

REPORT OF THE AUDITOR-GENERAL ON NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY FOR THE YEAR ENDED 30 JUNE, 2019

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of National Environment Management Authority set out on pages 1 to 22, which comprise the statement of financial position as at 30 June, 2019, and the statement of financial performance, statement of changes in net assets, statement of cash flows and 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 National Environment Management 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 Environment Management and Coordination (Amendment) Act, 2015.

Basis for Qualified Opinion

1.0 Property, Plant and Equipment

As similarly reported in the previous year, the property, plant and equipment balance totalling Kshs.333,967,000 as at 30 June, 2019 does not include the value of nine (9) parcels of land located in Kilifi, Lamu, Taita Taveta, Homa Bay, Isiolo, Embu, Kajiado, Elgeyo Marakwet, and Samburu Counties. In addition, ownership documents for the lands were not provided for audit review.

Consequently, the accuracy, completeness and ownership of the property, plant and equipment balance totalling Kshs.333,967,000 as at 30 June, 2019 could not be confirmed.

2.0 Receivables

The statement of financial position as at 30 June, 2019 reflects receivables totalling Kshs.169,641,000 as further disclosed in Note 17 to the financial statements. The balance includes imprests and advances totalling Kshs.29,896,000 which had not been surrendered by the close of the year under review on 30 June, 2019. Included in the balance were salary advances totalling Kshs.46,333 and imprests totalling Kshs.7,100,580 which had been outstanding for more than (4) four years.

No plausible explanation was provided by Management for the failure to recover the old outstanding balances.

Further, the Authority owed Adaptation Fund Kshs.126,802,000 as at 30 June, 2019 being grant monies transferred to implementing entities as tabulated below:

	Transferee Entity	Amount Transferred Kshs.
1.	Kenya Forestry Research Institute (KEFRI)	39,252,368
2.	Tana and Athi River Development Authority (TARDA)	76,968,982
3.	Coast Development Authority (CDA)	10,580,367
	Total	126,802,000

The payees were expected to have accounted for the transfers to the Accounting Officer in accordance with the requirements of Section 71(1-2) of the Public Finance Management Act, 2012. The provision requires public officers to whom cash advances are made to account for the advance within a reasonable period.

In view of these issues, it has not been possible to confirm the recoverability of the receivables balance totalling Kshs.169,641,000 as at 30 June, 2019.

3.0 Uncertainty on Sustainability of Services

The statement of financial performance indicates that during the year under review, the Authority recorded an operating loss totalling Kshs.63,402,000, compared to a loss of Kshs.138,191,000 in 2017/2018, which increased its cumulative deficit to Kshs.78,326,000 as at 30 June, 2019. Further, the statement of financial position as at 30 June, 2019 reflects current liabilities totalling Kshs.1,281,653,000 and current assets totalling Kshs.1,068,732,000 resulting to a negative working capital of Kshs.212,921,000 as at 30 June, 2019 which indicates the Authority is technically insolvent.

In the circumstance, sustainability of the Authority's operations is dependent upon the financial support of the Government and creditors.

Management has not indicated the measures it has taken, or intends to take to reverse the unsatisfactory financial performance.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of National Environment Management 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 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. I have determined that there are no key audit matters to communicate in my report.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, based on the audit procedures performed, 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, RISK MANAGEMENT AND GOVERNANCE

Conclusion

As required by Section 7(1)(a) of the Public Audit Act, 2015, based on the audit procedures performed, except for the matters described in the Basis for effectiveness of internal controls, risk management and governance section of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and governance were not effective.

Basis for Conclusion

Irregular Board Expenses

Examination of records on Board expenses indicated that the expenses rose from Kshs.21,676,000 in 2017/2018 financial year, to Kshs.43,048,000 in the year under review, denoting an increase of 98% in one year. The Board's Work Plan indicated that a total of four (4) meetings for the full Board and the four (4) Standing Committees had been planned for the year. However, Board expenses incurred and attendance registers indicated that a total of 84 ordinary and special meetings were held by the Board and the Standing Committees in the year under review as tabulated in the following table:

Description		Ordinary Meetings	Special Meetings	Total Meetings	Average Meetings Per Month
1.	Board of Management	8	18	26	2.1
2.	Finance and Human Resource Committee	6	19	25	2.1
3.	Audit, Governance and Risk Management Committee	6	3	9	1
4.	Environmental Management and Conservation Technical Committee	5	5	10	1
5.	Strategy, Legal and Resource Mobilization Committee	9	5	14	1
Total		34	50	84	7

The records indicated that payments for sitting allowance totalling Kshs.609,542 were attributed to meetings held by one person, being the only one who signed the attendance register. The minutes of the meetings were not provided audit review and as a result, the validity of the payments could not be confirmed.

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 Board of Directors

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 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 Authority, 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 way.

The Board of Directors is 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 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 Authority'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 Authority 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 Authority to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with 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 communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.



CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

10 January, 2022