

REPORT OF THE AUDITOR-GENERAL ON KENYA UTALII COLLEGE FOR THE YEAR ENDED 30 JUNE, 2020

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of Kenya Utalii College set out on pages 1 to 32, which comprise the financial position as at 30 June, 2020, and the statement of financial performance, statement of cash flow, statement of changes in net assets, consolidated statement of comparison of budget and actual amounts and notes to the financial statements 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 Kenya Utalii College as at 30 June, 2020, 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 Tourism Act No.28 of 2011 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1. Trade and Other Payables

The statement of financial position reflects a balance of Kshs.4,970,688,767 under trade and other payables from exchange transactions which, as disclosed in Note 17 to the financial statements, includes an amount of Kshs.4,060,280,428 in respect of accrued GoK interest. The accrued GoK interest represents 82% of the total trade and other payables from exchange transactions balance of Kshs.4,970,688,767 and has remained unsettled for considerable period of time.

Under the circumstances, the College's ability to settle bills when they fall due appears doubtful.

2. Long Outstanding Receivables

2.1 Receivables from Exchange Transactions

The statement of financial position reflects a balance of Kshs.817,250,223 under receivables from exchange transactions which includes an amount of Kshs.195,075,085 which has been outstanding for a period of more than one year and its recoverability is doubtful. Out of this amount, Kshs.6,153,518 is from former staff, Kshs.2,795,028 is from insolvent or inactive entities and Kshs.186,126,539 has been outstanding for a period between one to eight years.

Further, existence and value of the debts could not be confirmed as confirmation letters of the balances from the debtors were not received.

2.2 Receivables from Non-Exchange Transactions

The statement of financial position reflects a balance of Kshs.129,903,787 under receivables from non-exchange transactions which includes an amount of Kshs.116,205,822 which has been outstanding for a period of between four and seven years. Efforts made to recover long outstanding amount was not disclosed.

Consequently, it was not possible to confirm the accuracy, completeness and recoverability of receivables from non-exchange transactions balances of Kshs.129,903,787 as at 30 June, 2020.

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

Emphasis of Matter

Material Uncertainty Relating to Going Concern

During the year under review, the College reported a deficit of Kshs.467,551,358 (2019 of Kshs.430,649,313) while the current liabilities of Kshs.5,155,720,835 exceeded current assets of Kshs.1,128,663,167 resulting to a negative working capital of Kshs.4,027,057,668 as at 30 June, 2020. The College is therefore, technically insolvent and its continued existence as a going concern is dependent on financial support from the Government and its creditors. These events or conditions, indicate that a material uncertainty exists that may cast significant doubt about the College's ability to continue as a going concern.

My opinion is not modified in respect of this matter.

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. Budgetary Controls and Performance

During the year under review, the College had an expenditure budget of Kshs.1,087,286,786 but spent Kshs.1,339,418,551 resulting to an over expenditure of Kshs.252,131,765 or 23%. The over expenditure has not been supported by a supplementary budget or authorization by the College Council.

2. Ronald Ngala Utalii College

As previously reported, the College had been initially established as Kenya Utalii College, Coast branch vide Cabinet Memo Ref: CAB.58/4A of 18 September, 2007 at REA Vipingo site on 60 acres of land donated by REA Vipingo Plantations Limited.

The development of the College was transferred to Catering and Tourism Development Levy Trustees (now Tourism Fund) from Kenya Utalii College and a process began to change and legalize the College name to Ronald Ngala Utalii College without Cabinet approval. By a Gazette Notice No.3478 of 25 March, 2010, the then Tourism Minister established Ronald Ngala Utalii Academy which was now different from the envisaged name of the “College” and further appointed Board Members of the Academy through Gazette Notices of 6 August, 2010 and 5 November, 2010. However, these appointments were nullified in 2012 alongside those of other Tourism Agencies by the subsequent Minister for Tourism. In view of the change of name from Ronald Ngala Utalii College to Ronald Ngala Utalii Academy, there are uncertainties as to the name the new title deed will be registered in.

Physical verification revealed that there was development taking place on the ground being undertaken by Tourism Fund. The Kenya Utalii College recognized the land valued at Kshs.250 million in its financial statements excluding the buildings. However, the buildings are not accounted for in the books of the Kenya Utalii College or in the books of the Tourism Fund. Further, the funds utilized in the construction have not been accounted for in the books of the College.

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. Loan from Government of Kenya

As previously reported, the College had not complied with the loan agreement signed between College and the Government of Kenya for a loan of Kshs.140 million advanced to the College in February, 1996 to refurbish the Kenya Utalii Hotel. Payment for the loan amounted to Kshs.13 million as at 30 June, 2017 and since then no further payment has been made by the College. As reflected under Note 17 to the financial statements, accumulated interest as at 30 June, 2020 amounted to Kshs.4,060,280,428 and outstanding loan of Kshs.122,125,028 totaling to Kshs.4,182,405,456 being liability from interest and penalties on the initial loan of Kshs.140 million.

Although the College had entered into negotiations with the Government to have the loan together with accumulated interest written off, no meaningful progress in this regard had been recorded. Further, the accrued interest is more than the Principal amount to the tune of 4 billion which is contrary to the Banking Amendment Bill 2019 which states that the total interest and penalties should not be more than the principal loan advanced.

2. Non Remittance of Statutory Deductions

During the year under review, the College failed to remit Value Added Tax (VAT) deductions amounting to Kshs.241,972 to the Kenya Revenue Authority. This is in contrary to Sections 37 and 130 of the Income Tax Act which require VAT to be remitted by the twentieth day of the month following the charge. Further, failure to remit statutory deductions on a timely basis may attract interest and penalties.

Consequently, the Management was in breach of the 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 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 of 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 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 College's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the Management is aware of the intention to terminate the College 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.

Those charged with governance are responsible for overseeing the College'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 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 College's ability to continue as a going concern. 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 College to cease to continue as a going concern.
- 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 College 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.



CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

26 January, 2022