

# REPORT OF THE AUDITOR-GENERAL ON TANATHI WATER WORKS DEVELOPMENT AGENCY 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 Tanathi Water Works Development Agency set out on pages 1 to 49, which comprise the statement of financial position as at 30 June, 2019, and statement of financial performance, statement of changes in net assets, 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, the financial position of the Tanathi Water Works Development Agency 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 Water Act, 2016.

### Basis for Qualified Opinion

#### 1.0 Unrecorded Revenue

The statement of financial performance reflects revenue from non-exchange transactions - Grants of Kshs.199,653,496; (2018 - Kshs.339,868,103) and as disclosed under Note 5 to the financial statements. However, confirmation from the parent Ministry revealed that an amount of Kshs.1,428,405,364 was disbursed to the Agency during the year resulting in unreported revenue of Kshs.1,228,751,868. The detailed analysis is as shown in the table below:

Source	Disbursements as per Parent Ministry (Kshs.)	Reported Disbursements (Kshs.)	Variance (Kshs.)
GOK Recurrent Grant	57,230,000	57,230,000	0
GOK Development Grant-Financed Recurrent Expenditure	60,330,558	60,330,558	0
Water for Schools Grant	18,450,000	18,450,000	0

Drought Mitigation Grant	70,750,000	63,642,938	(7,107,062)
GOK Development Grant	221,644,806	0	(221,644,806)
Mavoko Drinking water direct payment	1,000,000,000	0	(1,000,000,000)
<b>Total</b>	<b>1,428,405,364</b>	<b>199,653,496</b>	<b>(1,228,751,868)</b>

In the circumstances, the completeness and accuracy of the reported revenue from non-exchange transactions - Grants amount of Kshs.199,653,496 for the year ended 30 June, 2019 could not be confirmed.

## 2.0 Sustainability of Services

The financial statements for the Agency have been prepared on a going concern basis. However, the statement of financial performance reflects revenue of Kshs.199,653,496 against expenditure of Kshs.532,408,580 resulting to a deficit of Kshs.332,755,084 (2018: Kshs.45,838,943). Further, the accumulated deficit increased from Kshs.1,301,646,364 in 2018 to Kshs.1,634,401,448 as at 30 June, 2019.

If measures are not put in place to reverse the trend, the Agency is likely to face financial challenges in future. Management has not disclosed this fact by way of notes in the financial statements.

## 3.0 Retention Amount

The statement of financial position reflects creditors and accruals balance of Kshs.334,178,932; (2018-Kshs.325,546,755) and as disclosed in Note 15 to the financial statements. Included in this amount is 10% retention money amounting to Kshs.115,940,481. However, the corresponding account meant to receive retention monies held at the Kenya Commercial Bank - Kitui reflects a balance of Kshs.4,178,077 resulting in a variance of Kshs.111,762,404. Management has not explained how the withheld amounts from suppliers during the defect liability period has been applied.

In the circumstances, the accuracy of the creditors and accruals balance of Kshs.334,178,932 as at 30 June, 2019 could not be confirmed.

## 4.0 Property, Plant and Equipment

The statement of financial position reflects Property, Plant and Equipment (PPE) balance of Kshs.5,615,457,147; (2018-Kshs.6,548,298,283) and as disclosed under Note 12 (a) to the financial statements. The following observations were made regarding PPE: -

### 4.1. Revaluation of Assets

The balance includes a Nil net book value for Motor Vehicles and Kshs.292,000 for Plant and Machinery with historical costs of Kshs.95,386,339 and cost Kshs.10,059,876 respectively. The two categories of assets continue to accrue benefit to the Agency and should be revalued to reflect their fair carrying value in accordance with the requirements of International Public Sector Accounting Standards (IPSAS) 17. The standard requires

the residual value and the useful life of an asset be reviewed at least once in each annual reporting date and if expectations differ from previous estimate, the changes be accounted for as a change in the accounting estimates.

In the circumstance, the value of the Motor Vehicles and of the Plant and Machinery may be understated.

#### **4.2. Assets Without Ownership Documents**

The statement of financial position reflects Property, Plant and Equipment (PPE) balance of Kshs.5,615,457,147 and as disclosed under Note 12 (a) to the financial statements. Included in this balance are the following assets whose ownership could not be confirmed;

- i. Three (3) parcels of land at Mavoko Municipality, Wiikinye and Matinyani/Kalia valued at Kshs.5,250,000, Kshs.210,000 and Kshs.80,000 respectively.
- ii. Three motor vehicles of undetermined value transferred to the Agency from Yatta Canal rehabilitation project which have not been registered in the name of the Agency.
- iii. Audit verification of the work in progress at Migwani Water Supply Project revealed that the land on which the borehole, pump house, re-enforced concrete wall tank and the machine operator house were constructed on had no ownership documents. Although, the Management explained that the water kiosk is constructed on a donated piece of land, agreement documents were not availed for audit review.
- iv. Included in the work in progress is an amount of Kshs.21,328,780 in respect of Kiambere Mwingi Water Supply Project. Audit verification revealed that the land on which the water treatment plant was to be constructed had no ownership documents.

In the circumstances, the accuracy and ownership of the Property, Plant and Equipment balance of Kshs.5,615,457,147 as at 30 June, 2019 could not be confirmed.

#### **5.0 Development Expense**

The statement of financial performance reflects development expense of Kshs.97,525,866; (2018 - Kshs.209,689,292) and as disclosed under Note 11 to the financial statements. Included in this expenditure is an amount of Kshs.43,077,218 on account of drought mitigation out of which an amount of Kshs.19,841,588 was in respect of drought mitigation to eight (8) service providers for the drilling, equipping, casing and test pumping of eight (8) boreholes. However, supporting documents including approved requisition from the user departments and minutes of evaluation committee were not provided for audit review. In the circumstances, the validity of the development expense amounting to Kshs.97,525,866 for the year ended 30 June, 2019 could not be confirmed.

## **6.0 Debtors and Prepayments**

Similarly, and as reported in the previous year, the statement of financial position reflects debtors and prepayments balance of Kshs.253,021,373; (2018 - Kshs.538,011,612) and as disclosed in Note 13 to the financial statements. Included in the balance are long outstanding debts owed to the Agency by the Ministry of Water and Sanitation and the District Water Offices of Kshs.19,896,517 and Kshs.1,672,425 respectively. The debts have been outstanding since November, 2012 casting doubt on their recoverability. Although the Agency had sent reminders to the Ministry of Water and Sanitation to reimburse the money through a letter dated 18 February, 2013 and referenced TAWSB/ADM 21 Vol.VI (124), there was no evidence of further action or follow up on the recoveries.

In the circumstances the recoverability, of debtors and prepayments balance of Kshs.253,021,373 as at 30 June, 2019 is in doubt.

## **7.0 Discrepancies in Revenue and Expense Figures**

The statement of comparison of budget and actual amounts reflects actual revenue for the year of Kshs.262,653,496 which differs with the reported revenue in the statement of financial performance amount of Kshs.199,653,496 resulting in an unexplained and unreconciled variance of Kshs.63,000,000.

Further, the statement reflects expenditure amount of Kshs.434,882,714 which differs from the statement of financial performance amount of Kshs.532,408,580 resulting in an unexplained and unreconciled variance of Kshs.97,525,866.

## **8.0 Non-Repayment of Exchequer/ African Development Bank Loan**

The statement of financial position discloses a loan balance amount of Kshs.5,149,753,042 (30 June 2018 - Kshs.6,222,751,528) being loan amount due to the African Development Bank. The Agency received funding from the African Development Bank in an agreement with the Government contributing an amount of USD 53,913,490 (Kshs.5,149,753,042) towards the loan in a contract dated 10 September, 2010. The Agency was to pay to the National Treasury the principal amount in 52 consecutive semi-annual instalments commencing from 30 April, 2016.

Further, the Agency was to pay interest on the principal amount at the rate of 3% per annum for a period of 30 years. Also, the financing agreement provided for interest to accrue on any unpaid principal or interest amounts. However, the Agency had not commenced repaying the loan as of 30 June, 2019 resulting in default and did not provide for the interest on unpaid principal or interest amounts.

Consequently, the accuracy of the loan balance amount of Kshs.5,149,753,042 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the Tanathi Water Works Development Agency 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 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.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **Conclusion**

As required by Article 229(6) of the Constitution, because of the significance of the matters discussed in the Basis for Lawfulness and Effectiveness in Use of Public Resources sections of my report, based on the audit procedures performed, 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 of Conclusion**

#### **1.0 Regional Balance**

As reported in the previous year, a review of the staff ethnic composition at the Agency revealed that the dominant community accounted for 72.5% of the total employed staff. Consequently, the Agency is in breach of Section 7(1)(2) of the National Cohesion and Integration Act, 2012 which stipulates that no public establishment shall have more than one third of its staff from the same ethnic community.

#### **2.0 Work in Progress**

As reported previously, the statement of financial position reflects Work In Progress of Kshs.4,310,821,181 as disclosed in Note 12(b) to the financial statement. Included in this expenditure is Work in Progress for the Migwani Water Supply Project with a Nil expenditure and the Kiambere Mwingi Water Supply and Sanitation Project with an amount of Kshs.21,328,780 expenditure. The two projects had not been completed as at the time of audit. The following was also noted regarding the two projects;

- i. The perimeter fence had not been constructed at the Migwani Water Supplies Project.
- ii. The Kiambere Mwingi Water Supply and Sanitation Project was planned to commence on 27 January, 2017 with an estimated contract period of 600 days

ending 12 October, 2018. However, there was no evidence of contract extension as at 30 June, 2019 more than sixteen (16) months after the contract expiry date.

Consequently, value for money on the two projects had not been realised.

### **3.0 Procurements Outside the Procurement Plan**

The Agency incurred expenditure amounting to Kshs.24,507,917 on account of community water projects. However, the projects had not been factored in the procurement plans of the Agency. This was contrary to Section 45(3)(a) of the Public Procurement and Asset Disposal Act, 2015 which requires that all procurements be within the budget of the procuring entity and be planned by the procuring entity concerned through the annual procurement plan.

Consequently, the Agency was in breach of law.

### **4.0 Drilling of Kalambani Primary School Borehole**

The Agency entered into a contract for drilling and casing of Kalambani primary school borehole at Emarti at a contract cost of Kshs.3,936,808. The contract amount was paid during the financial year under review. The scope of works included; supply and installation of 6-inch steel casing slotted screens at all required sections of the borehole and gravel packing in the borehole as directed by the site geologist, the construction of concrete slump and welding of the borehole top cap. However, according to the certificate of completion, the works were not completed, and the water sampling and testing was not done prior to payment.

In the circumstances, the value for money from the expenditure of Kshs.3,936,808 for the year ended 30 June 2019 could not be confirmed.

### **5.0 Non-Compliance with the One Third of Basic Salary Rule**

During the year ended 30 June, 2019, seven (7) employees earned a net salary of less than a third (1/3) of the basic salary. This was contrary to Section 19(3) of the Employment Act, 2007 which requires that deductions made by an employer from the wages of his employee at any one time shall not exceed two thirds of such wages. Management did not provide explanation for failure to comply with the policy.

Consequently, the Agency was in breach of law.

### **6.0 Irregular Issuance of Imprests**

The statement of financial performance reflects administration and general expenses balance of Kshs.267,967,853 and as disclosed under Note 9 to the financial statements. Included in the amount is Kshs.24,963,648 on account of local travel and accommodation which also includes imprest amount of Kshs.5,508,380 paid out to staff as imprest. However, approval for the imprests was granted post facto with the expenditures being

claimed after the travel. This is contrary to Section 91(2) of the Public Finance Management Act, 2012 which requires pre-travel expenditure approval, and funding via an imprest warrant.

In the circumstances, Management was in breach of law.

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 OVERALL 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 for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, 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 overall 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 overall governance.

In preparing the financial statements, Management is responsible for assessing the Agency'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 terminate the Agency 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.

The Board of Directors are responsible for overseeing the Agency'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 overall 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 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 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 Agency'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 Agency 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 Agency 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**

**26 April, 2021**