

REPORT OF THE AUDITOR-GENERAL ON LAKE VICTORIA SOUTH WATER WORKS DEVELOPMENT AGENCY FOR THE YEAR ENDED 30 JUNE, 2021

PREAMBLE

I draw your attention to the contents of my report which is in three parts:

- A. Report on the Financial Statements that considers whether the financial statements are fairly presented in accordance with the applicable financial reporting framework, accounting standards and the relevant laws and regulations that have a direct effect on the financial statements.
- B. Report on Lawfulness and Effectiveness in Use of Public Resources which considers compliance with applicable laws, regulations, policies, gazette notices, circulars, guidelines and manuals and whether public resources are applied in a prudent, efficient, economic, transparent and accountable manner to ensure Government achieves value for money and that such funds are applied for intended purpose.
- C. Report on Effectiveness of Internal Controls, Risk Management and Governance which considers how the entity has instituted checks and balances to guide internal operations. This responds to the effectiveness of the governance structure, the risk management environment, and the internal controls developed and implemented by those charged with governance for orderly, efficient and effective operations of the entity.

An unmodified opinion does not necessarily mean that an entity has complied with all relevant laws and regulations, and that its internal controls, risk management and governance systems are properly designed and were working effectively in the financial year under review.

The three parts of the report are aimed at addressing the statutory roles and responsibilities of the Auditor-General as provided by Article 229 of the Constitution, the Public Finance Management Act, 2012 and the Public Audit Act, 2015. The three parts of the report, when read together constitute the report of the Auditor-General.

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of Lake Victoria South Water Works Development Agency set out on pages 1 to 48, which comprise of the statement of financial position as at 30 June, 2021, statement of financial performance, statement of changes in net assets, 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, the financial position of the Lake Victoria South Water Works Development Agency as at 30 June, 2021, 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 Public Finance Management Act, 2012 and the Water Act, 2016.

Basis for Qualified Opinion

The following balances reflected in the financial statements were not supported with sufficient appropriate records:

1. Transfers from Other Government Entities

The statement of financial performance reflects transfers from other Government entities totalling Kshs.869,577,704 as further disclosed in Note 6 to the financial statements. However, the ledger reflects Kshs.886,559,996 in respect to the account resulting to an unreconciled variance of Kshs.16,982,292. Although, Management explained that the variance resulted from overstatement of the account's balance in one Journal Voucher (JV), the JV did not indicate the corresponding account affected by the adjustment.

In view of the anomaly, the accuracy and validity of the transfers from other Government entities balance totalling Kshs.869,577,704 could not be confirmed.

2. Other Income

The statement of financial performance reflects other income totalling Kshs.12,993,000 which, as disclosed in Note 11 to the financial statements, includes agency fees totalling Kshs.12,990,000. However, the supporting ledger reflects Kshs.3,000 in respect to the account resulting to an unexplained variance of Kshs.12,987,000.

In the circumstance, the accuracy and validity of other income totalling Kshs.12,993,000 could not be confirmed.

3. Gain on Sale of Assets

The statement of financial performance reflects gain on sale of assets totalling Kshs.1,475,900, further disclosed in Note 20 to the financial statements as 'other assets not capitalised'. However, in Note 24 to the financial statements - property, plant, and equipment assets movement schedule - does not reflect any disposals. Further, the disposal proceeds have not been included in the statement of cash flows. Although Management explained that the disposed assets were fully depreciated and were removed from the assets register in the previous financial year, no explanation was provided for their removal before they were disposal. In addition, the schedule of disposed assets was not provided for audit review.

In view of the anomalies, the accuracy of gain on sale of assets balance totalling Kshs.1,475,900 could not be confirmed.

4. Depreciation and Amortization

The statement of financial performance reflects a depreciation and amortization balance totalling Kshs.78,291,884, as further disclosed in Note 15 to the financial statements. However, the ledger reflects Kshs.87,849,221 in respect to the account for the year under review. Management explained the variance of Kshs.9,557,337 between the two sets of records as having resulted from overstatement of depreciation after fully depreciated assets were erroneously subjected to a depreciation charge. However, no supporting documents were provided on the said fully depreciated assets. Further, the Agency depreciated the assets using the reducing balance method instead of the Agency's straight-line method policy disclosed in Note (A) of the summary of significant accounting policies.

In the circumstances, the accuracy of depreciation and amortization charge totalling Kshs.78,291,884 could not be confirmed.

5. Use of Goods and Services

The statement of financial performance reflects use of goods and service expenditure totalling Kshs.57,059,929, as further disclosed in Note 12 to the financial statements. The balance includes Kshs.6,650,100 spent on Corporate Social Responsibility. However, the following anomalies were noted in relation to the expenditure:

- i. A payment of Kshs.3,000,000 on tree planting reported to have been funded by a donor was not supported with documentary evidence.
- ii. A sum of Kshs.3,000,000 was paid to a member of staff in lieu of imprest through four (4) cheques all dated 11 February, 2021. However, the payments were made contrary to Regulation 91(1) of the Public Finance Management (National Government) Regulations, 2015 which requires officers who have to make payments which cannot conveniently be made through the cash office of a Government entity or bank account be issued with imprests not cash handouts.
- iii. Management used Direct Procurement Method to procure social responsibility goods and services instead of competitive bidding contrary to Section 105(a) of the Public Procurement and Asset Disposal Act, 2015.
- iv. Total expenditure on Corporate Social Responsibility was Kshs.6,650,100 but, Management only provided records on Kshs.3,000,000 and therefore Kshs.3,650,100 was not accounted for.

In the circumstances, the propriety, accuracy and completeness of the expenditure on Corporate Social Responsibility totalling Kshs.6,650,100 included in the goods and services balances totalling Kshs.57,059,929 could not be confirmed.

6. Current Portion of Receivables from Exchange Transactions

The statement of financial position reflects current portion from exchange transactions totalling Kshs.188,123,524 whereas the ledger reflects Kshs.197,539,225 resulting to a

variance of Kshs.9,415,701. Journal vouchers prepared to explain the variances were not provided for audit and as a result, the reasons for the variance were not explained.

In the circumstances, the accuracy of the current portion of receivables from exchange transactions of Kshs.188,123,524 could not be confirmed.

7. Property, Plant and Equipment

The statement of financial position reflects property, plant, and equipment balance totalling Kshs.17,524,149,867, as disclosed in Note 24 to the financial statements. The balance includes work in progress totalling Kshs.15,455,793,168. However, the work-in-progress balance includes adjustments totalling Kshs.373,558,454 and Kshs.1,461,390,709 reported to have been made through two journal vouchers whose details were not provided for audit.

In the circumstance, the accuracy and validity of the property, plant, and equipment balance totalling Kshs.17,524,149,867 could not be confirmed.

8. Trade and Other Payables

The statement of financial position reflects trade and other payables totalling Kshs.469,427,909, further as disclosed in Note 26 to the financial statements. However, the respective ledger reflected Kshs.515,850,668 in respect to the account resulting in an unreconciled variance of Kshs.46,422,756.

In the circumstance, the accuracy of trade and other payables balance totalling Kshs.469,427,909 could not be confirmed.

9. Current Portion of Borrowings

The statement of financial position reflects current portion of borrowings totalling Kshs.2,100,637,021, as disclosed in Note 29(b) to the financial statements. However, the ledger provided for audit reflected Kshs.637,889,421 in respect to the account resulting to a variance of Kshs.1,464,674,260. Management explained that a sum of Kshs.637,889,421 had been erroneously posted to the account but was thereafter corrected. However, no reconciliation was provided to show how the adjusted balance totalling Kshs.2,100,637,021 was derived.

In the circumstance, the correctness and completeness of current portion of borrowings balance totalling Kshs.2,100,637,021 could not be confirmed.

10. Long-term Borrowings

The statement of financial position reflects borrowings totalling Kshs.7,678,290,668 as further disclosed in Note 29(b) to the financial statements. However, the ledger reflected Kshs.7,768,356,971 in respect to the account resulting to a variance of Kshs.90,066,303. Although Management explained that the ledger had since been adjusted to reflect Kshs.9,778,927,689 in respect to the account, the amended ledger was not provided for audit review.

In addition, the financial statements do not disclose the foreign currency denominated loans in the respective lender's currency, the exchange rate applied to convert them in Kenya Shillings, and the terms of each loan. As a result, sufficient disclosures have not been made on the loans in the financial statements.

In the circumstances, the accuracy and completeness of borrowings balance totalling Kshs.7,678,290,668 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the Lake Victoria South 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

Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects budgeted receipts totalling Kshs.332,700,000 and actual on comparable basis totalling Kshs.884,392,839 resulting to excess funding of Kshs.551,692,839 or 166% of the budgeted revenue. Similarly, the Agency approved expenditure budget totalled Kshs.332,700,000 and actual expenditure Kshs.884,343,477 resulting to an over-expenditure of Kshs.551,643,477 or 166% of the budgeted expenditure.

The surplus funding and over-expenditure reflected weak budgetary mechanisms which may negatively impact on service delivery to the public.

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. Ethnic Composition Non-Compliance with the National Cohesion and Integration Act, 2008

During the year under review, the Agency had seventy (70) employees out of whom thirty-nine (39) or approximately 56% were members of one ethnic community. This was contrary to Section 7(1) and Section 7(2) of the National Cohesion and Integration Act, 2008 which requires all public offices to seek to represent the diversity of the people of Kenya in the employment of staff and that no public institution should have more than one-third of its staff establishment from the same ethnic community.

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

2. Irregular Accounting of Board Expenses

Examination of record on Director's remuneration indicated that five (5) imprests totalling to Kshs.528,930 issued to members of the Board were expensed directly instead of being accounted for through imprests contrary to Regulation 91(1) of the Public Finance Management (National Government) Regulations, 2015.

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

3. Dormant Bank Accounts

Review of banking records indicated that the Agency operated seven (7) bank accounts in the year under review. However, the accounts recorded minimal or nil transactions but continued to incur bank charges. Management explained that these were project accounts which were opened to facilitate loan repayments from water companies and were about to be closed. However, no records were provided to affirm Management's assertion.

In the circumstances, continued operation of the accounts may result, in wasteful expenditure on bank charges.

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 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 controls 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 controls, risk management and governance.

In preparing the financial statements, Management is responsible for assessing the Agency's ability to continue to sustain 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 Agency or 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 responsible for overseeing the Agency's financial reporting process, reviewing the effectiveness of how Management 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 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 controls 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 controls 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 controls 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 Agency's 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 controls.

- 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 Management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal controls 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

22 September, 2022