REPUBLIC OF KENYA

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OFFICE OF THE AUDITOR-GENERAL

Enhancing Accountability

REPORT

OF

THE AUDITOR-GENERAL

ON

NATIONAL BIOSAFETY AUTHORITY

FOR THE YEAR ENDED 30 JUNE, 2025

REPUBLIC OF KENYA

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

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

REPORT OF THE AUDITOR-GENERAL ON NATIONAL BIOSAFETY AUTHORITY FOR THE YEAR ENDED 30 JUNE, 2025

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.

A Qualified Opinion is issued when the Auditor-General concludes that, except for material misstatements noted, 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 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 National Biosafety Authority set out on pages 1 to 53, which comprise of the statement of financial position as at 30 June, 2025 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 National Biosafety Authority as at 30 June, 2025 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 Biosafety Act, 2009 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1. Unexplained Variances on Revenue from Exchange Transactions

The statement of financial performance and as disclosed in Note 8 to the financial statements reflect revenue from exchange transactions of Kshs.379,593,888 which includes application fees of Kshs.252,311,633. However, records from the E-Citizen platform indicates Kshs.19,454,488 resulting to unexplained variance of Kshs.232,857,145.

In the circumstances, the accuracy, validity and completeness of the application fees amount of Kshs.252,311,633 could not be confirmed.

2. Unsupported Trade and Other Payables

The statement of financial position and as disclosed in Note 20 to the financial statements reflect trade and other payables balance of Kshs.9,306,712. However, review of the pending payables as at 30 June, 2025, revealed that trade payables amounting to Kshs.3,329,716 were not supported by documents such as invoices.

In the circumstances, the accuracy and completeness of trade and other payables balance of Kshs.9,306,712 could not be confirmed

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the National Biosafety 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 qualified opinion.

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. Except for the effect of the matters described in the Basis for Qualified Opinion section, I have determined that there are no other key audit matters to communicate in my report.

Other Matter

Unresolved Prior Year Issues

In the report of the previous year, several issues were raised under 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. However, Management had not resolved the issues or given explanation for the failure to implement the recommendations. Further, Management did not submit a report on how they addressed the recommendations and findings of the previous year's audit. Issues which were raised in the report of 2023/2024 are as listed below;

1. Misstatement of Fuel and Oil Expense
2. Lack of Revaluation Policy on Property, Plant and Equipment
3. Unsupported Reserves
4. Long Outstanding Retention Money
5. Non-Compliance with laws on Wage Bill
6. Unapproved Salary Adjustment
7. Non-Compliance with a Third Basic Rule
8. Understaffing of Staff

Other Information

The Directors are responsible for the Other Information set out on pages v to lvii which comprise of Key Entity Information and Management, The Board of Directors, Key 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 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. Failure to Remit Surplus Funds to The National Treasury

Review of the audited financial statements for the financial year 2023/2024 revealed that the entity reported a surplus of Kshs.17,093,477 as per the statement of financial performance. However, no evidence was provided to confirm that ninety percent (90%) being Kshs.15,384,129 of the surplus was remitted to The National Treasury, as required under Regulation 219(2) of the Public Finance Management (National Government) Regulations, 2015. which states that "A Regulatory Authority established by an Act of Parliament and referred to under Regulation 211(4) shall remit to the Collector ninety per centum of its surplus funds reported by Management in the financial statements by the 31st October of each year."

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

2. Failure to File Monthly Returns on Procurement Capacity Building Levy

During the financial year under review, the Authority entered into contracts with various suppliers for works, goods delivery and service provision. However, the Authority did not deduct and remit to the Public Procurement Regulatory Authority (PPRA) Levy, at the rate of zero point zero three per centum (0.03%) of the value of the signed contracts, exclusive of applicable taxes from the contract value at the time of making payments for such contracts. Further, the Authority did not submit returns, contrary to Section 9 of the Public Procurement Capacity Building Levy Order, 2023 which require procuring entities to maintain monthly records in Form SL.1 and submit the returns through the Public Procurement Information Portal.

In the circumstances, Management was in breach of the law

3. Delayed Approval of the Procurement Plan

Review of the Procurement Plan provided for audit revealed that it was prepared and submitted to the Accounting Officer on 7 August, 2025 which was after the start of the financial year. This was contrary to Section 53(2) of the Public Procurement and Asset Disposal Act, 2015 which requires that the head of a user department submits an annual Procurement Plan to the Accounting Officer before the start of the financial year, and that the plan be implemented according to its set timelines.

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

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 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 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

Lack of Segregation of Duties at Namanga Border Post

Physical inspection at the Namanga Border Post established that the station was staffed with two (2) substantive officers and one (1) intern. However, one (1) officer was away on training, leaving only one (1) officer and the intern to manage the border post operations. The import clearance system requires three (3) separate user accounts to ensure proper segregation of duties for checking, verification and inspection processes. The intern does not have system access, hence the remaining officer operated all the three (3) accounts, resulting in inadequate internal controls. Further, the same Officer responsible for Namanga was also assigned clearance duties at the Loitoktok Border Post and provided additional support for clearance of consignments at the Jomo Kenyatta International Airport (JKIA) entry point, which further increased workload pressure and the risk of operational inefficiencies.

In the circumstances, there is an increased risk of operational inefficiencies, which may result in delayed or ineffective clearance processes.

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 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 of 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

18 December,2025