

# **REPORT OF THE AUDITOR-GENERAL ON MASENO UNIVERSITY FOR THE YEAR ENDED 30 JUNE, 2023**

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## **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 the 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 Maseno University set out on pages 1 to 49, which comprise of the statement of financial position as at 30 June, 2023, and the 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, in all material respects, the financial position of the Maseno University as at 30 June, 2023, 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 Public Finance Management Act, 2012 and the University Act, 2012.

## **Basis for Qualified Opinion**

### **1. Unsupported Balances**

#### **1.1 Revenue from Exchange Transactions**

The statement of financial performance reflects an amount of Kshs.89,489,431 in respect to student accommodation which, as disclosed in Note 10 to the financial statements includes operating lease revenues - varsity plaza of Kshs.11,824,481. However, this amount was not supported with a list of facilities being leased out and the lease agreements.

#### **1.2 Property, Plant and Equipment**

The statement of financial position reflects property, plant and equipment balance of Kshs.6,529,646,258 which, as disclosed in Note 25 to the financial statements includes an amount of Kshs.49,771,145 in respect to transfers from work in progress to buildings. However, the certificate of practical completion for the perimeter wall, sewerage reticulation project and sewerage project II were not provided for audit.

In the circumstances, the accuracy and completeness of operating lease revenues and property plant and equipment balance of Kshs.11,824,481 and Kshs.6,529,646,259 respectively could not be confirmed.

### **2. Long Outstanding Receivables from Exchange Transactions**

The statement of financial position and as disclosed in Note 22 to the financial statements reflects receivables from exchange transactions amounting to Kshs.195,809,070. However, the ageing analysis for the receivables provided for audit revealed long outstanding debts amounting to Kshs.97,326,431. Further, the credit policy has not been approved by the University Council.

In the circumstances, the recoverability of receivables from exchange transactions amounting to Kshs.195,809,070 could not be confirmed.

### **3. Management of Imprests**

The statement of financial performance reflects an amount of Kshs.540,024,222 in respect to use of goods and services which, as disclosed in Note 12 to the financial statements includes Kshs.8,122,996 relating to travelling and accommodation. Review of supporting schedules revealed that an amount of Kshs.7,368,066 relating to imprest was expensed directly.

In the circumstances, the completeness and accuracy of the expenditure on use of goods and services totalling to Kshs.7,368,066 could not be confirmed.

#### **4. Material Uncertainty Related to Sustainability of Services**

The statement financial position reflects current assets and current liabilities balances of Kshs.436,667,283 and Kshs.569,987,715 respectively, resulting to a negative working capital of Kshs.133,320,432. Further, the University recorded a deficit of Kshs.204,963,170 for the year and accumulated deficit of Kshs.560,329,197 as at June, 2023. However, Management did not make any disclosure on the face of the financial statements or in the Notes to the financial statements of the material fact that the University may not continue to sustain its services in the foreseeable future and the mitigating measures put in place to reverse the above situation.

The University is therefore technically insolvent and may face financial challenges in settling liabilities as and when they fall due.

#### **5. Long Outstanding Trade Payables**

The statement of financial position reflects a balance of Kshs.528,371,039 in respect to trade and other payables from exchange transactions which, as disclosed in Note 28 to the financial statements include trade creditors balance of Kshs.104,416,331. Examination of the trade creditors aging analysis indicated that trade creditors which had been outstanding for more than sixty (60) days amounted to Kshs.72,526,833. No explanation was provided as to why these creditors had not been settled as at 30 June, 2023.

In the circumstances, the University Management risks incurring extra costs on penalties and litigation due to delayed payments.

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

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. Failure to Operate Special Purposes Accounts**

The statement of financial position reflects an amount of Kshs.528,371,039 in respect to trade and other payables which as disclosed in Note 28 to the financial statements includes retention fees on construction contracts balance of Kshs.118,988,010, Chancellor's Scholarship Fund of Kshs.3,430,000 and Siaya County advances of Kshs.5,000,000. However, the deposits were held in the University's operations accounts and not in a special purpose account meant for the specific intended purposes contrary to Section 21(2) of the Maseno University Act, 2012 which states that the Council may place on deposit with such bank or banks as it may determine any moneys not immediately required for the purposes of the University.

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

### **2. Acting Appointments**

The University Management appointed seven (7) officers to serve in various acting positions and at the time of audit in January, 2024, they had been acting for more than six (6) months. No explanation was provided in support of the long acting duration contrary to Section 34(3) of the Public Service Commission Act, 2017 which states that an officer may be appointed in an acting capacity for a period of at least thirty days but not exceeding a period of six months.

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

### **3. Non-Compliance with Public Finance Management Fiscal Responsibility Principles**

The statement of financial performance and as disclosed in Note 13 to the financial statements reflects expenditure on employee costs amount of Kshs.2,435,921,068. The wage bill represents 77% of the total receipts of Kshs.3,146,409,824 contrary to Regulation 26(1)(a) of the Public Finance Management (National Government) Regulations, 2015, which requires that expenditure on compensation of employees shall not exceed 35% of revenue.

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

### **4. Long Outstanding Advances from Siaya County**

The statement of financial position reflects a balance of Kshs.528,371,039 in respect to trade and other payables which, as disclosed in Note 28 to the financial statements includes Kshs.5,000,000 received as advances from Siaya County in the prior years. However, no reason has been provided as to why this amount has not been cleared contrary to Section 204(1)(f) of the Public Finance Management Act, 2012 which states that sanctions may be applied to government agencies that creates liabilities in excess of its ability to finance those liabilities.

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

## **5. Dormant Bank Accounts**

The statement of financial position and as disclosed in Note 21 to the financial statements reflects a balance of Kshs.120,946,803 in respect to cash and cash equivalents. However, the University held a total of Kshs.1,260,079 in six (6) dormant bank accounts which continue to incur costs in terms of bank charges.

In the circumstances, value for Kshs.1,260,079 held in dormant accounts could not be confirmed.

## **6. Late Remittance of P.A.Y.E. Deductions and Non -Remittance of Withholding Tax**

During the year under review, the University Management remitted a total of Kshs.496,525,886 in respect to Pay As You Earn (P.A.Y.E.). However, it was observed that P.A.Y.E deductions for the months of October, 2022, February and March, 2023 amounting to Kshs.123,557,085 were remitted late. This was contrary to Section 37 of the Income Tax Act, Chapter 470. Further, the statement of financial position reflects a balance of Kshs.528,371,039 in respect to trade and other payables which, as disclosed in Note 28 to the financial statements include Kshs,3,786,567 in regard to withholding tax. No explanation was provided as to why the withholding taxes were not remitted to the commissioner of domestic taxes at the time of payments to the suppliers and contractors.

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

## **7. Non-Compliance with Law on Ethnic Composition**

Examination of personnel records provided for audit indicated that as at 30 June, 2023, the University had a total of one thousand one hundred and forty-three (1143) employees out of which, seven hundred and forty-one (741) or 65% were from the dominant community in the region. This was contrary to Section 7(1) and 2 of the National Cohesion and Integration Act, 2008, which states that all public offices shall seek to represent the diversity of the people of Kenya in the employment of staff and that no public institution shall have more than one -third of its staff establishment from the same ethnic community.

In the circumstances, 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 procedures performed, except for the matter described in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and governance were not effective.

### **Basis for Conclusion**

#### **Delay in Appointment of a Substantive Chancellor**

As previously reported, the University does not have a Chancellor. A special Senate meeting was held on 23 March, 2022 and proposed five (5) nominees for the Chancellor's position to the Principal Secretary, State Department for University Education and Research. However, as at the time of audit in February, 2024, no appointment had been made.

In the circumstances, the effectiveness of the University's overall governance and its core mandate of conferring degrees and granting diplomas could not be confirmed.

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 University Council**

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 overall governance.

In preparing the financial statements, Management is responsible for assessing the University's ability to continue to sustain its services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless Management is aware of the intention to terminate the University 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 money is applied in an effective way.

The University Council is responsible for overseeing the University'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 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 controls 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 controls 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 University 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 Management.
- Conclude on the appropriateness of 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 University'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 University 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 University 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.



**FCPA Nancy Gathungu, CBS**  
**AUDITOR-GENERAL**

**Nairobi**

**02 May, 2024**