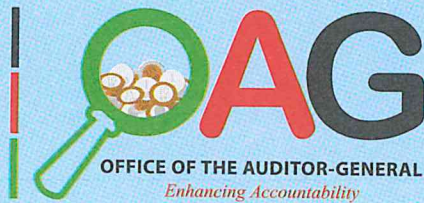


REPUBLIC OF KENYA



REPORT

OF

THE AUDITOR-GENERAL

ON

STATE CORPORATIONS APPEAL TRIBUNAL

**FOR THE YEAR ENDED
30 JUNE, 2025**

REPUBLIC OF KENYA

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REPORT OF THE AUDITOR-GENERAL ON STATE CORPORATIONS APPEAL TRIBUNAL 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.

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 State Corporations Appeal Tribunal set out on pages 1 to 29, 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 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 State Corporations Appeal Tribunal 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 State Corporations Act, Cap 446 and the Public Finance Management Act, 2012.

Basis for Opinion

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the State Corporations Appeal Tribunal 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 reflects budgeted revenue of Kshs.90,620,666 against actual revenue on comparable basis of Kshs.63,038,541 resulting in a revenue shortfall of Kshs.27,582,125 or 30% of the budget. Similarly, the statement reflects actual expenditure of Kshs.61,239,731 against approved budget of Kshs.90,620,666 resulting in an under-performance of Kshs.29,380,935 or 32% of the budget.

The under-collection and under-performance affected implementation of the planned activities and may have impacted 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

As reported previously, staff advances amounting to Kshs.4,479,440 were written off without the approval of the Cabinet as required under Section 69(3) of the Public Finance

Management Act, 2012 and Regulation 148(8) of the Public Finance Management (National Government) Regulations, 2015. The Public Investments Committee (PIC) in the Report for years 2013/2014 to 2016/2017 recommended that the Tribunal write off the staff advances subject to The National Treasury approval. Although The National Treasury was provided with an investigative report and supporting documents from the Tribunal for further consideration, approval for write off had not been obtained as at 30 June, 2025.

In the circumstances, lack of action on Public Investment Committee recommendations was in contravention of the law.

Other Information

Management is responsible for the Other Information set out on page iv to xxi which comprise of Key Entity Information and Management, the Board Members, Management Team, Report of the Secretary, Statement of Performance against Predetermined Objectives, Corporate Governance Statement, Management Discussion and Analysis, Environmental and Sustainability Reporting, Report of the Board Members and Statement of Board Members Responsibilities. The Other Information does not include the financial statements and my audit report thereon.

In connection with my audit on the Tribunal'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 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 effects of the matter 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

Non-Compliance with the State Corporation Act on Appointment of Directors

Review of Gazette Notice No. 108 dated 12 January, 2024 on appointment of members of the Tribunal revealed that one of the members appointed to represent the Institute of Certified Public Accountants (ICPAK) is a serving member of staff of a state corporation

contrary to the provisions of Section 10 of the State Corporations Act which states that a person shall not be qualified to be appointed the chairman, or a member of the Tribunal if he or she is an employee of, or a member of the Board of, a State Corporation.

In the circumstances, the appointing authority 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

Understaffing at the Tribunal

As previously reported, review of staff records revealed that only nine (9) officers were actively serving within the Tribunal, compared to the approved establishment of nineteen (19) officers. This staffing shortfall raises concerns regarding the Tribunal's capacity to effectively execute its mandate, as key departments such as Finance and Human Resource had only one staff in position each, potentially impacting service delivery and operational efficiency.

In the circumstances, the Tribunal may not achieve its mandate of dealing with cases of surcharge in State Corporations and provide avenues for redress to those who feel aggrieved from decisions of surcharge made by the Inspectorate of State Corporations.

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 Management and the 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 Tribunal'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 Tribunal'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

13 November, 2025