REPUBLIC OF KENYA

OFFICE OF THE AUDITOR-GENERAL

Enhancing Accountability

REPORT

OF

THE AUDITOR-GENERAL

ON

PRIVATE SECURITY REGULATORY AUTHORITY

FOR THE YEAR ENDED 30 JUNE, 2024

REPUBLIC OF KENYA

Telephone: +254-(20) 3214000
Email: info@oagkenya.go.ke
Website:www.oagkenya.go.ke

OFFICE OF THE AUDITOR-GENERAL

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HEADQUARTERS
Anniversary Towers
Monrovia Street
P.O Box 30084-00100
NAIROBI

REPORT OF THE AUDITOR-GENERAL ON PRIVATE SECURITY REGULATORY AUTHORITY FOR THE YEAR ENDED 30 JUNE, 2024

PREAMBLE

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

A. Report on 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 the 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 the Government achieves value for money and that such funds are applied for the intended purpose; and,

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, risk management environment and internal controls, developed and implemented by those charged with governance for orderly, efficient and effective operations of the entity.

An Unmodified Opinion is issued when the Auditor-General concludes that the financial statements are fairly presented in accordance with the applicable financial reporting framework. The Report on Financial Statements should be read together with the Report on Lawfulness and Effectiveness in the Use of Public Resources, and the Report on Effectiveness of Internal Controls, Risk Management, and Governance.

The three parts of the report aim to address the Auditor-General's statutory roles and responsibilities 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

Opinion

I have audited the accompanying financial statements of Private Security Regulatory Authority set out on pages 1 to 23, which comprise the statement of financial position as at 30 June, 2024, 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, the financial statements present fairly, in all material respects, the financial position of the Private Security Regulatory Authority as at 30 June, 2024 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 Private Security Regulation Act, 2016 and the Public Finance Management Act, 2012.

Basis for Opinion

The audit was conducted in accordance with International Standards for Supreme Audit Institutions (ISSAIs). I am independent of the Private Security Regulatory Authority 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 opinion.

Emphasis of Matter

Financial Performance

The statement on financial performance reflects a deficit of Kshs.27,253,963 compared to a deficit of Kshs.18,944,252 reported in the previous year. As a result, the accumulated deficit increased from Kshs.29,119,586 reported in 2022/2023 financial year to Kshs.56,373,550 as at 30 June, 2024. Further, the Authority reported total current assets of Kshs.74,923 compared to total current liabilities of Kshs.64,684,745 resulting to a negative working capital of Kshs.64,609,822. Management attributed the declining financial performance to delayed funding by the Government and delayed enactment of the Private Security (General) Regulations which would have enabled the Authority to generate its own funds.

The continued declining financial performance and the negative working capital raises concerns on the ability of the Authority to sustain its operations and fulfil its mandate.

My opinion is not modified in respect of this matter.

Key Audit Matters

Key audit matters are those matters that, in my professional judgement, 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 Information

The Management is responsible for the other information set out on page ii to xxix which comprise of Key Entity Information and Management, The Board of Directors, Management Team, Chairman's Statement, Report of the Chief Executive Officer, Statement of Performance Against Predetermined Objectives, Corporate Governance Statement, Management Discussion and Analysis, Environmental and Sustainability Reporting, Report of the Directors, and Statement of Directors Responsibilities. The Other Information does not include the financial statements and my audit report thereon.

In connection with my audit on the Private Security Regulatory Authority financial statements, my responsibility is to read the other information and in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit or otherwise appears to be materially misstated. If based on the work I have performed, I conclude that there is a material misstatement of this Other Information, I am required to report that fact. I have nothing to report in this regard.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, based on the audit procedures performed, except for the effect of the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in the 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. Delay in Enactment of Private Security (General) Regulations

As previously reported, review of the Authority's records and inquiries from Management indicated that the Authority's regulations had not been gazetted and approved by Parliament more than eight (8) years after the enactment of the Private Security Regulation Act, 2016. Management indicated that the Authority in consultation with the Cabinet Secretary drafted the Private Security (General) Regulations in 2019 and forwarded the draft Regulations to undergo the legislative process which had not been completed as at the time of this audit in December, 2024.

The delay in formulating the regulations is contrary to Section 70 of the Private Security Regulation Act, 2016 which requires the Cabinet Secretary in consultation with the Authority to develop regulations for the purpose of proper administration of the Act.

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

2. Non-Operationalization of the Private Security Fidelity Fund

As previously reported, eight (8) years after enactment of the Private Security Regulation Act, 2016, Management had not operationalized the Private Security Fidelity Fund. This is contrary to Sections 60(1) and 61 of the Private Security Regulation Act, 2016 which requires the Cabinet Secretary to impose a levy, to be known as Private Security Fidelity Levy, on all private security service firms licensed under the Act to provide private security services.

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

3. Unremitted Statutory Deductions

During the year under review, the Authority did not remit statutory deductions totalling Kshs.25,908,540 to the relevant Authorities. The deductions include amounts of Kshs.22,608,339, Kshs.924,200, Kshs.1,001,160, and Kshs.1,374,841 in respect of Pay As You Earn (PAYE), National Hospital Insurance Fund (NHIF), National Social Security Fund (NSSF) and housing levy deductions respectively. Further, the Authority has accrued payables relating to statutory deductions (PAYE, NSSF and NHIF) of Kshs.64,148,825 deducted from employees' salaries but had not been remitted as at 30 June, 2024.

In the circumstances, the Authority is in contravention of the Income Tax Act, National Hospital Insurance Fund Regulations, 2023, National Social Security Fund Act, 2013 and the Affordable Housing Act, 2024. In addition, the Authority risks incurring additional costs in terms of fines and penalties for failure to remit the statutory deductions.

The audit was conducted in accordance with ISSAI 3000 and ISSAI 4000. The standards require 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 comply 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 THE 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 effects of the matter described in the Basis for Conclusion on the 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 of the Authority

Review of the Authority's staff establishment indicated that the Authority had an approved staff establishment of one hundred and twenty-seven (127) employees. However, as at the time of the audit in December, 2024 the Authority had only sixty-one (61) employees, resulting to an understaffing by sixty-six (66) employees.

In the circumstances, the understaffing may affect the efficiency and effectiveness in performance of the Authority's functions. Further, adequate segregation of duties to enhance internal controls may not be possible.

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 controls, 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 the 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 Authority's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless Management is aware of the intention 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 comply with the authorities which govern them and that public resources are applied in an effective way.

The Board of Directors is responsible for overseeing the Authority'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

My responsibility is to conduct an audit of the financial statements in accordance with Article 229(4) of the Constitution, Section 35 of the Public Audit Act, 2015 and the International Standards for Supreme Audit Institutions (ISSAIs). The standards require that, in conducting the audit, I obtain reasonable assurance about whether the financial statements as a whole are free from material misstatements, whether due to fraud or error and to issue an auditor's report that includes my opinion in accordance with Section 48 of the Public Audit Act, 2015. 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 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 conducting the audit, Article 229(6) of the Constitution also requires that I express a conclusion on whether or not 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 addition, I consider the entity's control environment 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.

Further, I am required to submit the audit report in accordance with Article 229(7) of the Constitution.

Detailed description of my responsibilities for the audit is located at the Office of the Auditor-General's website at: https://www.oagkenya.go.ke/auditor-generals-responsibilities-for-audit/. This description forms part of my auditor's report.

FCPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

30 December, 2024