

REPORT OF THE AUDITOR-GENERAL ON TOURISM REGULATORY AUTHORITY FOR THE YEAR ENDED 30 JUNE, 2019

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of Tourism Regulatory Authority set out on pages 1 to 28 which comprise the statement of financial position as at 30 June, 2019, and the statement of financial performance, statement of changes in equity, 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 the Tourism Regulatory Authority as at 30 June, 2019, and its financial performance cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Accrual Basis) and comply with the Tourism Act No.28 of 2011.

Basis for Qualified Opinion

1.0 Unconfirmed Receipts from State Department of Tourism

The statement of financial performance reflects National Government grants totalling Kshs.180,854,139 received from the State Department of Tourism in the year under review, as further disclosed in Note 7 to the financial statements. However, examination of the Department's accounts revealed that disbursements to the Authority in the year under review totalled Kshs.158,854,139 only. The variance amounting to Kshs.22,298,000 between grant records in the two entities was not explained.

As a result, the accuracy and completeness of the National Government grants balance totalling Kshs.180,854,139 reflected in the statement of financial performance could not be confirmed.

2.0 Unrecognized Assets

The statement of financial position reflects property, plant and equipment balance totalling Kshs.74,255,522 as at 30 June, 2019. However, the schedule of the assets provided for audit did not include some assets reflected in the Authority's electronic manual asset registers. Further, as similarly reported in the previous year, the Authority did not include in its books assets worth Kshs.54,363,550 inherited from the Ministry of Tourism and from which the Authority derived economic benefit in the year under review.

In view of these issues, the accuracy and completeness of the property, plant and equipment balance totalling Kshs.74,255,522 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of Tourism Regulatory 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 were no key audit matters to report in the year under review.

Other Matter

1.0 Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted and actual revenue totalling Kshs.395,856,000 and Kshs.402,527,571 respectively resulting in a surplus of Kshs.6,671,571. The revenue surplus resulted from unexpected receipts in license fees and arrears, rendering of services, and in other income.

The statement further reflects budgeted and actual expenditure of 395,856,000 and Kshs.363,289,699 respectively resulting in under-expenditure of Kshs.32,566,301. The under-expenditure mainly related to compensation of employees and other income.

Overall, the Authority recorded a surplus of Kshs. 39,237,872 that resulted from the revenue surplus and the under-expenditure.

2.0 Prior Year Issues

The report for the previous year raised staffing issues. Management has not indicated the status of the issues as at 30 June, 2019 and therefore these are considered as outstanding.

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

1.0 High Wage Bill

Examination of expenditure records indicated that the Authority spent Kshs.158,830,397 on compensation of employees in the financial year under review. The expenditure was equivalent to 39.5% of its revenue for the year totalling Kshs.402,527,571. The high ratio of employee expenses was contrary to Regulation 26(1)(a) of the Public Finance Management Act, 2015, Regulations which limits expenditure on compensation of employees in public entities to 35% of the revenue raised.

Consequently, the Management may have breached the law.

2.0 Incomplete Board of Directors

Records on the Board of Directors indicated that the Authority operated without a full Board for nine months to June, 2019.

Minutes of the Technical Committee's meeting held on 22 January, 2019 indicated that, the Board Chairman expressed hope that a full Board would be in place before the lapse of the contract for the consultant appointed to write the Authority's Strategic Plan so that the members may provide input on the Plan. However, at the time of audit in October, 2019, the Board had not been appointed.

In the absence of a full board, effective stewardship of the Authority's mandate, and governance and oversight over its operations, were not properly established.

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 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

Lack of a Disaster Recovery Plan

As similarly reported in the previous year, the Authority did not have a disaster recovery plan for its Information Communication Technology (ICT) system during the year under review. As a result, its operations may be disrupted on occurrence of unfavorable events that affect the system.

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 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 dissolve 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 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 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 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

14 January, 2022