

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

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of Sports Kenya set out on pages 1 to 70, which comprise the statement of financial position as at 30 June, 2020, the statement of financial performance, the statement of changes in net assets, the 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, in all material respects, the financial position of the Sports Kenya as at 30 June, 2020, and its financial performance and its cash flows for the year then ended, in accordance with the international public sector accounting standards (IPSAS Accrual) and comply with the Sports Act, 2013 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1.0 Inaccuracies in Revenue from Exchange Transactions

1.1 Rental Revenue

The statement of financial performance and as disclosed in Note 3 to the financial statements reflects rental income of Kshs.40,527,120. This amount includes Kshs.7,371,120 relating to commercial space rental income out of which Kshs.4,092,958 was not supported by valid contracts. Further, the rental income excluded an unknown amount of income from the International Amateur Athletic Federation (IAAF) World under 20 Championship which has been occupying the Sports Kenya offices without a contract since 1 July, 2018.

In the circumstances, the accuracy, completeness and fair statement of the rental income from commercial space of Kshs.7,371,120 could not be confirmed.

1.2 Inaccuracies in Revenue from Hire of Facilities

The statement of financial performance and as disclosed in Note 2 to the financial statements disclosed revenue from hire of facilities of Kshs.80,833,385. Review of sampled contracts of hire of facilities revealed the following anomalies;

- (i) An amount of Kshs.9,026,332 recorded as received vide EFT from various clients could not be traced in the bank statements and no official receipts were issued for money received and the contracts were not supported by LSOs.
- (ii) Examination of contract books revealed that revenue amounting to Kshs.3,415,400 was not posted in the ledger.

Consequently, the accuracy, completeness, and fair statement of revenue from the hire of facilities of Kshs.80,833,385 could not be confirmed.

2.0 Unsupported Pension, Salaries, and Gratuity Arrears

The statement of financial performance and as disclosed in Note 8 to the financial statements reflects employee costs of Kshs.276,647,061. Included in this amount is Kshs.95,585,109, Kshs.7,117,067 and Kshs.5,357,218 relating to pension, salaries, and gratuity arrears respectively totalling Kshs.108,059,394. Review of the records provided revealed that Management had been allocated an approved budget of Kshs.171,500,000 to defray pensions, gratuity, and salary arrears out of which only Kshs.127,400,000 was received. However, it was established that only Kshs.108,059,394 of received funds was spent for intended purposes resulting to outstanding pension arrears of Kshs.19,340,606. Management did not provide an explanation as to why the funds allocated for clearance of the arrears were diverted.

Further, it was noted that these arrears had not been disclosed in the previous years and therefore the basis for the request and approval of this budget could not be ascertained.

In the circumstances, the propriety of Kshs.127,400,000 diverted to other uses could not be ascertained.

3.0 Inaccuracies in Casual Wages

The use of goods and services reflects Kshs.126,830,343 as disclosed at Note 10 which in turn includes casual wages of Kshs.10,526,121 which was at variance with the accounting records provided for the audit amount of Kshs.19,296,631 leading to an unexplained and unreconciled variance of Kshs.8,770,510.

Consequently, the accuracy and completeness of the casual wages payments of Kshs.10,526,121 could not be confirmed.

4.0 Irregular Board Benefits

As disclosed in Note 9 to the financial statements is Kshs.16,130,274 in respect to the board of directors' allowances which further includes Kshs.1,060,000 and Kshs.9,985,801 relating to honoraria and sitting allowances respectively. However, it was revealed that the Chairman was paid a gross salary of Kshs.100,000 for five (5) months as honoraria instead of Kshs.80,000 in accordance with Mwongozo and the SRC Circular SRC/TS/DRRPS3/26VOL.VI (37), resulting in excess payment of Kshs.100,000.

Further, the Chairman was paid sitting allowances at the rate of Kshs.25,000 per sitting for fifty-two (52) sittings in contravention to the Salaries and Remuneration Commission approved rates of Kshs.20,000 per sitting resulting in an overpayment of Kshs.260,000.

In addition, the Chairman has been assigned a permanent motor vehicle which is in contravention of the terms of service stipulated in his appointment letter Ref. OP/CAB.1/75A dated 25 July, 2018. The work tickets and fuel card statements for this motor vehicle were also not availed for audit verification.

In the circumstances, the validity of the Kshs.360,000 paid in excess of the approved rate was not a proper charge to public funds.

5.0 Double Payment for Water and Electricity

Note 12 to the financial statements reflects an expenditure of Kshs.47,394,988 paid in respect of the bulk purchase of water and electricity out of which Kshs.14,209,312 was advanced to the organization by the State Department of Sports. Further, it was noted that the expenditure item was also budgeted at a sum of Kshs.33,177,721 by the State Department of Sports in the same period leading to double payments.

Further, as previously reported, Note 12 to the financial statements for the year ended 30 June, 2019 disclosed the purchase of water and electricity balance of Kshs.51,872,504 which further includes Kshs.33,354,287 being payment effected on behalf of Sports Kenya by the State Department of Sports from the Board's recurrent grants retained by the State Department. No plausible explanation was provided as to why the State Department retained the grants and continued paying bills on behalf of the Board.

Therefore, the authenticity and accuracy of the Kshs.14,209,312 for the year ended 30 June, 2020 paid in respect of water and electricity could not be ascertained.

6.0 Long Outstanding Receivables Accounts

The statement of financial position and as disclosed in Note 17 to the financial statements reflect Kshs.151,566,884 in respect of account receivables from exchange transactions. Included in this amount is Kshs.20,544,506 in respect of rent arrears that have been outstanding since the 2006/2007 financial year. Further, the accounts receivable from exchange transactions include Kshs.121,060,480 being other trade debtors out of which

Kshs.118,915,486 has remained outstanding for more than one hundred and eighty (180) days and some dating back to the financial year 2015/2016 while an amount of Kshs.14,583,506 related to receivables from runaway tenants and debt from line Ministry's tenants of Kshs.5,961,000.

In addition, the opening balance of Kshs.78,599,079 was not analyzed.

In the circumstances, the accuracy and completeness of the account's receivables from exchange transactions balance of Kshs.151,566,884 could not be confirmed and the recoverability of the outstanding balances is in doubt.

7.0 Long Outstanding Imprest

The statement of financial performance and Note 18 to the financial statements reflect Kshs.238,251,114 in respect of account receivables from non-exchange transactions which includes Kshs.2,226,940 relating to outstanding imprests that were not supported by an imprest register. Further, imprest amounting to Kshs.448,100 has been outstanding for more than ten (10) months.

In addition, cases of staff holding multiple imprests were noted in contravention to legal notice No.34 of the Public Financial Management Act, 2012.

In consequence, the authenticity and accuracy of the account receivables from non-exchange transactions of Kshs.238,251,114 could not be ascertained.

8.0 Long Outstanding Loan Advances

The statement of financial position and as disclosed in Note 18 to the financial statements for the year ended 30 June, 2020 reflected accounts receivables from non-exchange transactions balance of Kshs.238,251,114 which in turn includes Kshs.139,328,016 composed of loan advances made to Deaf Olympics of Kshs.500,000, Ministry of Youth of Kshs.107,390,843, Kenya Academy of Sports of Kshs.1,364,288, NYTA of Kshs.15,590,653, FC Talanta of Kshs.4,482,232 and Kenya Football Federation of Kshs.10,000,000. However, no documentary evidence was provided to confirm how the stated amounts were transferred to the bank accounts of the respective entities in order to qualify as debt.

Further, the terms and purpose for the loan advances have not been provided and no effort appears to have been made to pursue these debts for the last five (5) years.

Consequently, the accuracy, validity, and correctness of the accounts receivable from non-exchange transactions balance of Kshs.238,251,114 as at 30 June, 2020 could not be ascertained.

9.0 Lack of Ownership Documents for Property, Plant, and Equipment

Note 20 to the financial position reflects property, plant, and equipment balance of Kshs.189,389,194 which excluded undetermined values of land on which the International Sports Centre, Kasarani, and Nyayo National Stadium for which Management did not provide ownership documents for audit review. The information available indicates that the Management wrote a letter Ref: SK/CON/LA/15 (217) dated 14 February, 2019 through the Cabinet Secretary Sports, Culture & Heritage to the Cabinet Secretary of Lands and Physical Planning requesting the office to issue title deeds for LR. No. 22596 at Kasarani and LR No. 209/16884 at Nyayo National Stadium in the name of Sports Kenya. However, at the time of the audit, no response had been received from the Ministry.

In addition, the assets register provided for audit review revealed that it was last posted in the year 2014 and hence not updated.

In view of the foregoing, the ownership, completeness, security, and carrying values of the property, plant, and equipment balance of Kshs.189,389,194 as at 30 June, 2020 could not be confirmed.

10.0 Overstated Work in Progress

Note 21.1 reflects Kshs.34,585,249 in respect to work-in-progress relating to International Sports Academy. However, the project has since been transferred to the Kenya Academy of Sports. Management has not effected the journal entries to transfer the assets to the Kenya Academy of Sports.

Consequently, the property, plant, and equipment balance of Kshs.189,389,194 is overstated by the amount of work-in-progress of Kshs.34,585,249.

11.0 Long Outstanding Trade and Other Payables

Note 22 reflects trade and other payables from exchange transactions of Kshs.132,285,794 as at 30 June, 2020. Included in this amount is Kshs.1,126,000 being refundable deposits from tenants held by Management as a security against the tenant's noncompliance with the terms of the agreement. Review of the schedule supporting the reported amount revealed a block amount of the opening balance of Kshs.755,700 from 1 July, 2018 which was unanalyzed and unexplained. In addition, the employee obligation and pension amount of Kshs.23,414,891 were not analyzed or supported.

Further, a review of the aging analysis in support of trade and other payables balance revealed that creditors totalling Kshs.66,923,919 or 51% of the total balance had been outstanding between one (1) and eleven (11) years respectively as at 30 June, 2021. No satisfactory reason was given for the failure to settle above stated long outstanding creditors.

In view of the foregoing, it has not been possible to confirm that the trade and other payables from the exchange transactions balance of Kshs.168,017,085 are fairly stated.

12.0 Overpayment for the Provision of Consultancy Services for Feasibility Study and Development of Detailed Designs

A contract was signed on 8 January, 2015 between Sports Kenya and PKF Kenya for provision of consultancy services for feasibility study and development of detailed designs for a sum of USD 1,071,105 (Kshs.117,821,597 at the current dollar exchange rate).

Examination of the financial statements reveals that Kshs.507,617,038 has so far been paid which is Kshs.388,795,441 above the contract sum.

In the circumstances, it was not possible to confirm that the value for money has been obtained in regard to Kshs.507,617,038 as at 30 June, 2020.

13.0 Unresolved Prior Year Audit Issue on the Construction of Moi Stadium – Kisumu County

As earlier reported, the project was a partnership between Sports Kenya and the County Government of Kisumu. The project was due to be completed in the financial year 2015/2016. However, the project had not been completed by the time of audit. Management was to install the floodlights and the County Government of Kisumu was to connect the power. The total sum paid to the contractor was Kshs.15,000,000. As at the time of field inspection in February, 2021, the installation of the bulbs had still not been done and the project had stalled.

Consequently, the delays in the completion of the contractual works within the stipulated period were likely to lead to an escalation of the total cost of the project.

The audit was conducted in accordance with the International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the Sports Kenya Management in accordance with ISSAI 130 on the 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, 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 Delayed Completion of Construction Works - Nyayo National Stadium

The Management on 18 August, 2017 entered into two (2) contracts in respect of civil works and builder's works in preparation for the CHAN football tournament at a contract sum of Kshs.206,690,139 for civil works and Kshs.325,829,431 for builder's works. Further, the Board entered into nine (9) other minor tenders of Kshs.623,851,572 which were awarded through a competitive process for works expected to be completed in a fourteen (14) weeks period.

The works were to commence on 24 August, 2017 with an expected completion date of 24 January, 2018. Audit inspection carried out in February, 2021 revealed that the contractor was still on site despite the expiry of the project performance period by over 34 months and the project works had resumed and was ongoing albeit at a slow phase.

As at 30 June, 2020, an additional amount of Kshs.390,037,292 had been paid bringing the total amount paid to Kshs.666,492,506 hence 57.4% of the total contract sum had been paid. However, the amount reported as per Note 21.2 to the financial statements is Kshs.337,389,122 as at 30 June, 2020 resulting to the variance of Kshs.52,648,170 which could not be explained.

Further, no proper explanation has been given as to why the building and civil works at the Nyayo National Stadium have not been completed and the delays are likely to lead to cost escalation.

Consequently, value for money has not been realised on this project and the delay in the completion of this project may result in cost overruns.

2.0 Cost Overruns on the Supply and Installation of Three Tracks at Kasarani Stadium and Kenyatta University Sports Field

The Local Organizing Committee (LOC) for the IAAF World Under 18 Championships on 1 March, 2017 entered into a contract through direct procurement for the supply and

installation of three running tracks at Kasarani Stadium and Kenyatta University Sports Field at a contract sum of Euros.3,018,740 (approximately Kshs.344,037,489). The works were to commence on 1 March, 2017 with a completion period of 18 weeks. Further examination of records availed for audit revealed the following:

- a) The contractor was paid an advance payment of 50% of the contract sum which amounted to Euros 1,509,370 (approximately Kshs.169,200,370). This payment was not secured with a bank guarantee and exceeded the 20% allowable limit contrary to Section 147(1) of the Public Procurement and Asset Disposal Act, 2015
- b) Records provided for audit review indicate that the contractor had been paid a total of Euros.3,117,344 (approximately Kshs.355,275,143) which was Euros.98,604 (approximately Kshs.11,237,654) in excess of the contract sum. In addition, an audit inspection of the installation of the tartan track at Kenyatta University revealed that the works had not been completed by 10 July, 2017, 54 weeks after signing the contract.
- c) Bills of quantities and completion certificates were also not provided for audit verification to confirm that works were done to specifications. In addition, a retention fee of 5% was not deducted from the contractor's payments in accordance with clause 26 of the contract to cover for defects liability period.
- d) Clause 27.1 of the contract requires the contractor to pay the Local Organizing Committee liquidated damages of Euros 136 (approximately Kshs.15,500) per week for delays in completing the works. No evidence has been produced to show that a claim had been lodged against the contractor.

A review of the matter in the year under review and a field inspection done in March, 2021 revealed that the works were still incomplete while the contractor had abandoned the site. Consequently, value for money has not been realised on this project and the delay in the completion of this project may result in cost overruns.

3.0 Irregular Award of Contract for Construction of Kipchoge Keino Stadium, Eldoret

Management awarded the contract at a contract sum of Kshs.304,204,413 on 5 January, 2016. The scope of works under this contract included construction of eastern stand concrete terrace; northern and southern stand terraces with different specifications as well as fencing; sewerage system and motor vehicle parking in addition to generator house and floodlights and underground and overhead tanks. The contract period was not clearly documented to know when the contractor was supposed to start and end works. The Management further explained verbally that the contractor suspended work on 14 September, 2020. However, a copy of the suspension letter was not availed to justify the purported suspension and how the matter was eventually resolved.

Further, documents for approved extensions of the contract period accompanied by a revised and approved program of works were not provided for audit review contrary to Section 9(e) of the Public Audit Act, 2015. Review of payment records as at

30 June, 2020 indicates that the contractor had been paid Kshs.165,808,083 while Kshs.40,763,695 though certified were pending.

In addition, in an effort to cover inadequacies relating to the first contract, the Sports Kenya Management awarded another contract to a local contractor at a sum amounting to Kshs.325,829,431 for construction of substructure of VIP stand as well as form-works; steel-fixing; electrical; plumbing and casting of the first slab including curing to achieve instructed technical specification. Audit inspection for the Phase II contract undertaken on 11 February, 2021 confirmed that the sub-structure for VIP stand was complete while other works were incomplete and the progress reports were not availed for audit review.

In the circumstances and in the absence of bid documents, technical evaluation, and duly certified contract documents, it was not possible to confirm that the award was competitive and that the contractor was executing works within the terms and contract period.

4.0 Stalled Works at Kamariny Stadium

Management awarded a contract for the construction of the Kamariny Stadium in Elgeyo Marakwet at a contract sum of Kshs.287,837,775. Management did not provide for audit contract details such as the bid and tender documents; scope of works and progress of work reports. Examination of payment vouchers revealed that the contractor had been paid Kshs.81,590,104.

Audit inspection of the project undertaken on 11 February, 2021 revealed that the contractor was not on-site and works stalled at the preliminary level due to some dispute whose documentation was not made available for audit review. No reasons have been given for the failure to settle or terminate this contract.

Further, the overall completion status was verbally explained to be 30% and a physical inspection of the construction site revealed the following: -

- (i) French drains for the main pitch had not been completed
- (ii) Installation of irrigation systems had not started.
- (iii) Hard packing for the main pitch works had not started.
- (iv) Excavation works for the main Pavilion at the sub-base level had not been done.
- (v) Internal pitch drainage works had not been done.

Consequently, value for money has not been realised on this project and the delay in the completion of this project may result in cost overruns.

5.0 Delayed Completion of Wote Stadium

Sports Kenya awarded contract for the construction of Wote Stadium at a contract cost of Kshs.299,309,555. The works commenced on 5 January, 2017 and were expected to have been completed on 31 May, 2018. An extension of time was awarded to the contractor revising the completion date to 31 December, 2021 with a defects liability period of twelve (12) months.

The delay in completing the project was alluded to a change in the original site by Makueni County Government as the new site was noted to have topographical/geological challenges necessitating variations to stabilize the grounds. However, no documents were provided for audit review regarding the change from the original site to the current site.

Examination of a letter Ref: (A3r)/DKN/em dated 28 July, 2020 together with minutes for the site meeting held on 27 July, 2020, the consultant explained the need for variation of foundation designs due to soil conditions at the pavilion which necessitates a foundation change. The top ground has hard marram but too soft to bear foundations at an excavation depth of 4.5m with design options being western pavilion cost estimated at Kshs.48,878,786 (16% variation of original contract sum) and eastern pavilion cost estimated at Kshs.35,499,466 (12% variation of the original contract sum).

Although additional costs were being proposed, there are risks that Wote Stadium may not meet set International Standards and as such may not be suitable for the purpose for which the project was intended; a clear indication that a feasibility study was not undertaken. Examination of payment records as at 30 June, 2020 reveals that the contractor had been paid Kshs.113,875,098.

Although it had been explained verbally that the overall completion status was 40%, an audit inspection of the project undertaken in February, 2021 revealed the following observations: -

- (i) Main Pitch Sub-base was ongoing
- (ii) French drains were completed
- (iii) Excavation works for Main Pavilion were completed
- (iv) Athletics track Hand packing was ongoing
- (v) Perimeter wall – ongoing
- (vi) Irrigation pipes were not fixed
- (vii) There were no gates, Pavilions, Retaining walls, or ablution blocks.

Consequently, value for money has not been realised on this project and the delay in the completion of this project may result in cost overruns.

6.0 Delayed Completion of Karatu Ndarugu Stadium – Gatundu

Management entered into a contract for the construction of Karatu Ndarugu Stadium in Kiambu County at a contract sum of Kshs.259,604,780. The works commenced on 3 February, 2017 and were expected to have been completed on 31 May, 2018. The scope of works involved pitch works, 6 lane track, VIP pavilion, parking, construction of ablution blocks and a perimeter wall.

Examination of payment records reveals that the contractor has been paid Kshs.102,180,206 as at 30 June, 2020. Audit inspection of the project conducted in February, 2021 revealed that the project commenced on 3 July, 2017 for eight (8) months contract period. No reasons were given for the failure to complete the project as per the terms of the contract.

Further, it has been explained verbally that the actual work done was just about 47% at a time the project ought to have been completed by 31 December, 2020. The advance payment guarantee expired on 31 December, 2020 and there appears to be no other guarantee in place and the advance money had not been fully recovered.

In addition, the pavilion was incomplete; no work done on the pitch, the perimeter wall had caved in on the eastern side of the stadium, cover grown thickets on the car park.

A physical inspection of the construction site reveals that:-

- (i) Perimeter fence was ongoing
- (ii) Athletics track works were ongoing
- (iii) Main Pitch Sub-Base complete
- (iv) Main Pavilion at Sub structure level complete

Consequently, value for money has not been realised on this project and the delay in the completion of this project may result in cost overruns.

7.0 Cost Overruns and Delayed Completion of Kinoru Stadium - Meru County

Management awarded a contract for the construction of Kinoru Stadium in Meru at the contract sum of Kshs.442,137,530. The works commenced on 5 January, 2017 and were expected to be completed on 24 August, 2017. The scope involved pitch works, sub-base for the tartan track, VIP Pavilion, water system, ablution blocks, terraces, parking, and perimeter wall.

An audit inspection of the project undertaken in February, 2021 revealed that the contract is nearly 100% complete, though not commissioned, and therefore, it was yet to be used. Further, a review of this project during financial year 2019/2020 revealed that the contractor and sub-contractors had been paid a total of Kshs.740,883,085 resulting to unexplained cost overrun of Kshs.298,745,555.

Consequently, value for money has not been realised on this project and the delay in the completion of this project may result in cost overruns.

8.0 Delayed Completion Kirubia Stadium - Tharaka Nithi County

Management awarded a contract for the construction of Kirubia Stadium to a local Construction Company at a contract sum of Kshs.274,300,000. The works commenced on 5 January, 2017 and were expected to be completed on 5 September, 2017 which was later revised to 31 May, 2018. The scope involved pitch works, 6 lack track, VIP Pavilion, water system, and ablution blocks. An audit inspection of the Stadium in September, 2019 revealed that substantial progress had been made with the overall progress of 85% realized. It is not clear why the remaining works had not been completed by the end of the contract extension in May, 2018.

Review of the contract during the 2019/2020 financial year reveals that the contractor has so far been paid Kshs.159,380,378 or 58% of the contract sum. An audit inspection of the project undertaken in February, 2021 revealed that works had been completed as per the BQs and payment certificates. Other works relating to paints were however still outstanding.

Consequently, value for money has not been realised on this project and the delay in the completion of this project may result in cost overruns.

9.0 Delayed Completion of Ruringu Stadium - Nyeri County

The Management awarded a contract for the construction of Ruringu stadium in Nyeri at a contract cost of Kshs.288,045,530. Audit inspection of the construction site undertaken in February, 2021 revealed the following observations: -

- (i) Athletics track sub-base completed and ready to have receive tartan installed.
- (ii) Pitch arena drainage complete, irrigation system installed, mixing of manure, river sand, as well as planting of grass which was noted to be ongoing.
- (iii) VIP Arena/Pavilion ground floor slab ongoing.
- (iv) Laying of curbs to separate football pitch and “D” ongoing.
- (v) The construction of the “D” was ongoing.

Further, there were no progress report provided for audit review to confirm that the overall completion status was 60 % at the time of audit. It was also not possible to determine whether the contractor was working within the contract period as the supervision team did not provide any records citing COVID 19 challenges.

Consequently, value for money has not been realised on this project and the delay in the completion of this project may result in cost overruns.

10.0 Irregular Contracted Professional Services - Legal Advisor of Government Entities

Note 11 reflects legal fees of Kshs.3,678,000 for the year ended 30 June, 2020 for various court cases in 2019/2020 incurred for payment to two law firms for representing the organization. No explanation was availed as to why Sports Kenya did not seek consent from the Attorney General to engage private legal firms as provided under Section 5 Subsection 1(a) of the Office of Attorney General Cap 49 of the Laws of Kenya.

Consequently, the Management was in breach of the law.

11.0 Repairs and Maintenance

Note 13 to the financial statements reflect Kshs.20,381,966 for the year ended 30 June, 2020 in respect to repairs and maintenance. Examination of payment records revealed that the repairs and maintenance work worth Kshs.3,197,628 were done using cash/imprests contrary to the provisions of the Public Legal Notice No.69 of 2020.

In the circumstances, the Management was in contravention of the law.

12.0 Unsupported Construction Works of Marsabit Stadium

The Management entered into a contract for the construction of the Marsabit Stadium at a contract cost of Kshs.295,236,215 during the 2016-2017 financial year. During the year under review, the Management made payments of Kshs.133,737,234. However, tender documents relating to the procurement for Marsabit Stadium which include original tender documents, tender opening minutes, evaluation committee reports, and procurement professional opinions were not provided for audit.

Although all documents relating to the procurement of stadia were reported to have been taken away by the Ethics and Anti-Corruption Commission (EACC) Officers to assist in investigations of alleged irregularities in the award of the tenders, no documents have been provided for audit verification.

Consequently, it has not been possible to confirm whether value for money was realised on this project.

13.0 Unsupported Legal Consultancy for Public-Private Partnership for the Construction of Three (3) Stadia

Sports Kenya on 9 September, 2015 entered into a contract under a request for proposals for public-private partnership legal advisory services for the construction of three (3) Stadia at a contract sum of Kshs.47 million which was to be undertaken on the basis of public-private partnership. According to the contract document, the consultant was to perform the services commencing on 9 September, 2015 and through to 30 June, 2015.

During the year under review, the consultant had been paid Kshs.54,520,000 an amount over and above the initial contract sum but it was noted that no private partnership had so far been entered into by the time of audit and no Stadium has been developed or initiated using a public-private partnership. Approval of the excess contract sum of Kshs.7.5 million was not provided for audit review.

In the circumstances, value for money has not been realized from the legal consultancy payments totalling Kshs.54,520,000.

14.0 Consultancy Services for Feasibility Study and Development of Detailed Designs for Three (3) Stadia

Sports Kenya on 8 January, 2015 entered into a contract with a consortium of local and international firms to offer consultancy services for feasibility study and development of detailed designs for three (3) national/international Stadiums in Nairobi, Mombasa, and Eldoret Counties at a contract price of US\$1,071,105 (approximately Kshs.110,323,860). Further, the entire project including the feasibility study was estimated at a cost of US\$320,000,000 which was used as a basis for payment to the other consultants in the consortium.

Review of the position during the year under review indicated that the feasibility studies were completed in 2016 while the project was indicated to be at the detailed design stage. As at 30 June, 2019, the consortium had received payments totalling Kshs.537,297,227. However, there was no evidence of the feasibility study and designs being put into use four and a half years later.

In addition, although the sites for the construction of three (3) Stadiums had been identified in Nairobi, Mombasa, and Eldoret Counties, according to the Management, only one formal agreement, in the form of a Memorandum of Understanding (MoU) had been signed to initiate the process of acquiring the land.

It is therefore not clear if and when the construction of the Stadia would be initiated and the feasibility study put into use.

In view of the foregoing, value for money was not obtained from the Kshs.537,297,227 expenditure on the feasibility study.

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.

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.

In preparing the financial statements, Management is responsible for assessing the Sports Kenya's ability to continue as a going concern, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless Management is aware of the intention to liquidate Sports Kenya 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 manner.

Those charged with governance are 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.

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 Sports Kenya 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 Sports Kenya'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 Sports Kenya 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 Sports Kenya to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicated 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

20 May, 2022