

REPORT OF THE AUDITOR-GENERAL ON WATER RESOURCES AUTHORITY FOR THE YEAR ENDED 30 JUNE, 2023

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 control, 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 Water Resources Authority set out on pages 1 to 61, 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 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 Water Resources Authority 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 Water Act, 2016 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1. Inaccuracy of Property, Plant and Equipment

The statement of financial position reflects property, plant, and equipment amounting to Kshs.186,846,950 as further disclosed in Note 20 to the financial statements. However, the amount excludes the value of land owned by the Authority.

Further, ownership documents for the land were not provided.

In the circumstances, the accuracy and completeness of property, plant and equipment amounting to Kshs.186,846,950 could not be confirmed.

2. Inaccuracy of Receivables from Exchange Transactions

The statement of financial position reflects receivables from exchange transactions amounting to Kshs.2,498,440,036 as further disclosed in Note 18 to the financial statements. The amount is net of 10% general provision for bad debts of amounting to Kshs.277,604,448. However, the receivables have not been stated as nominal value less provisions of 10% and 50% for debts older than eight (8) and twelve (12) months, respectively, as required by the Authority's Debt Collection Policy.

Further, the age analysis of the receivables has not been disclosed in Note 18 to the financial statements.

In addition, demand letters have been issued on the long outstanding receivables.

In the circumstances, the accuracy and recoverability of the receivables from exchange transactions amounting to Kshs.2,498,440,036 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the Water Resources Authority Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Emphasis of Matter

1. Debarment of Implementation of New Water Tariffs

The statement of financial performance reflects sale of water and electricity amounting to Kshs.517,176,150 as further disclosed in Note 10 to the financial statements. Review of records revealed that conservatory orders were issued suspending the implementation of

water use charges in the case Nairobi Petition No. E108 of 2023. The Petitioners were seeking orders against the Respondents that a declaration be issued to declare that the Water Resources Regulations, 2021 were promulgated in violation of Article 10 and 96 of the Constitution and Section 11 of the Statutory Instrument Act, 2013. This has resulted in under collection of the water charges.

The under-collection of water charges has affected service delivery to the Public.

2. Long Outstanding Accounts Payables

The statement of financial position reflects trade and other payables from exchange transactions amounting to Kshs.1,364,819,352 as further disclosed in Note 21 to the financial statements. The amount includes payables in respect of Pay as You Earn (PAYE), Water Resources Authority Pension and National Social Security Fund amounting to Kshs.640,115,417, Kshs.512,234,545 and Kshs.1,438,280, respectively, all totalling Kshs.1,153,788,242 which had not been remitted.

Further, the amount includes audit fees amounting to Kshs.5,830,633 which has been outstanding for long.

Delayed remittance of statutory deductions will attract interest and penalties.

3. Un-serviced Long-Term Loan

The statement of financial position reflects current portion of borrowing and long-term loan amounting to Kshs.144,168,607 and 284,046,302, respectively, all totalling Kshs.428,214,909. The amount includes interest and penalties amounting to Kshs.65,602,609 as disclosed in Note 25 to the financial statements. The loan relates to a credit granted by the World Bank (IDA) for Natural Resources Management (NRM) Project. However, the loan is not being repaid thus attracting interest and 2% penalties per annum on the outstanding loan balance.

4. Budgetary Control and Performance

The statement of comparison of budget and actual on comparative basis reflects budgeted receipts against actual on comparative basis amounting to Kshs.1,675,033,219 and Kshs.1,372,444,467, respectively, resulting to under-collection of Kshs.302,588,752 or 18% of the budget. Similarly, the statement reflects budgeted expenditure against actual on comparative basis amounting to Kshs.1,675,033,219 and Kshs.1,603,768,811, respectively, resulting to under-expenditure of Kshs.71,264,408 or 4% of the budget.

The under-collection and under-expenditure affected the planned activities and may have impacted negatively on service delivery to the Public.

My opinion is not modified in respect to these matters.

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

Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance which have not been resolved.

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, I confirm that nothing 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

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, 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

Understaffing

Review of records revealed that the Authority had six hundred and twenty-one (621) employees against the approved staff establishment of one thousand one hundred and

seventy-three (1173) employees resulting in under- staffing of five hundred and fifty-two (552).

In the circumstances, effective and efficient management of the Authority's mandate to the stakeholders 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 Board of Management

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 Authority'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 the Management is aware of the intention to terminate the Authority or to cease its 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 Management is responsible for overseeing the Authority's financial reporting process, reviewing the effectiveness of how the 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 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 ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Because of its inherent limitations, internal control may not prevent or detect misstatements and instances of non-compliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.
- Conclude on the appropriateness of the Management's use of the 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 Authority'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 Authority 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 Authority 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.



FCPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

17 April, 2024