REPUBLIC OF KENYA

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

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OAG
OFFICE OF THE AUDITOR-GENERAL
Enhancing Accountability

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

REPORT OF THE AUDITOR-GENERAL ON TOBACCO CONTROL BOARD 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 Tobacco Control Board set out on pages 1 to 30, 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 possible 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 Tobacco Control Board 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) the Tobacco Control Act, 2007 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1. Non-Disclosure of Property, Plant and Equipment

The statement of financial position reflects Nil balance in respect to property plant, and equipment. However, review of expenditure records and physical verification revealed that the Board has various assets, including computers, printers, cabinets, water dispensers and office furniture with economic value, that are controlled by the Board and are expected to provide future economic benefits.

In the circumstances, the accuracy and completeness of the Nil property, plant and equipment balance could not be confirmed.

2. Incomplete Schedules

The statement of financial performance and as disclosed in Note 7 to the financial statements reflects use of goods and services of Kshs.83,266,384 out of which Kshs.37,438,008 was incurred on daily subsistence allowances. However, the supporting schedules lacked details of the payee, dates of payments, and description of the nature and purpose of the events.

In the circumstances, the accuracy and completeness of daily subsistence allowances amount of Kshs.37,438,008 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the Tobacco Control Board 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.

Emphasis of Matter

Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.169,100,000 and Kshs.113,100,000 respectively resulting to underfunding of Kshs.56,000,000 or 33% of the budget. Similarly, the Board had actual receipts and actual expenditure on comparable basis of Kshs.113,100,000 and Kshs.85,741,622 respectively resulting to an under-absorption of Kshs.27,358,378 or 25%.

The underfunding and under absorption may affect the Board's key objective of overseeing the implementation of tobacco control laws and policies on reducing tobacco consumption and harmful effects on public health.

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. 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 Matters

In the prior years' audit report, several issues were raised under the Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. Review of the status of the Board in 2024/2025 financial year audit revealed that the following matters remained unresolved:

Year	Reference	Observation
2023/2024		**Report on Effectiveness of Internal Controls, Risk Management and Governance**
	1	Lack of Strategic Plan and Organizational Structure
	2	Lack of Risk Management and Information Communication Technology Policy
	3	Failure to Carry out Board Evaluation
	4	Lack of Imprest Register
	5	Inadequate Staffing

Other Information

The Management is responsible for the Other Information set out on page iv to xxvii which comprise of Key Board's Information and Management, The Board of Directors, Key Management Team, Chairperson'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 Board'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. Except for the effect of the issue reported below, there is nothing else to report on this regard.

Failure to Measure Performance Targets

Review of the Board's performance indicated that it had seven (7) strategic pillars to implement during the year which included-: policy formulation, resource mobilization, coordination/partnership, standard, quality and advisory, research monitoring and evaluation and capacity building. However, the Board did not indicate the planned targets during the year under review to form the basis for measuring progress and checking whether strategic pillars have been realized.

In the circumstances, there is no clear roadmap for achieving the strategic objectives of the Board.

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, 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.

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 effect of the matters 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

1. Lack of Strategic Plan and Organizational Structure

The Board did not have a strategic plan and organizational structure. Management did not provide satisfactory explanation for the failure to develop these governance instruments.

In the circumstances, the effectiveness of governance and alignment of the Board's policies, practices and strategic plans with Government directives, national policies and national development goals could not be confirmed.

2. Lack of Risk Management and Information Communication Technology Policy

The Board did not have risk management and information communication technology policy. In addition, Management did not carry out risk assessment. This was contrary to Regulation 165 of the Public Finance Management (National Government) Regulations, 2015 which states that the Accounting Officer shall ensure that the National Government entity develops (a) risk management strategies which include fraud prevention mechanism and (b) a system of risk management and internal controls that builds robust business operations.

In the circumstances, the effectiveness of risk management systems and information technology controls could not be confirmed.

3. Failure to Carry out Board Evaluation

During the year under review, the Board of Directors did not carry out board evaluation. This was contrary to section 1.12.1(b) of Mwongozo Code of Governance for State Corporation, 2015 which states that the Board should undertake an annual evaluation of its performance.

In the circumstances, the effectiveness of governance structures could not be confirmed.

4. Lack of Imprest Register

During the year under review, Management did not maintain an imprest register. This was contrary to Regulation 93(4)(c) of the Public Finance Management (National Government) Regulations, 2015 which provides that before issuing temporary imprests under paragraph (2), the Accounting Officer shall ensure that the applicant has been recorded in the imprest register including the amount applied for.

In the circumstances, the effectiveness of internal controls on management of imprest could not be confirmed.

5. Inadequate Staffing

Review of the Board's operations revealed that the Finance, Procurement and Information Technology Services Departments did not have staff and these activities were being performed by staff seconded from the State Department for Public Health and Professional Standards. Further, human resource instruments have not been established to guide on the terms of service of officers on secondment and the required staffing needs of the Board.

In the circumstances, the effectiveness of internal controls on the management of human resource could not be confirmed.

6. Failure to Review the Tobacco Control Act, 2007

Section 5 of the Tobacco Control Act, 2007 provides for a sixteen (16) board membership drawn from various government departments, professional associations, and civil society groups. However, this composition contravenes the Mwongozo Code of Governance for State Corporations, which requires state corporation boards to comprise between seven (7) and nine (9) members. Further, the Act provides for board members from offices and institutions that no longer exist.

In the circumstances, the effectiveness of the governance structure and proper composition of the Board could not be confirmed.

7. Failure to Appoint Board Chairperson

The statement of financial performance and as disclosed in Note 7 to the financial statements reflects use of goods and services of Kshs.85,741,622, which includes Board allowances of Kshs.3,480,000. However, it was noted that the Board was not discharging its functions due to the absence of a substantive Chairperson whose term lapsed on 12 July, 2025 and as at the time of audit in September 2025, the position of Chairman had net been appointed.

In the circumstances, the Board has been unable to effectively discharge its mandate and the effectiveness of internal controls on governance 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 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 Board'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 *Board'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

3 November,2025