

REPORT OF THE AUDITOR-GENERAL ON LAKE BASIN DEVELOPMENT AUTHORITY FOR THE YEAR ENDED 30 JUNE, 2020

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of Lake Basin Development Authority set out on pages 1 to 47, which comprise the statement of financial position as at 30 June, 2020, 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 the Lake Basin Development Authority as at 30 June, 2020, 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 with the Public Finance Management Act, 2012 and the Lake Basin Development Authority Act, (Revised 2012).

Basis for Qualified Opinion

1.0 Property, Plant and Equipment

Included in the statement of financial position as at 30 June, 2020 is property, plant and equipment balance of Kshs.4,959,700,261. However, the following inconsistencies were noted:

- i. The fixed assets register reflects the acreage of Yala Swamp Complex as 2300 hectares. However, the title document provided for audit review shows the area as 15.12 hectares. In addition, the cost of the Yala parcel of land was not included in the fixed assets register as well as in the financial statements.
- ii. The following parcels of land are included in the fixed assets register but their cost of acquisition was not provided:

Asset	Location	Size	Cost (Kshs.)
Yala Swamp Complex	Siaya	2300 HA	Nil
Borabu Fish Farm	Kisii	1 HA	Nil
Sangalo LMC	Bungoma	140 HA	Nil
Ndiwa Honey Refinery	Ndhiwa	0.6 HA	Nil

Bondo Honey Refinery	Bondo	7 HA	Nil
Rongo Fish Farm	Migori		Nil
Kwanza Integrated	Kitale	2.347 HA	Nil

- iii. Note 23 to the financial statements reflects a net book value for land of Kshs.62,674,333 which includes Kokwanyo Livestock Multiplication Center with a net book value of Kshs.686,000. The Livestock Centre had an expired lease and the entity no longer holds any ownership rights to the land. As a result, the net book value of land amounting to Kshs.62,674,333 is overstated by Kshs.686,000.
- iv. Land ownership documents for Koderia Brick Plant with net book value of Kshs.850,000, Migosi Poultry with net book value of Kshs.5,805,333 and KSM Block 12/40 with a net book value of Kshs.1,545,000 all amounting to Kshs.8,200,333 were not provided for audit review.
- v. Borabu Fish Farm and Kapsabet Brick Plant with a net book value of Kshs.985,0000 are on riparian land. Authorization to use riparian land from National Environment Management Authority (NEMA) was not provided. In addition, it was not possible to ascertain how the cost of Kshs.985,000 for Borabu Fish Farm and Kapsabet Brick Plant was determined.
- vi. The original title for Lower Kanyakwar Residential is not in the custody of the Authority since it is being held as collateral for a loan of Kshs.2,500,000,000 advanced to an entity by Co-operative Bank of Kenya for construction of LBDA Mall. However, the Authority has not started repaying the loan and the matter is in Court over the legality of the Authority's title being used as collateral for a loan advanced to a third party.
- vii. The Authority last valued part of its assets except land and buildings in the financial year 2017/2018. However, the parcels of land were valued to establish their carrying values contrary to the requirement of International Accounting Standard No.16 (31) which states revaluation of property plant and equipment shall be made with sufficient regularity to ensure that the carrying amount does not differ materially from that which would be determined using fair value at the balance sheet date.

Consequently, the accuracy and completeness of the property, plant, and equipment balance of Kshs.4,959,700,261 as at 30 June, 2020 could not be ascertained.

2.0 Receivables from Exchange Transactions

Included under Note 21 to the financial statements is net receivables from exchange transactions of Kshs.69,280,837. However, the following issues were noted:

- i. The total amount of debt from ex-board and ex-staff debtors amounting to Kshs.11,549,558. However, some of these debts have been outstanding for over twenty (20) years, therefore, their recoverability is doubtful.
- ii. The rate for provision for bad and doubtful debts was not disclosed in the notes to the financial statements and the debtors aging analysis was not provided.

- iii. The provision for bad debts amount remained constant at Kshs.147,824,390 over the last two years despite changes in the debtors amount from Kshs.212,200,893 in the previous year to Kshs.217,105,227 in the current year.

Consequently, the accuracy and completeness of the receivables balance of Kshs.69,280,837 as at 30 June, 2020 could not be ascertained.

3.0 Long Outstanding Payables

The Note 26(a) to the financial statements reflects current trade and other payables of Kshs.448,348,015. However, the following issues were noted:

- (i) Tax arrears (inter-ministerial dues) of Kshs.28,176,641 includes VAT arrears of Kshs.21,684,885 which have accrued for over 11 years.
- (ii) Unremitted payroll deductions amounting to Kshs.499,130 have remained outstanding since the year 2000.
- (iii) Staff claims in respect to workmen compensations of Kshs.151,605 have been outstanding since the year 2000.
- (iv) Trade suppliers balance of Kshs.306,489,711 include payables of Kshs.62,186,283 that have been outstanding for between ten (10) to Thirty (30) years and it is not clear how the Management intends to settle the debts.

Consequently, the accuracy and completeness of payables of Kshs.448,348,015 as at 30 June, 2020 could not be ascertained.

4.0 Unsupported Advertising Expenditure

Note 16 to the financial statements reflects general expenses balance of Kshs.329,064,941 which includes printing and advertising of Kshs.10,766,418 which further includes Kshs.1,508,000 being reimbursement to a Company (property manager) for sponsorship of a promotional show at the Mall. However, it was not clear how the payment to the Company was determined since the promotional show was done by a different entity.

Consequently, the validity and value for money for the expenditure of Kshs.1,508,000 on advertisement for the year ended 30 June, 2020 could not be confirmed.

5.0 Unsupported Payment

Note 16 to the financial statements reflects general expenses of Kshs.329,064,941 which includes Kshs.12,397,590 for official entertainment out of which Kshs.1,000,000 was paid to a Foundation for a sponsorship deal during the clean water conference. However, an undated memorandum of understanding provided did not indicate the consideration of the partnership.

Consequently, the validity of the expenditure of Kshs.1,000,000 could not be confirmed.

6.0 Unsupported Drilling and Equipping of Boreholes

Note 15 to the financial statements reflects Kshs.126,201,859 in respect to contracted services which includes rehabilitation of boreholes cost of Kshs.51,710,241.

However, some items in the Bill of Quantities totalling to Kshs.1,599,999 had not been accounted for as analyzed below;

Project	Item as per the BQ	Description	Amount (Kshs.)	Remarks
Oriwo SDA Church Borehole		NEMA Licenses	80,000	NEMA License still not provided for audit verification.
Wikoteng Primary School Borehole		NEMA Licenses	80,000	NEMA License not provided.
	Item No.9.3	Purchase of printer	300,000	Evidence of purchase not provided.
Boronyi and Sererut Boreholes		Acquisition Licenses from NEMA.	50,000	NEMA License still not provided.
	Item No.9.3	Purchase of 2 laptops	200,000	Evidence of stores as S11 and S13 not availed.
		To be used at the discretion of the engineer	699,999	Site instructions issued not quantified.
Brigita School Borehole	Item No. 1.1	Acquisition of permits for drilling and licenses from Water Resources Authority (WRA) and NEMA.	70,000	-No NEMA license. -No WRA license.
Crowley Lukesi Borehole	Item 1.1	Acquisition of permits for drilling and licenses from Water Resources Authority (WRA) and NEMA.	70,000	NEMA license not provided.
	Item 9.3	Purchase of a total station as Topcon, Leica or equal approved	50,000	Purchase not supported.
Total			1,599,999	

Consequently, the validity and value for money of the expenditure of Kshs.1,599,999 on rehabilitation of boreholes could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the Lake Basin Development Authority Management in accordance with ISSAI 130 on 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 judgment, are of most significance in the audit of the financial statements. There were no key audit matters to report on in the year under review.

Other Matter

1. Budgetary Control and Performance

During the year under review, the Authority had budgeted to collect Kshs.741,232,000 in revenues. However, the actual revenue realized was Kshs.782,653,816 resulting in over collection of Kshs.41,421,816.

Similarly, the Authority had budgeted to spend Kshs.364,608,000, but attained an actual expenditure of Kshs.871,093,257, resulting in over expenditure of Kshs.506,485,257.

The Management overspent a total of Kshs.506,485,257 without authority contrary to Regulation 43(b) of the Public Finance Management (National Government) Regulations, 2015 which states that accounting officer shall ensure that public funds entrusted to their care are properly safeguarded and are applied for purposes for only which the funds were appropriated by the National Assembly.

2. Material Uncertainty Related to Going Concern

The Authority reported a deficit of Kshs.180,266,224 (2018/2019 – Kshs.9,190,458) for the year ended 30 June, 2020, The accumulated losses for the same time increased from Kshs.131,306,479 to Kshs.311,572,703. In addition, the current liabilities of Kshs.448,348,015 exceeds current assets of Kshs.366,497,350 by Kshs.81,850,665 as at 30 June, 2020. This situation is an indication that the Authority is facing financial challenges. Therefore, the financial statements have been prepared on a going concern basis on the assumption that the Authority will continue to receive financial support from the Government and creditors.

3. Obsolete Stores

Note 22 to financial statement reflect inventories amounting to Kshs.22,322,302 which includes Kshs.774,841 in respect of automotive spares, which further includes automotive spares at the Rice Mill valued at Kshs.670,278 which have not been in use for the last four (4) years and thus considered as obsolete. The Management has not fast-tracked the disposal of the stores.

Consequently, accuracy and completeness of the inventory of Kshs.774,841 for the year ended 30 June, 2020 could not be ascertained.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, based on the audit procedures performed, except for the matters described in the Basis for Conclusion on Lawfulness and Effective 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

1.0 Payment of Acting Allowances Beyond Six Months

Note 11 to the financial statements reflects employees cost of Kshs.379,012,710 which includes Kshs.221,294,223 paid as salaries and allowances. Out of which allowances totaling Kshs.200,088 were paid to an officer by virtue of acting for the higher position. However, the officer has been in acting position for close to three years contrary to Section C14(1) of the Public Service Commission Human Resource Policies, 2016 which states that acting allowance will not be payable to an officer for more than six (6) months.

Consequently, the Management was in breach of the law.

2.0 Failure to Establish a Sinking Fund

The Authority has not established a sinking Fund to help in the replacement of its assets as required by Section 16(1) of the State Corporations Act, (Revised 2012) which requires that every state corporation shall make provision for the renewal of depreciating assets by the establishment of sinking Funds and for contributions to such reserve and stabilization Funds as may be required.

Consequently, the Management was in breach of the law.

3.0 Irregular Payment for Survey Services

Note 16 to the financial statements reflects Kshs.329,064,941 in respect to general expenses which includes rent and rates expenditure of Kshs.18,422,925, which further includes Kshs.1,656,054 being payment to a land survey company to facilitate the survey of Sang'alo parcel of land and processing of a lease title. However, the Management used request for quotations method in selecting the service provider contrary to Section 105(a) of the Public Procurement and Asset Disposal Act, 2015 which requires that an entity can only use quotations if the estimated value of goods, works and non-consultancy services is less than or equal to the prescribed maximum value for use of quotations as prescribed in regulations. The contract sum of the project was Kshs.3,590,698 and therefore, exceeded the maximum expenditure of Kshs.2,000,000 for quotations.

Consequently, the Management was in breach of the law.

4.0 Lake Basin Development Company Limited

Review of the Authority's revenue and expenditure records revealed that transactions relating to Lake Basin Development Company Limited incorporated on 13 October, 1989 as a limited liability company and operating under the Lake Basin Development Authority (LBDA) were included in Authority's financial statements. However, the Company which runs the rice mill did not file annual returns to the registrar of companies. Further, the Company did not prepare and submit for audit separate financial statements to the Auditor-General.

Consequently, the Management is in breach of the law.

5.0 Provision of Financial Expert and Advisory Services

Note 15 to the financial statements reflects contracted services balance of Kshs.126,201,859 which includes consulting fees of Kshs.6,934,003 which further includes Kshs.4,639,858 paid to a supplier for provision of financial expertise and advisory services for LBDA Mall.

The Management sent out ten proposals to suppliers as required by Section 115 of the Public Procurement and Asset Disposal Act, 2015 and subsequently awarded the contract to the only bidder at a contract sum of Kshs.5,263,800. However, the Management contravened Section 121(3) of the Act which states that subject to total proposals received, a minimum of six proposals shall be shortlisted, but where less than six proposals have been received, a minimum of three proposals shall be shortlisted. The evaluation committee report was not provided for review, and the consultant's report which has not been approved by the Board also revealed several inconsistencies after its appraisal by the internal audit department.

In view of the foregoing, the Authority was in breach of the law and value for money in the expenditure of Kshs.4,639,858 could not be confirmed.

The audit was conducted in accordance with ISSAI 4000. The standard requires 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 are in compliance, 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 matter described in the Basis for 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 overall governance were not effective.

Lack of Segregation of Duties in Examination of Cash Books

Examination of the Authority's cash books and bank reconciliation statements prepared during the year revealed that documents were not checked by an authorized person independent of the cashier. Lack of segregation of duties in cash books preparation may result to manipulation of data and records of the Authority.

Consequently, errors and fraud may pass undetected.

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 control, risk management and 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 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 control 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 control, risk management and overall governance.

In preparing the financial statements, Management is responsible for assessing the Authority's ability to sustain services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless Management is aware of the intention to terminate the Authority or 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 are in compliance 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 financial reporting process, reviewing the effectiveness of how the entity 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

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. 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 and weakness 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 addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, 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 accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal control 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 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal control would not necessarily disclose all matters in the internal control that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Because of its inherent limitations, internal control may not prevent or detect misstatements and instances of non-compliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.
- Conclude on the appropriateness of the Management's use of the applicable basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Company's ability to continue to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the

financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the Authority to cease to sustain its services.

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the Authority to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with the Management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that are identified during the audit.

I also provide Management with a statement that I have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.



CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

10 February, 2022