REPORT OF THE AUDITOR-GENERAL ON NORTHERN WATER WORKS DEVELOPMENT AGENCY FOR THE YEAR ENDED 30 JUNE, 2020

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of Northern Water Works Development Agency set out on pages 1 to 19, which comprise of the statement of financial position as at 30 June, 2020, statement of financial performance, statement of cash flows, statement of changes in net assets, 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 effects of the matter described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of Northern Water Works Development Agency as at 30 June, 2020, and of its financial performance and its cash flows for the year then ended, in accordance with the International Public Sector Accounting Standards (Accrual Basis) and comply with the Water Act, 2016 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1. Unbudgeted Payment on Court Award

Review of records revealed that the Management paid an amount of Kshs.133,720,116 which comprised of an amount of Kshs.85,877,290 for delayed payments and an amount of Kshs.47,842,826 for accrued interest and other court related costs to a contractor for work done and interest on delayed payment for the rehabilitation and augmentation of Garissa Sewerage Project, Lot I. The amount paid to the contractor had not been budgeted for and was therefore re-allocated and not used for the intended purpose. No proper explanation was given why the Agency failed to honor contract obligations that resulted to unfavorable court rulings and why measures were not taken to mitigate the court rulings.

In the circumstances, the accuracy, completeness and validity of expenditure totalling to Kshs.133,720,116 for the year 30 June, 2020 could not be confirmed.

2. Unbudgeted Board Expenses

As disclosed in Notes 9 and 14c to the financial statements, the statement of financial performance reflects board expenses totalling to Kshs.17,454,654. The balance includes an amount of Kshs.13,078,304 from recurrent budget and charged as board expenses (institutional expenditure) and an amount of Kshs.4,376,346 from development budget
and charged as board expenses (project cost). The board expenses had an approved allocation totalling to Kshs.12,800,000. However, the Management incurred the expenditure without having an appropriation of the expenditure item in the budget.

In the circumstances, the accuracy, completeness and validity of board expenses totalling to Kshs.17,454,654 for the year ended 30 June, 2020 could not be confirmed.

3. Unsupported Drought and Flood Mitigation Expenses

As disclosed in Note 14 to the financial statements, the statement of financial performance reflects project costs totalling to Kshs.702,350,619. The balance includes procured works for construction of ground and underground level masonry water tanks worth Kshs.13,612,497. It was noted that a provisional sum totalling to Kshs.800,000 was made in the bills of quantities as supervision cost to cover allowance for personnel and other office expenses. However, there was no documented evidence to confirm the utilization of provisional sum was requested and approved by the Evaluation Committee. This is contrary to requirement of Section 139(e) of Public Procurement and Asset Disposal Act, 2015.

Consequently, the probity of the expenditure of Kshs.13,612,497 for the year ended 30 June, 2020 could not be confirmed.

4. Unsupported Monitoring and Evaluation Expenses

The Management made payments amounting to Kshs.3,953,619. The balance includes cash purchases totalling to Kshs.299,000 made on procurement of various items for repair of boreholes, genets and services of pumps. This was contrary to provisions of the Public Procurement and Disposal Regulation, 2006 which limit maximum ceiling of low value procurements of goods and services to an amount of Kshs.30,000 per procurement per item. Further, there was no evidence that Management relied on any price market survey in the procurement of various items.

In addition, the spares and gensets were not recorded in the stores register and there were no issue notes to confirm their usage. The repairs and services were also not recorded in the job card and there was no evidence that the items procured were actually delivered to the site and installed. Also, there was no Inspection and Acceptance Committee report on the repair made or acknowledgment of the same from water users association, no requisition letter or malfunctioning report from community leaders of the affected area requesting for repair works.

In view of the above, the accuracy, completeness and validity of the expenditure on monitoring and evaluation expenses amounting to Kshs.3,953,619 for the year ended 30 June, 2020 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAI). I am independent of the Northern 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.

**Other Matter**

1. **Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts
budget and actual on comparable basis totalling to Kshs.1,553,353,001 and
Kshs.1,193,883,760 respectively, resulting to an underfunding amounting to
Kshs.359,469,241 or 23% of the budget. Review of bank statements for the month of
June and July, 2020 revealed that budgeted GOK grants released through transfers from
the Ministry of Water, Sanitation and Irrigation were received late between 3 June, 2020

Similarly, the statement reflects final expenditure budget and actual on comparable basis
totalling to Kshs.1,553,353,001 and Kshs.808,749,220 respectively, resulting to an
underperformance amounting to Kshs.744,603,781 or 48% of the budget.

The underfunding and underperformance affected the planned activities and may have
impacted negatively on service delivery to the public.

2. **Unresolved Prior Year Matters**

In the audit report of the previous year, several issues were raised. However, the
Management has not resolved the issues or given any explanation for failure to adhere
to the provisions of the Public Sector Accounting Standards Board templates and The
National Treasury and Planning Circular reference No. AG.4/16/3 Vol.1(9) dated

**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 matter 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

Non-Compliance with the Law on Procurement of Water Works

Review of records revealed that an investment company was awarded contract for additional pipe fittings for Mwangaza Water Pipe Distribution System at a contract sum of Kshs.1,915,500. However, it was noted that out of the three quotation floated, two suppliers were not among the prequalified contractors. In addition, the inspection and acceptance committee report used during the payment related to the previous work done and no inspection was done for the additional work before payment was made. This is contrary to Section 105 of the Public Procurement and Asset Disposal Act, 2015.

In the circumstances, 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 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 the 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 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 going concern basis of accounting unless Management is aware of the intention to liquidate the Agency 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 Agency 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 ISSAI’s 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 ISSAI’s. 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 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.

CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

02 February, 2022