REPUBLIC OF KENYA

OFFICE OF THE AUDITOR-GENERAL

Enhancing Accountability

REPORT

OF

THE AUDITOR-GENERAL

ON

TOURISM REGULATORY AUTHORITY

FOR THE YEAR ENDED 30 JUNE, 2024

REPUBLIC OF KENYA

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REPORT OF THE AUDITOR-GENERAL ON TOURISM 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 Unmodified Opinion indicates the books of accounts and underlying records agree with the financial statements and that no materials misstatements were found. The financial statements present fairly, in all material respects the operations of the entity. An unmodified opinion does not necessarily mean that an entity has complied with all relevant laws and regulations, is effective in the use of resources, or that its internal control, risk management and governance systems are properly designed and working effectively in the financial year under review.

The Report on the Financial Statements should be read together with the Report on the Lawfulness and Effectiveness in the Use of Public Resources, and the Report on the 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 Tourism Regulatory Authority set out on pages 1 to 37, which comprise of the statement of financial position as at 30 June, 2024, and the statement of financial performance, 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, the financial statements present fairly, in all material respects, the financial position of the Tourism Regulatory Authority as at 30 June, 2024, 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 Tourism Act, 2011 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 Tourism 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

Budgetary Control and Performance

The statement of comparison of budget and actual amounts for the year ended 30 June, 2024 reflects final receipts budget and actual on comparable basis of Kshs.382,800,000 and Kshs.387,840,340 respectively resulting to a surplus of Kshs.5,040,340. Similarly, the Authority spent an amount of Kshs.389,101,434 against a budget of Kshs.382,800,000 resulting to over-expenditure of Kshs.6,301,434 of the budget.

The over-expenditure may result to accruing of un approved pending bills that may affect negatively on service delivery to the public.

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 Matter

Unresolved Prior Year Issues

In the audit report of the previous year, various issues were raised on the Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management has not resolved the issues or provided reasons for the delay in resolving the outstanding issues as required by the Public Sector Accounting Standards Board template and The National Treasury's Circular Ref.AG.3/88 Vol.VII (28) of 9 May, 2023.

Other Information

Management is responsible for the other information set out on page i to xlix which comprise of Key Entity Information and Management, The Board of Directors, Key Management Team, Chairman's Statement, Report of the Director General, Statement of Performance Against Predetermined Objectives, Corporate Governance Statement, Management Discussion and Analysis, Environmental and Sustainability Reporting, Report of the Directors, 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 Authority's 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.

My opinion on the financial statements does not cover the Other Information and accordingly, I do not express an audit opinion or any form of assurance conclusion thereon.

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. Lack of Value for Money on the Annual National Tourism Sector Status Report

The statement of financial performance reflects use of goods and services amount of Kshs.119,793,197 as disclosed in Note 14 to the financial statements. Included in the expenditure is an amount is Kshs.2,157,700 incurred on the Annual National Tourism Sector Status Report. However, the reports for the previous and current financial year have not been laid before the National Assembly as requirement by the Tourism Act, 2011.

In the circumstances, value for money on the report may not have been realized and Management was in breach of the law.

2. Failure to Comply with Maximum Wage Bill

The statement of financial performance reflects total revenue of Kshs.472,963,481 against employees' costs of Kshs.207,604,076 as disclosed in Note 10 to the financial statements which is 44% of the total revenue. This was contrary to Regulation 26(1) (a)(b) of the Public Finance Management Regulations, 2015 which stipulates National Government Entities compensation of employee's expenditure should not exceed a maximum of thirty-five (35) percentage of revenue.

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

The audit was conducted in accordance with ISSAIs 3000 and 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 and 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

Shortfall of Staff in the Organization

Review of the Authority's organizational structure revealed that the authorized staffing of the Authority is one hundred and ninety-three (193) employees. However, existing in-

posts staffs stands at one hundred and twenty (120) employees resulting in a shortfall of seventy-three (73) members of the staff as at 30 June, 2024.

In the circumstances, Management's ability to discharge its mandate and provide adequate services to the citizens could not be confirmed.

The audit was conducted in accordance with ISSAIs 2315 and 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 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 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.

Those charged with governance are 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, GBS
AUDITOR-GENERAL

Nairobi

13 December, 2024