for money and the carrying amount in the financial statements.

## **7. Short term Lease Agreement at Queensway House, Nairobi**

The statement of financial performance reflects operation and maintenance expenses of Kshs.67,763,912 which, as disclosed in Note 7 to the financial statements, included rent and rates expenditure of Kshs.17,506,363. The rent related to a one-year lease for the Authority's Offices at Queensway, Nairobi. However, The Authority did not provide a fully executed lease agreement for audit verification.

In the circumstances, the accuracy and the legality of the rent and rates expenditure of Kshs.17,506,363 could not be confirmed

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the Tana and Athi Rivers Development Authority 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**

## **Unresolved Prior Year Audit Matters**

As disclosed at the Progress on Follow Up of Auditor's Recommendations section of the financial statements, prior year audit matters remained unresolved as at 30 June, 2019.

## **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**

## **Delayed Completion of Executive Rooms at Masinga Dam**

Included in work in progress balance of Kshs.257,273,943 is also an amount of Kshs.23,121,654 in respect of Masinga Dam Resort where construction of eight (8) new executive rooms was ongoing. The works were awarded to a contractor at a contract sum of Kshs.28,476,674 in April, 2016. The works commenced in May, 2016 and were scheduled for completion in December, 2016. However, as at the time of audit, the works were 90% complete. As previously reported, no explanation was provided for the delay in the completion of the project.

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, except for the matter described in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance sections of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

### **Basis for Conclusion**

#### **Manual Accounting Records**

A review of the Accounting System in place revealed that the Authority's financial records were mainly manual with ledgers maintained in excel work sheets despite the expansive operations of the Authority both in Tana and Athi River Basins. Maintenance of manual records hinders real-time monitoring of the operations and transactions are also prone to errors and manipulation or even use of non-official records especially for revenue receipts. Further, there was no evidence of independent checks of the receipt books and cashbooks maintained at the Stations. Further, excel ledgers availed for audit mainly had monthly totals but lacked individual transactions details required to validate the amounts.

In the circumstances, the weaknesses in the internal controls system may be exploited leading to loss of public resources entrusted to the Authority.

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 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, risk management and governance.

In preparing the financial statements, Management is responsible for assessing the Authority's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the applicable basis of accounting unless the Management is aware of intention to either terminate the Authority or to cease its operations.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

In addition to the responsibility for the preparation and presentation of the financial statements described above, Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them, and that public resources are applied in an effective way.

Those charged with governance are responsible for overseeing the Authority'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 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 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 Authority'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 Authority'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 Authority 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 Authority 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**

**19 August, 2021**