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**COUNTY ASSEMBLIES OF BUNG OMA AND TRANS NZOIA
OFFICES OF THE CLERK**

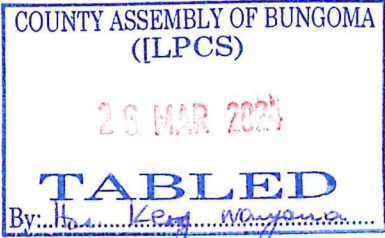
THIRD SESSION

**JOINT COMMITTEES OF PUBLIC ACCOUNTS AND INVESTMENTS OF
BUNGOMA AND TRANS NZOIA COUNTY ASSEMBLIES**

**REPORT ON THE INTERROGATION OF THE NZOIA WATER SERVICES
COMPANY LIMITED AUDIT QUERIES FOR THE PERIOD ENDED 30TH
JUNE, 2022**

Clerks Chambers
County Assembly Buildings
P.O BOX 1886 - 50200
BUNGOMA, KENYA

September, 2023



Clerks Chambers
County Assembly of Tranzoia
P.O. Box 4221_30200
KITALE, KENYA

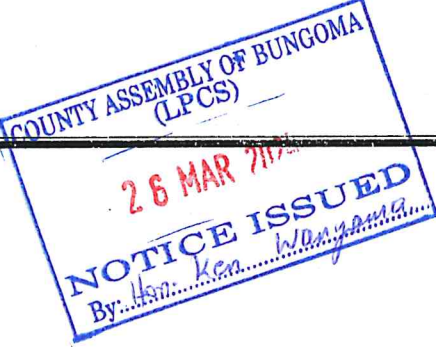


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ACRONYMS

PFMA	Public Finance Management Act
OAG	Office of the Auditor General
PAIC	Public Accounts and Investment's Committee
NZOWASCO	Nzoia Water Services Company
MD	Managing Director
LAPFUND	Local Authorities Provident Fund
CPF	County Pension Fund
ERP	Enterprise Resource Planning
NRW	Non Revenue Water
USAID	United States Agency for International Development
KRA	Kenya Revenue Authority
VAT	Value Added Tax
KSHS	Kenya Shillings

1.0. PREFACE

Introduction

Mr. Speaker Sir,

A twenty member joint Committee comprising Members of the Committee on Public Accounts and Investments drawn from the County Assemblies of Bungoma and Trans-Nzoia respectively undertook a joint interrogation exercise in respect to the report of the Auditor-General on the Financial Statements of Nzoia Water Services Company Limited for the Year ended 30th June, 2022. The interrogation and subsequent report writing exercise took place from 16th to 20th September, 2023 at Queens Gardens Hotel in Eldoret.

COMMITTEES' MEMBERSHIP AND MANDATE

The Bungoma County Assembly Public Accounts and Investments committee membership as currently constituted comprises of the following members;

- | | |
|----------------------------|------------------|
| 1. Hon. Everton Nganga | Chairperson |
| 2. Hon. Timothy Chikati | Vice-chairperson |
| 3. Hon. Jerusa Aleu | Member |
| 4. Hon. Stephen Kaiser | Member |
| 5. Hon. Everlyne Mutiambu | Member |
| 6. Hon. Alfred Mukhanya | Member |
| 7. Hon. Anthony Lusenaka | Member |
| 8. Hon. Benard Kikechi | Member |
| 9. Hon. John K Wanyama | Member |
| 10. Hon. Metrine Nangalama | Member |
| 11. Hon. Violet Makhanu | Member |

MANADATE OF THE COMMITTEE

Mr. Speaker Sir,

The Bungoma County Assembly Public Accounts and Investments Committee is a Select Committee established under Standing Order. 209 of the Bungoma County Assembly standing orders. Standing Order 209(5) provides that, the functions of the Public Accounts and Investments Committee shall be to-

(a) Pursuant to the provisions of Article 185(3) of the Constitution, exercise oversight over the County Executive Committee and any other County Executive organ.

(b) Pursuant to Article 229(7) and (8) of the Constitution, examine the reports of the Auditor-General on the Annual Accounts of the County Government.

(C) Examine special reports, if any, of the Auditor-General on County Government Funds.

(d) Examine the reports, if any, of the Auditor-General on County Public Investments; and

(e) Exercise oversight over County Public Accounts and Investments.

Mr. Speaker Sir,

The Trans-Nzoia County Assembly Public Accounts and Investments committee membership as currently constituted comprises of the following members;

- | | |
|---------------------------|------------------|
| 1. Hon. Simon Murei | Chairperson |
| 2. Hon. Kennedy Mugushu | Vice-chairperson |
| 3. Hon. Barbara Kisuya | Member |
| 4. Hon. Jacqueline Kurgat | Member |
| 5. Hon. Ann Anjiko | Member |
| 6. Hon. Kefa Were | Member |
| 7. Hon. Kibet Ndiwa | Member |
| 8. Hon. Eric Wafula | Member |
| 9. Hon. Adan Nassir | Member |

The Trans-Nzoia County Assembly Public Accounts and Investments Committee is a Select Committee established under Standing Order 185 and 186 respectively of the Trans-Nzoia County Assembly standing orders.

Standing Order 185 provides that, the County Public Accounts and Investments Committee shall be responsible for-

(2)The examination of the working of the public investments

(3)The Public Investments Committee shall be responsible for-

(a)the examination of reports and accounts and workings of the County Public Investments

(b) the examination of the reports, if any, of the Auditor-General on public investments

(C) the examination of affairs and efficiency of public investments. Whether they are being managed in accordance with sound financial or business principles and prudent commercial practice

(d) matters for the consideration of which machinery is established by any special statute under which a particular County Public Investment is established.

The provisions of standing order 186(2) states that;

The County Public Accounts Committee shall be responsible for the examination of the accounts showing the appropriation of the sums voted by the house to meet the public expenditure and of such other accounts laid before the house as the committee may think fit.

ACKNOWLEDGEMENTS

Mr. Speaker Sir,

On behalf of the members of the joint committee of Public Accounts and Investments drawn from the two County Assemblies of Bungoma and Trans Nzoia and pursuant to the provisions of the Standing Orders quoted herein and in accordance with the provisions of Article 229(8) of the Constitution of Kenya 2010, we acknowledge the two offices of the Speakers and Clerks of both Bungoma and Transzoia County Assemblies for permitting and enabling the Joint Committee to undertake these exercise that borne this report. Further thanks are extended to the management of NZOWASCO, Office of the Auditor General and the secretariat whom with a lot of obligation ensured these report is a success.

Finally **Hon. Speaker**, it is my pleasure and privilege to present to this House, the Joint committees' report on the Auditor General's Report on the Financial Statements of Nzoia Water Services Company Limited for the Year ended 30th June, 2022 for consideration and adoption.

Signed: 

Hon. Everton Nganga

Chairperson

Public Accounts and Investments

Committee

Bungoma County Assembly

Signed: 

Hon. Simon Murei

Chairperson

Public Accounts and Investments

Committee

Trans-Nzoia County Assembly

2.0 POWERS OF THE COMMITTEES

Constitutional Principles on Public Finance

Mr. Speaker Sir,

Article 195 of the Constitution of Kenya, 2010 provides that-

(1) A County Assembly or any of its committees has power to summon any person to appear before it for the purposes of giving evidence or providing information.

(2) For the purpose of clause (1), an Assembly has the same powers as the High Court to-

(a) Enforce the attendance of witnesses and examining them on oath, affirmation or otherwise;

(b) Compel the production of documents; and

(c) Issue a commission or request to examine witnesses abroad.

In this regard, it must be emphasized that the oversight function of this House as carried out through Committees elevates it to a status akin to that of a High Court. The exercise of this unique quasi-judicial function is expected to strictly adhere to and apply the principles of natural justice and fair hearing, and that every process or action taken by the House or its Committees must be seen by all to be above board taking into account the fact that decisions of this House bear the element of finality.

Section 19 of the County Assemblies Powers and Privileges Act, 2017 on examination of witnesses states that;

Where a County Assembly or a Committee requires that any information be verified or otherwise ascertained by the oral examination of a witness, the County Assembly or the committee may-

(a) Cause such witness to be examined on Oath; and

(b) Require the witness to produce any document, paper, book or record in the possession or under the control of the witness which may have a bearing on the subject of the inquiry.

Guiding Principles on the Audit Queries

In the execution of its mandate aforesaid, the joint committees were guided by core constitutional and statutory principles on Public Finance Management, as well as established customs, traditions, best practices and usages. These principles include:-

Constitutional principles on public finance

1.0. **Article 201** of the Constitution of Kenya, 2010 enacts fundamental principles

that “...*shall guide all aspects of public finance in the Republic...*”

These principles include;

- 2.0. (a) *there shall be openness and accountability, including public participation in financial matters;*
- 3.0. (d) *Public money shall be used in a prudent and responsible way; and*
- 4.0. (e) *financial management shall be responsible, and fiscal reporting shall be clear.*
- 5.0. **Article 227** of the constitution of Kenya 2010 on procurement of public goods and services provides as follows:-
- 6.0. (1) *When a State organ or any other public entity contracts for goods or services, it shall do so in accordance with a system that is fair, equitable, transparent, competitive and cost-effective.*
- 7.0. The provisions of section 117 (1) & (2) of the County Governments Act, 2012 on standards and norms for public service delivery state **that;**
- 8.0. (1) A County Government and its agencies shall in delivering public services-
- 9.0. (a) Give priority to the basic needs of the public;
- 10.0. (b) Promote the development of the public service institutions and ensure that all members of the public have access to basic services.
- 11.0. (2) Public services shall be equitably delivered in a manner that accords to-
- 12.0. (a) Prudent, economic, efficient, effective and sustainable use of available resources;
- 13.0. (b) continued improvement of standards and quality;
- 14.0. (c) Appropriate incorporation of the use of information technology; and
- 15.0. (d) Financial and environmental sustainability.

Audit of Public Accounts

According to Article 229(4) of the Constitution of Kenya 2010, within six months after the end of each financial year, the Auditor General is required to examine, audit and Report in respect of that financial year, on-

- (a) the Accounts of the National and County Governments;
- (b) the accounts of all funds and authorities of the National and County Governments and express an opinion in the report; and ascertain whether

money appropriated by Parliament or the relevant County Assembly and disbursed;-

- i. has been applied for the purpose for which it was appropriated or raised;
- ii. was expended in conformity with the authority that governs it; and
- iii. Was expended effectively, efficiently, economically and transparently as provided for under Section 149 of the Public Finance Management Act, 2012; and the said Audit reports shall then be submitted to Parliament or the relevant County Assembly.

Article 229(8) of the Constitution provides that, within three months after receiving an audit report, Parliament or the County Assembly shall debate and consider the report and take appropriate action.

Further and without prejudice to the foregoing, Section 34 of the Public Audit Act, 2015 provides that the Auditor-General may, upon request or at his or her own initiative, conduct periodic Audits which shall be pro-active, preventive and deterrent to fraud and corrupt practices, systemic and shall be determined with a view to evaluating the effectiveness of risk management, control and governance processes in state organs and public entities.

Direct Personal Liability

Article 226(5) of the Constitution spells out that, *“If the holder of a public office, including a political office, directs or approves the use of public funds contrary to law or instructions, the person is liable for any loss arising from that use and shall make good the loss, whether the person remains the holder of the office or not”*.

The Public Accounts and Investments Committee has hoisted high these Constitutional provisions as the basis for holding each individual, Public Officers directly and personally liable for any loss of public funds under their watch. This is also intended to serve as a deterrent measure.

Obligations of Accounting Officers

Section 149(1), of the PFM Act, 2012 stipulates that: *“An accounting officer is accountable to the County Assembly for ensuring that the resources of the entity for which the officer is designated are used in a way that is lawful and authorized; effective, efficient, economical and transparent.”*

This provision obligates accounting officers designated as such to various

County Government entities to appear before the Public Accounts and Investments Committee of the relevant County Assembly to respond to queries relating to their respective departments and/or entities.

Section 23 of the Public Finance Management (County Governments), Regulations, 2015 provides that-

(1)The accounting officer of a County Government entity may delegate to a public officer, in writing, any of the accounting officer's powers or functions under the Act or these Regulations.

(2)In exercising powers and functions under a delegation, the public officer shall comply with any lawful directions of the accounting officer.

(3)The delegation in this regulation may include the authority to incur expenditure in accordance with any limits prescribed by the accounting officer.

(4)Delegation of power does not take away the responsibility of the accountability from the accounting officer.

Further, Section 156 of the PFM Act, 2012 provides that;

(1)If an accounting officer reasonably believes that a public officer employed by a county government entity has engaged in improper conduct in relation to the resources of the entity, the accounting officer shall-

(a) Take appropriate measures to discipline the public officer in accordance with regulations; or

(b) Refer the matter to be dealt with in terms of the statutory and other conditions of employment applicable to that public officer.

(2)If the County Executive Committee Member for Finance reasonably believes that an accounting officer has engaged in improper conduct within the meaning of sub-section (4), the County Executive Committee Member for Finance shall-

(a) Take appropriate measures to address the matter in accordance with laid down procedures; or

(b) refer the matter to be dealt with in terms of the statutory and other conditions of employment applicable to that public officer.

(3)The measures referred to in sub-section (2) (a) include the County Executive Committee Member for Finance revoking the designation as accounting officer.

(4)For the purposes of this section, a public officer engages in improper conduct if the officer-

(a) Contravenes or fails to comply with this Act or any regulation in force;

- (b) undermines any financial management procedures or controls;
- (c) Makes or permits an expenditure that is unlawful or has not been properly authorized by the entity concerned; or
- (d) Fails without reasonable cause to pay eligible and approved bills promptly in circumstances where funds are provided for.

This section of the law further empowers the appointing authority to discipline errant accounting officers, which could include revoking their appointments. This provision has sealed a longstanding loophole that has previously seen accounting officers continuously commit or preside over fiscal indiscipline and malpractice in their departments with impunity without sanction.

The County Public Accounts and Investments Committee strongly holds the view that these provisions of the law were intended to be fully deployed to operationalize the principles set out under Article 201 of the Constitution stated herein above and to ensure prudent and responsible management of public funds. The joint Committees have accordingly invoked these provisions in recommending varying disciplinary actions against persons or public officers who bear responsibility for breach of the law and/or are responsible for the loss or wastage of public resources.

The Committees place a premium on these principles, among others, and have been guided by them in the entire process that has culminated into the production of this report.

The Committees further derive their powers from the Public Procurement and Assets Disposal Act 2015, the Public Procurement and Assets Disposal Regulations 2006, the Public Finance Management Act 2012, the Public Finance Management (County Governments) Regulations 2015, the County Governments Act, 2012 and the Constitution of Kenya 2010.

Confidentiality Undertaking By the Joint Committee Membership

To enhance the integrity of the two committees and their work, the entire membership of the Public Accounts and Investments Committees' signed a confidentiality undertaking in accordance with Bungoma and Trans-Nzoia County Assembly Standing Order Nos 98 and 82 respectively. In relation to the provisions of the said standing orders, members gave an undertaking that in relation to the report of the Auditor-General on the financial statements of Nzoia Water Services Company Limited for the Year ended 30th June, 2022, no member of the Committees nor

members of the secretariat shall refer to the substance of the proceedings touching on the subject matter which shall include any evidence taken or documents presented to the committees and any information under discussion or deliberation at the meetings of the committees whether jointly or otherwise before the final report is tabled on the floors of the respective County Assemblies.

3. o. CHAPTER TWO

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

1. Inaccuracies in the Financial Statements

The statement of financial position reflects comparative balances of Kshs.506, 832,199 and Kshs.28, 767,270 in respect of total assets and retained earnings respectively. However, the balances are at variance with the corresponding balances of Kshs.507, 911,659 and Kshs.29, 846,730 reflected in the audited financial statements for the year ended 30 June, 2021 resulting to variances of Kshs.1, 079,460 and Kshs.1, 079,460 respectively, which were not reconciled. Further, Note 6 and 16 in the statement of profit and loss and other comprehensive income and the statement of financial position reflect cost of sales and intangible assets balance of Kshs.148,377,080 and Kshs.1,777,214 respectively while Notes to the financial statements reflects balances of Kshs.146,336,128 and Kshs.1,765,757 resulting to unreconciled variance of Kshs.2,040,952 and Kshs.11,457.

In the circumstances, the accuracy and completeness of the respective balances could not be confirmed.

Management Response

The balances of Total Assets Kshs.506, 832,199 and retained earnings Kshs.28, 767,270 were picked from the draft financial statement, when they received the audited statements they had already submitted the books of account for FY 2021-2022. The inaccuracies were to be amended in the subsequent year.

The figures of Kshs 146,336,128 Cost of sales and Kshs 1,765,757 Intangible assets as per the notes to the financial statement are correct but erroneously posted to profit and loss and financial position and will be restated in Financial statements for 2022/2023.

Oral Submission

The Managing director agreed with the query and promised to correct in the subsequent audit years. He further stated that the Financial Statements for financial years 2018/2019-2019/2020 and 2020/2021 were received in May whereas the dead

line for updating the books was by 30th September 2023. The delay for updating the books was occasioned the back log at the office of the Auditor General.

Committee Observations

1. There was a delay in submission of draft reports from the office of the Auditor General and as such, the management was not in position to make the necessary changes on time.
2. There was a breach of regulation 42(1) (a) of the PFM (County Government) Regulations 2015 on correctness of Financial Statements.
3. There were no verifiable financial statements showing the restated figures in the financial statements for 2022/2023 and as such, the matter remains unresolved.

Committee Recommendations

1. Requisite documents supporting financial statements should always be submitted on time to the office of the auditor general for verification as per the PFM regulations 2015.
2. The Managing Director should submit the financial statements to the OAG within 3 months from the date of tabling and adoption of this report.
3. The Committee on implementation should follow up and ensure compliance to this recommendation.

2. Variances between Amounts in the Financial Statements and Supporting Schedules

The financial statements provided for review reflected variances between amounts in the financial statements and those in supporting schedules as indicated below:

Component	Financial Statements balances (Kshs.)	Schedules balances (Kshs.)	Variance (Kshs.)
Cost of Sales Note 6	148,377,080	146,336,128	2,040,952
Trade and Other Receivables – Chwele – Note 19(a)	20,614,735	20,599,478	15,257
Staff and Other Related Expenses – Note 8(a)	144,520,230	143,528,743	991,487

Component	Financial Statements balances (Kshs.)	Schedules balances (Kshs.)	Variance (Kshs.)
Repairs and Maintenance – Note 8(d)	23,770,516	28,958,336	(5,187,820)
Specialized Services – Note 8(e)	11,482,749	10,664,749	818,000
Furniture – Note 15	7,895,929	1,560,129	6,335,800
Computer & Equipment – Note 15	15,872,093	3,181,908	12,690,185
Network (Water Pipeline & Infrastructure) – Note 15	78,377,013	17,134,766	61,242,247
Water Meters – Note 15	40,843,647	26,069,123	14,774,524
Water Pump - Matisi T/W – Note 15	6,604,600	5,806,346	798,254
Motor Cycles – Note 15	1,219,086	678,585	540,501
Mobile Phones – Note 15	713,505	323,905	389,600
Capital Works – Note 15	-	12,623,575	(12,623,575)
Other Income - Note 7	34,332,949	-	34,332,949
Grant CLSG - Note 7	37,598,469	-	37,598,469
Depreciation - Note 15	20,633,191	9,025,716	11,607,475
Amortization - Note 16	142,607	476,991	(334,384)

In the circumstances, the accuracy and completeness of the respective balances could not be confirmed.

Management Response

During the period of audit, they reconciled and submitted amended schedules to Auditors on 23 March 2023, also, they attached the supporting schedules to the relevant accounts.

Oral Submission

About the amended supporting schedules that were submitted to the auditor on 23rd March, 2023 minus the supporting Schedules, the Managing Director stated having submitted but the auditor General stated that the vote heads were not in agreement with the ledgers that were submitted. In the circumstances the Managing Director submitted the correct ledgers which were confirmed by the joint committee.

Committee Observations

1. The management failed to submit necessary supporting documents of the financial statements for verification by the OAG. However, the Managing Director submitted the documents to the Joint Committee as at the time of interrogation.

Committee Recommendations

1. The management to ensure that all supporting documents of the financial statements that were submitted before the committee are also forwarded to the Office of the Auditor General as required by law.

2. The matter remains partially resolved until the OAG verifies the reinstated figures in the financial statements for the FY 2022/2023.

3. Failure to adhere to recommendation 2 above by the accounting officer, the provisions of section 156 of the Public Finance Management Act 2012 shall be invoked.

3. Long Outstanding Trade and Other Receivables

The statement of financial position and as disclosed in Note 19 to the financial statements reflects a trade and other receivables balance of Kshs.376, 922,075 which includes balances of Kshs.1, 365,849, Kshs.67, 020, Kshs.1, 045,560 and Kshs.4, 507,226 relating to deposits and pre-payments, unpaid share capital, customer water deposits and unclaimed Value Added Tax (VAT) which have remained the same from the previous year. No explanation was provided for the failure to recover the long outstanding receivables.

In the circumstances, the recoverability of the receivables balance totaling Kshs.6, 985,655 is doubtful.

Management Response

- i. The Managing Director submitted that Kshs. 1,365,849 was a deposit payment made to Kenya Power and Lighting Company during transition by the defunct municipal council. The money represents meter deposits for various accounts.
- ii. The amount of Kshs 67,020 relates to 1,854 shares of Kitale Municipal Council @Kshs 20 par value and 1,497 shares @Kshs 20 par value of Webuye Municipal Council that remain unpaid at the close of the financial year. 1649 shares @Kshs 20 of Bungoma Municipal council was the only amount paid amounting to Kshs 32,980 leaving the balance of Kshs 67,020 as unpaid.

- iii. The Managing Director stated that Kshs. 1,045,560 was composed of Customer water deposit to National Water Conservation and Pipeline Corporation but was not transferred to Nzoia Water and Sanitation Company
- iv. That the amount of Kshs. 4,507,226 was composed of unpaid VAT refunds to the company as at the close of June 2021 when the supply of natural water was zero-rated.

Action;

- i. The Company has communicated to the shareholders to pay for the shares allocated to them. The question on share ownership is also a subject of the pending issues to be resolved through the Joint Task-force formed by the two shareholders to give a report on assets and liabilities. **Appendix 3(a): Terms of Reference for the Taskforce Committee**
- ii. After the winding up of National Water Conservation and Pipeline Corporation, the Company was unable to make further pursuit of the debt after the Company was wound up. However, the Management has written to Water Harvesting and Storage Authority for follow-up. **Appendix 3(b): Extract of the Water Act, 2016**
- iii. The company has written to KRA its intents to enter into a negotiation so as to use the outstanding VAT refunds of KShs. 4,507,226 to off-set future liabilities. **Appendix 3(c): Correspondences to KRA**

Oral Submission

The Managing Director in his oral submission stated that the trade and other receivables amounting to Kshs. 1,365,849 was the deposit made to KPLC during the transition from the defunct Local Authorities and the amount represents meter deposits for various accounts and the amount of Kshs.67, 020 relates to 1854 shares of Kitale Municipal Council @ Kshs. 20 per value and 1497 shares @ Kshs, 20 Per value for Webuye Municipal Council that remained at the close of the financial year.

On the strategies put in place to collect all the outstanding receivables, the Managing Director stated that the Company has formulated policies to guide the management on debts of the company and further the company is working on the performance contract for its employees to fast track achievements of targets in the collection of outstanding receivables. He further stated that communication had been made to regional managers concerning performance contracting.

Committee Observations

1. Supporting documents submitted for verification to the OAG and the Public Accounts and Investment's committee were inadmissible since they lacked proper authentication including lack of the Auditor General's stamp.
2. The management lacked a substantive strategy to collect all the outstanding receivables as well as a credit policy for debt management.

Committee Recommendations

1. The management should expedite and come up with a credit policy for debt management and strategy for effective collection of outstanding debts.
2. The Managing Director should submit the required documents authenticated by the OAG within 3 months from the time of adoption of this report.

4. Unaccounted for interest

The statement of financial position and as disclosed in Note 20 to the financial statements reflects an amount of Kshs.15, 815,266 in respect to short-term deposits. Review of the fixed deposit placement certificate revealed that the amount had been deposited for a fixed period of 11 months starting 30 July, 2021 to 30 June, 2022 and that the funds, upon maturity were to be transferred to the Company's operations account together with interest as at 30th June, 2022. However, a review of the bank statements provided revealed that the funds were wired to the operations account on 16th August, 2022 instead of 30 June, 2022 as provided for in the fixed deposit placement certificate. No explanation was provided on why the funds were transferred thirty-six (36) days after the stipulated date and how the accruing interest for those days was accounted for.

In addition, the statement of cash flows reflects an amount of Kshs.6, 746,359 in respect of adjustments in fixed deposit. However, no explanation or documentary evidence was provided on the nature and purpose of the adjustment.

In the circumstances, the accuracy of the short-term deposit balance of Kshs.15,815, 266 as at 30 June, 2022 could not be confirmed.

Management Response

Concerning delayed receipt of interest the management stated that the company received KShs. 739,634 on 19th July 2022 from the company's banker as interest on

short-term deposit during the period under review. They had also engaged the bank concerning the extended period of 36days after the stipulated date.

The cash flow amount of Kshs 6,746,359 is as a result of previous years adjustment in short term deposit amounts.

Oral Submission

The Management Director explained the delayed receipt of interest amounting to Kshs. 739,634 on 19th July 2022 from its bankers as interest on short term deposits that the bank delayed the transfer of the money and they had written to the bank for clarification and correct a matter which the company was waiting for the responses. This was confirmed by a communication from the bank on the status which was tabled by the Managing Director.

The amount of Kshs. 739,634 was not accounted for which the Managing Director provided the supporting documents i.e. Payment Vouchers and journals

Committee Observations

1. There was official communication from the bank admitting liability for the interest accrued from the extra 36days after the stipulated period. 30th June 2022 to 16th august 2022.

Committee Recommendations

With the provision of the certified communication from the bank with regards to the interest accrued from the 36 day period, the query stands resolved.

Other Matters

Prior Year Reports

In the audit report of the previous year, several paragraphs were raised under the report on Financial Statements, Report on Lawfulness and Effectiveness in the Use of Public Resources. However, the management has not resolved issues nor given any explanation for failure to adhere to the provisions of the public sector Accounting Standards Board templates and the National Treasury's Circular.

Management Response

No management Response was given.

Oral Submission

The MD agreed having not submitted the relevant documents during the time of audit which was an oversight that he promised to be handled in the subsequent

audit. He further said the matter was being handled by the SENATE and was yet to be concluded.

Committee Observations

1. The management did not properly go through the report of the Auditor General on Nzoia Water Services Company Limited for the year ended 30th June 2022 and therefore, did not respond to the issue.

Committee Recommendations

1. The management should submit to the PAC Committee and the OAG a response in relation to Prior Year Matters raised in the OAG report.
2. The submission of the prior year matters to the Auditor General should be within 30 days from the date of tabling and adoption of this report

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

1. Non-Revenue Water

During the year under review, the company produced 8,333,282 cubic meters of water, out of which only 4,304,400 cubic meters were billed for Kshs.303, 265,106 as indicated in Note 5 to the financial statements. The balance of 4,028,882 cubic meters or approximately 48.35% of the total production, which represents non-revenue water, was not billed. This translates to 23.35% above the 25% loss allowed by Water Services Regulatory Board. No explanation was provided on the disallowable loss of 23.35%, equivalent to Kshs.1, 945,561.

Additionally, and as reported in the previous audit reports, all the Company's eight production plants at Matisi, Kapolet, Nzoia had abstraction meters save for , Nabuyole, Terem, Kapkateny, Chesikaki and Kamutiong which did not have abstraction meters on reasons that the residents had resisted implying that the amount of water drawn from the rivers was based on estimates.

In the circumstances, the residents of Bungoma and Trans Nzoia Counties did not obtain value for money from the Company.

Management Response

The management responded that the significant losses were created as a result of;

a. Non-revenue water at 48.35%

- i. The company used PVC pipes which were prone to leakage and bursts and deliberate destruction by independent water vendors.
- ii. The road construction works done within the Counties damaged the water distribution infrastructure leading to water losses. The company makes efforts to reach out to the contractors through communication to counties for the purposes of immediate repairs, relocation and reconstruction of supply lines as part of our efforts to mitigate against the losses. **Appendix 5(a): Sample Memos to the relevant departments in the Counties.**
- iii. Old dilapidated pipe infrastructure which results to frequent leaks and bursts.
- iv. Some of the rural community water schemes handed over to the company are a high contributor to Non-Revenue Water because of;
 - Rural schemes are sparse and the response to leaks and bursts is challenging
 - Water theft is also a cause of concern. This is done by meter tampering, where customers using private plumbers interfere with the meters.

- The construction of most of the lines was done by entities other than the company and the work needs to be redone with proper quality materials.
- Some of the water connections in these water schemes e.g. Chesikaki treatments were metered but meters removed by the community. Currently they are disconnected because of non- payment.

b. Lack of Abstraction Meters

The abstraction meters/master meters are capital intensive in nature. The 8 treatment schemes were handed over by the Water Boards without master meters. However, the management has factored in the budget of FY 2023/2024 and partnered with USAID for support in procurement of the master meters and smart meters. **Appendix 5(b): correspondence from USAID and Safari-com**

Action taken; The Company has since undertaken the following actions.

From the year 2018, the company has been replacing the old PVC pipes with modern HDPE and PPR pipes which are of high quality in order to reduce regular leakages and bursts along the supply lines. **Appendix 5(c): Sample Inspection and Acceptance Committee Report**

- The company has since purchased 8 motorbikes for purposes of easing line patrol movements by operation and maintenance officers along supply lines. Leakage survey helps to ensure that early attention is given to such losses before they occur in massive amounts. Motorbikes also help to ensure that that there is quick response to water leakages and bursts. **Appendix 5(d): Log books**
- The company has embarked on calibrating production meters and creating District Metering Areas and at the same time monitoring the performance of those District Metering Areas. **Appendix 5(e): Calibration Certificate;**
- Crack down on illegal connections. The crackdown was complemented by a meter audit exercise sanctioned by the board. The report helped to identify **34** illegal connections. The company has also engaged security organs in curbing illegal connections especially in Chesikaki and Terem water schemes where many consumers had initially connected to the Company's main water supply illegally. Illegal connections have been attracting penalties as shown in the billing statements. **Appendix 5(f): Sample of Billing Statements**

- iv. Progressive installation of water meters to non-metered consumers that are handed over by the rural water schemes to the company
- v. The company has upgraded to mobile meter reading using smart phones coupled with procuring and operationalization of an ERP system which has integrated the meter reading, billing, customer care, NRW and other modules thus enhancing data handling efficiency
- vi. The residents in low income areas notably Mjini in Bungoma and Kipsongo in Kitale are unable to afford individual water connections, this has made them resort to vandalism of the company's pipeline to draw water. However, the company through Water Services Trust Fund has constructed water kiosks which provide water to the locals at affordable prices (Kshs 2 per 20 litre).
- vii. Due to financial constraints, the company was not able to procure meters as per the procurement plan; the management is therefore doing proposals to development partners to source for funds towards investing in smart meters for abstraction and production.
- viii. With the creation of water police unit, the company will engage the unit for arrest and prosecution of illegal connection culprits engaging in illegal water connections. This will assist the company to reduce the Non-revenue water levels.

Oral Submission

The MD in his submission agreed with the finding of the Auditor General that the company has a paid up share of Kshs. 32,980 made up of 1649 shares by Bungoma Municipality in which the audit under note 22 confirmed the authorized share capital to be increased from 100,000 to 150,100, 000 which was through a resolution of the company dated 21st June, 2016. It was noted that the process was incomplete awaiting the report from the task force committee.

The MD stated that the company had procured an ERP system to assist in the integration of meter reading, billing and customer care thus enhancing data handling efficiency. Most of the water was lost during the construction of Dual Carriage project in Bungoma and Kitale Towns. It was further explained by the technical Manager that the pipes were uprooted by the contractor and the amount of water lost was qualified through measurement of the diameter of the pipe and the duration that

water spilled, this then gave the volume of water lost amounting to 4,028,882 cubic meters. The MD further explained that lack of abstraction meters led to the company fail to account for non-revenue water The MD further stated that the components of non-revenue water comprise commercial and real loses.

On the issue of turn around strategies, it was explained that the company has developed a non- revenue Water policy to cushion the escalation of the menace in the company. The company has also purchased 8 motor bicycles for mobility by the operation and maintenance officers along supply lines

The company has also engaged security organs in curbing illegal connections which have been part of the causes of non-revenue water. The company has engaged partners i.e. Safaricom smart Water metering solution and Water sector trust Fund to strengthen its operations. The MD also asked the respective County Executive Committee Members for water to legislate laws that will assist the operations of the Company. De clustering will be handled by a task force that was gazetted whose report is being awaited for.

Committee Observations

1. On site visit, the committee observed that there were abstraction metres in place and in good working condition.
2. The company lacked a litrosonic machine that would help separate commercial and physical (real) losses.
3. There was no evidence on the use of the ERP System.

Committee Recommendations

There should be prior compensation agreements between the company and respective County Governments with regard to water that is wasted during maintenance of roads.

The ERP System should be installed and put to use.

2. Non-Compliance with Memorandum and Articles of Association

As reported in financial statements in Note 22, Management has indicated that the Company has an authorized share capital of Kshs.150,100,000 divided into 7,505,000 shares of Kshs.20 each, out of which 2,005,000 shares have been fully paid up while 2,500,000 shares of Kshs.20 per value have been issued but not paid

for. Further, review of the Memorandum of Association revealed that the Company has an authorized share capital of Kshs.100,000 divided into 5,000 shares of Kshs.20.

No explanation was provided on the contradiction between the information in the financial statements and the Memorandum of Association. Further, no evidence was provided to confirm that the company made regular returns with the Registrar of Companies as required by law.

In the circumstances, the correct shareholding and ownership of the company could not be confirmed.

Management Response

i. Change of authorized share capital. The Management agrees with the finding. The company has a paid-up share of KShs. 32,980 made up of 1649 shares by Bungoma Municipality. As reported in Note 22 in the financial statement of 2021/2022. The authorized share capital was increased from KShs. 100,000 to KShs. 150,100,000 by a resolution of the Company dated 21st June, 2016. However, the process was not completed and has been overtaken by event awaiting the report from task-force committee.**Appendix**

6(a): Resolution of the Company

ii. Returns not filed with the Registrar of Companies. The company has experienced significant challenges on the ownership structure and composition since devolution when the defunct local authorities ceased to exist. With the incoming of the county governments, the ownership structure and composition became more complex and unresolved. This challenge has made it difficult for the company to file appropriate returns as the ownership of the company is still with the defunct local authorities. A task force has since been formed so as to facilitate the resolution of the current pending issues on ownership subsequent to which proper returns can then be filed.**Appendix**

6(b): Appointment of the task force committee

iii. Shareholding and Ownership of the County Governments.

During the Annual General Meeting held on 21st January, 2021. The stakeholders recommended that the County Executive Committee members consult with the respective County Governments and advice on the shareholding of the company. The County Governments ought to agree on the way forward.

Oral Submission

The Managing Director stated that the ownership structure of NZOWASCO was not definite hence a challenge to file the returns. Ownership is still with the defunct Local Authorities .

He further submitted that that the current CR 12 indicates the shareholders as Webuye, Kimilili, Kitale and Bungoma.

The issue of shareholding was part of the of the matter being handled by the task force on the de clustering of the Company .

Committee Observations

1. The company failed to make regular returns with the registrar of companies owing to the ownership stalemate.
2. During the site visit, the sub-committee noted that the company had shareholders(refer to annexure CR-12)
3. The shareholding issue is being handled by the task force from the de-clustering of the company

Committee Recommendations

The management to adhere to the laid down rules and procedures as contained in the MOA and AOA of the company with regards to the company's authorized share capital.

3. Non-Remittance of Pension Scheme Contributions

The statement of profit and loss and other comprehensive income and as disclosed in Note 8(a) to the financial statements reflects an amount of Kshs.222,453,610 in respect of administration costs which includes Kshs.144,520,230 relating to staff and other related expenses out of which Kshs.12,246,462 relates to employees' benefits not remitted to pension scheme. No explanation was provided for the failure to remit the amounts deducted from staff salaries as required by the law.

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

Management Response

The company has been facing cash flow challenges due to inflation resulting to high cost of electricity and chemicals. This has led to financial constraints making it difficult to honor all its current obligations.

The company has taken the following cost recovery interventions to improve its financial performance and enable it pay its obligations:

- A new tariff for **(2023-2025)** will be completed as it is in the final stages of gazettelement. This will increase the revenues. The tariffs have already been approved by Water Services Regulatory Board awaiting gazettelement. **Appendix 7(a): Proposed tariff structure**

- The company is projecting an increase in revenue collection once the new billing system stabilizes. This will enable the company meet its obligations.
- The debt management policy will be implemented by procuring a debt collector to increase recover-ability of trade receivables. **Appendix 7(b): Requisition**

The Management has since engaged both LAPFUND and CPF Financial Services (LAPTRUST) to negotiate on a payment plan of the pension contribution and waiver of penalties. **Appendix 7(c): Communications to LAPFUND and CPF Financial Services**

Oral Submission

The MD submitted that the company was unable to meet their financial obligation due to the financial constraints they encountered.

The non-payment was also as a result of an outdated tariff but the company has since upgraded to the new tariff of 2023-2025 which was awaiting gazettelement.

Currently the Company has a debt management policy in place which will make use of a debt collector to recover receivables.

Committee Observations

1. The management has not remitted employees' contributions to the Pension Scheme for the past three Financial Years.
2. Though the management claims that the company is facing financial constraints, it is recruiting new members of staff.
3. The company only availed schedules of deductions without confirmation of the payment receipts

Committee Recommendations

1. The management should be compelled to remit the employees' contributions to the relevant pension schemes immediately since the same has been deducted from their payroll.
2. Compliance to recommendation 1 above should be within three months from the date of adoption of this report.

4. Staff Ethnic Diversity

Examination of human resource records revealed that during the year under review, the Company had a total of 273 employees. However, out of this number, 211 employees (or 77%) were from the same ethnic community. This is contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which provides that no public establishment shall have more than one third of its staff from the same ethnic community.

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

Management Response

The majority of the staff were from the defunct Kitale, Bungoma, Webuye, and Kimilili municipalities that Nzoia Water Services Company inherited and are still in employment. However, there is a reasonable ethnic distribution at the managerial level. The company is taking steps to comply with the National Cohesion Act of 2008 in its continuing recruitment process.

Oral Submission

The Head of HR admitted that 77% of the employees were from the Luhya community. She however stated that regional balance had been achieved in the recruitment for management positions that took place in August 2022.

She further stated that the current HR Strategy will ensure that diversity and inclusion is upheld.

She also indicated that the company received limited applications whenever adverts were run.

Committee Observations

1. The management does not comply with section 7(2) of the National Cohesion and Integration Act, 2008 during its recruitment exercises.
2. The staff establishment in the bio-data report availed indicated members of staff dominated from one tribe.

Committee Recommendations

The management should comply with section 7(2) of the National Cohesion and Integration Act, 2008 to create a diverse ethnic balance.

5. Staff Over Establishment

Examination of the human resource records revealed that the Company had more staff in some cadres than what was provided for in its staff establishment as tabled

below. This is contrary to Part 2.3(v)(b) of the Company's Human Resource Policy Manual.

Designation	Level	Department	Optimal No.	Current No.	Variance
Assistant Commercial	II/I, 5-6	Commercial	7	9	2
Assistant Customer Care	I/II 5-6	Commercial	5	9	4
Assistant Accounting	II/I 5-6	Finance	1	4	3
Officer II/I ICT	7-8	Commercial	0	1	1
Stores supervisor	5-6	HR & Administration	0	1	1
Officer II/I	7-8	HR & Administration	1	2	1

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

Management Response

The over-establishment in certain cadres occurred as a result of re-designations and promotions of the officers due to job evaluation carried on reviewing the organogram. The Management is in process of reviewing the current staff establishment plan so as to ensure that it facilitates career progression of the existing officers.

Oral Submission

The staffs at NZOWASCO were inherited from the defunct local authority and were mixed up. An evaluation was conducted and proper placement done. Recruitment was done but over establishment was due to promotions and re-designations following an advisory from Intex Consultants upon conducting an evaluation.

Committee Observations

The company has surpassed its staffing levels contrary to part 2.3 (v) (b) of the Company's Human Resource Policy Manual.

Committee Recommendations

The management must ensure compliance to the Company's Human Resource Policy Manual.

4.0 JOINT COMMITTEE OBSERVATIONS

The joint committee notes the appointed task force to de-cluster NZOWASCO has exhibited some short comings in several areas like lack of transparent communication channels, absence of comprehensive data analysis, failure to bring on board all stake holders for insightful input from the counties of Bungoma and Tranzoia.

4.1 JOINT COMMITTEE'S GENERAL RECOMMENDATIONS

After thorough interrogations, the Joint Committee proposes the following recommendations to ensure the swift and effective conclusion of the Nzoia Water Services Company de-clustering process by the gazetted task force.

1. Establish a clear timeline and set specific deadlines for each phase of the de-clustering process to ensure accountability and progress tracking
2. Streamline communication strategy to facilitate seamless information flow among the force members, stakeholders and relevant authorities
3. Identify and prioritize critical issues within the de-clustering process and address them promptly to avoid un necessary delays
4. Foster collaboration among all the players to leverage their diverse input to address challenges facing the Company and find innovative solutions.
5. Consider engaging external experts to provide insights ~~to provide insights~~ and guidance on specific de-clustering process to enhance efficiency
6. Consider legal and regulatory hurdles and resole obstacles that may impede the conclusion of the report , ensuring compliance with the laws
7. Undertake a clear inventory of the assets and liabilities of the company and stipulate for each County i.e. Bungoma and Trans Nzoia.

By adhering to these recommendations, we believe that the task force will successfully expedite the conclusion of the Nzoia Water Services Company





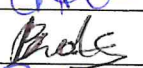
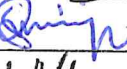
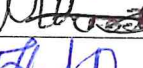

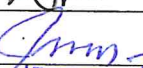




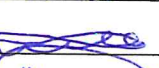


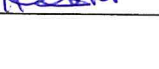


decluttering report contributing to a more streamlined and efficient water service delivery.

Thank you.

ANNEXTURE:

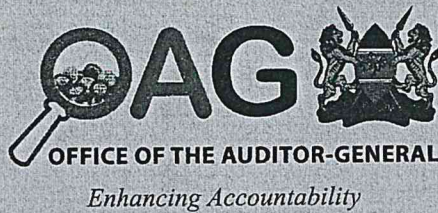
1. Certificate of Audit from the office of the Auditor General on the Nzoia Water Services Company Limited for the period ended 30th June 2022
2. Copies of the management responses from the Managing Director Nzoia Water Services Company dated 18th August, 2023
3. Copy of the joint committee site visit report
4. Minutes of the joint committee

The Members of the Joint Public Accounts and Investments Committee Bungoma/ Trans Nzoia County Assemblies do hereby append their signatures adopting the report on the Audit of Nzoia Water Services Company (NZOWASCO) for the period ended 30th June, 2022 with the recommendations therein

NO	NAME	POSITION	SIGNATURE
1	Hon. Everton Nganga	Chairperson-Bungoma	
2	Hon. Simon Murei	Chairperson-Trans Nzoia	
3	Hon. Timothy Chikati	Vice-Chairperson-Bungoma	
4	Hon. Kennedy Mogushu	Vice-Chairperson-Trans Nzoia	
5	Hon. Jerusa Aleu	Member	
6	Hon. Barbar Kisuya	Member	
7	Hon. Stephen Kaiser	Member	
8	Hon. Jacqueline Kurgat	Member	
9	Hon. Everlyne Mutiambu	Member	
10	Hon. Ann Anjiko	Member	
11	Hon. Alfred Mukhanya	Member	
12	Hon. Kefa Were	Member	
13	Hon. Anthony Lusenaka	Member	
14	Hon. Kibet Ndiwa	Member	
15	Hon. Violet Makhanu	Member	
16	Hon. Metrine Nangalama	Member	
17	Hon. Eric Wafula	Member	
18	Hon. John Wanyama	Member	
19	Hon. Benard Kikechi	Member	
20	Hon. Adan Nassir	Member	

REPUBLIC OF KENYA

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NAIROBI

REPORT OF THE AUDITOR-GENERAL ON NZOIA WATER SERVICES COMPANY LIMITED FOR THE YEAR ENDED 30 JUNE, 2022

PREAMBLE

I draw your attention to the contents of my report which is in three parts:

- A. Report on the 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 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 Government achieves value for money and that such funds are applied for the intended purpose.
- 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, the risk management environment and the internal controls, developed and implemented by those charged with governance for orderly, efficient and effective operations of the entity.

An unmodified opinion does not necessarily mean that an entity has complied with all relevant laws and regulations and that its internal controls, risk management and governance systems are properly designed and were working effectively in the financial year under review.

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 Nzoia Water Services Company Limited set out on pages 1 to 34, which comprise the statement of financial position as at 30 June, 2022 and the statement of profit and loss and other comprehensive income, statement of changes in equity, 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

Report of the Auditor-General on Nzoia Water Services Company Limited for the year ended 30 June, 2022



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 Nzoia Water Services Company Limited as at 30 June, 2022, and of its financial performance and its cash flows for the year then ended, in accordance with International Financial Reporting Standards and comply with the Companies Act, 2015, the Water Act, 2016 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1. Inaccuracies in the Financial Statements

The statement of financial position reflects comparative balances of Kshs.506,832,199 and Kshs.28,767,270 in respect of total assets and retained earnings respectively. However, the balances are at variance with the corresponding balances of Kshs.507,911,659 and Kshs.29,846,730 reflected in the audited financial statements for the year ended 30 June, 2021 resulting to variances of Kshs.1,079,460 and Kshs.1,079,460 respectively, which were not reconciled. Further, Note 6 and 16 in the statement of profit and loss and other comprehensive income and the statement of financial position reflect cost of sales and intangible assets balance of Kshs.148,377,080 and Kshs.1,777,214 respectively while Notes to the financial statements reflects balances of Kshs.146,336,128 and Kshs.1,765,757 resulting to unreconciled variance of Kshs.2,040,952 and Kshs.11,457.

In the circumstances, the accuracy and completeness of the respective balances could not be confirmed.

2. Variances Between Amounts in the Financial Statements and Supporting Schedules

The financial statements provided for review reflected variances between amounts in the financial statements and those in supporting schedules as indicated below:

Component	Financial Statements balances (Kshs.)	Schedules balances (Kshs.)	Variance (Kshs.)
Cost of Sales Note 6	148,377,080	146,336,128	2,040,952
Trade and Other Receivables – Chwele – Note 19(a)	20,614,735	20,599,478	15,257
Staff and Other Related Expenses – Note 8(a)	144,520,230	143,528,743	991,487
Repairs and Maintenance – Note 8(d)	23,770,516	28,958,336	(5,187,820)
Specialized Services – Note 8(e)	11,482,749	10,664,749	818,000
Furniture – Note 15	7,895,929	1,560,129	6,335,800
Computer & Equipment – Note 15	15,872,093	3,181,908	12,690,185
Network (Water Pipeline & Infrastructure) – Note 15	78,377,013	17,134,766	61,242,247

Component	Financial Statements balances (Kshs.)	Schedules balances (Kshs.)	Variance (Kshs.)
Water Meters – Note 15	40,843,647	26,069,123	14,774,524
Water Pump - Matisi TW – Note 15	6,604,600	5,806,346	798,254
Motor Cycles – Note 15	1,219,086	678,585	540,501
Mobile Phones – Note 15	713,505	323,905	389,600
Capital Works – Note 15	-	12,623,575	(12,623,575)
Other Income - Note 7	34,332,949	-	34,332,949
Grant CLSG - Note 7	37,598,469	-	37,598,469
Depreciation - Note 15	20,633,191	9,025,716	11,607,475
Amortization - Note 16	142,607	476,991	(334,384)

In the circumstances, the accuracy and completeness of the respective balances could not be confirmed.

3. Long Outstanding Trade and Other Receivables

The statement of financial position and as disclosed in Note 19 to the financial statements reflects a trade and other receivables balance of Kshs.376,922,075 which includes balances of Kshs.1,365,849, Kshs.67,020, Kshs.1,045,560 and Kshs.4,507,226 relating to deposits and pre-payments, unpaid share capital, customer water deposits and unclaimed Value Added Tax (VAT) which have remained the same from the previous year. No explanation was provided for the failure to recover the long outstanding receivables.

In the circumstances, the recoverability of the receivables balance totalling Kshs.6,985,655 is doubtful.

4. Unaccounted for interest

The statement of financial position and as disclosed in Note 20 to the financial statements reflects an amount of Kshs.15,815,266 in respect to short-term deposits. Review of the fixed deposit placement certificate revealed that the amount had been deposited for a fixed period of 11 months starting 30 July, 2021 to 30 June, 2022 and that the funds, upon maturity were to be transferred to the Company's operations account together with interest as at 30 June, 2022. However, review of the bank statements provided revealed that the funds were wired to the operations account on 16 August, 2022 instead of 30 June, 2022 as provided for in the fixed deposit placement certificate. No explanation was provided on why the funds were transferred thirty-six (36) days after the stipulated date and how the accruing interest for those days was accounted for.

In addition, the statement of cash flows reflects an amount of Kshs.6,746,359 in respect of adjustments in fixed deposit. However, no explanation or documentary evidence was provided on the nature and purpose of the adjustment.

In the circumstances, the accuracy of the short-term deposit balance of Kshs.15,815,266 as at 30 June, 2022 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the Nzoia Water Services Company Limited



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 in the year under review.

Other Matter

Prior Year Matters

In the audit report of the previous year, several paragraphs were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources. However, the Management has not resolved the issues nor given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circular.

Other Information

The Management is responsible for the other information, which comprises the chairperson's report, report of the managing director, 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 auditor's report thereon.

My opinion on the financial statements does not cover the other information and I do not express an audit opinion or any form of assurance thereon.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

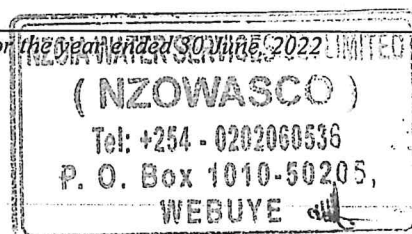
Conclusion

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 Effectiveness in 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. Non-Revenue Water

During the year under review, the company produced 8,333,282 cubic meters of water, out of which only 4,304,400 cubic meters were billed for Kshs.303,265,106 as indicated in Note 5 to the financial statements. The balance of 4,028,882 cubic meters or approximately 48.35% of the total production, which represents non-revenue water, was not billed. This translates to 23.35% above the 25% loss allowed by Water Services Regulatory Board. No explanation was provided on the disallowable loss of 23.35%, equivalent to Kshs.1,945,561.



Additionally, and as reported in the previous audit reports, all the Company's eight production plants at Matisi, Kapolet, Nzoia, Nabuyole, Terem, Kapkateny, Chesikaki and Kamutiong did not have abstraction meters implying that the amount of water drawn from the rivers was based on estimates.

In the circumstances, the residents of Bungoma and Trans Nzoia Counties did not obtain value for money from the Company

2. Non-Compliance with Memorandum and Articles of Association

As reported in financial statements in Note 22, Management has indicated that the Company has an authorized share capital of Kshs.150,100,000 divided into 7,505,000 shares of Kshs.20 each, out of which 2,005,000 shares have been fully paid up while 2,500,000 shares of Kshs.20 per value have been issued but not paid for. Further, review of the Memorandum of Association revealed that the Company has an authorized share capital of Kshs.100,000 divided into 5,000 shares of Kshs.20.

No explanation was provided on the contradiction between the information in the financial statements and the Memorandum of Association. Further, no evidence was provided to confirm that the company made regular returns with the Registrar of Companies as required by law.

In the circumstances, the correct shareholding and ownership of the company could not be confirmed.

3. Non-Remittance of Pension Scheme Contributions

The statement of profit and loss and other comprehensive income and as disclosed in Note 8(a) to the financial statements reflects an amount of Kshs.222,453,610 in respect of administration costs which includes Kshs.144,520,230 relating to staff and other related expenses out of which Kshs.12,246,462 relates to employees' benefits not remitted to pension scheme. No explanation was provided for the failure to remit the amounts deducted from staff salaries as required by the law.

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

4. Staff Ethnic Diversity

Examination of human resource records revealed that during the year under review, the Company had a total of 273 employees. However, out of this number, 211 employees (or 77%) were from the same ethnic community. This is contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which provides that no public establishment shall have more than one third of its staff from the same ethnic community.

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

5. Staff Over Establishment

Examination of the human resource records revealed that the Company had more staff in some cadres than what was provided for in its staff establishment as tabled below. This is contrary to Part 2.3(v)(b) of the Company's Human Resource Policy Manual.



Designation	Level	Department	Optimal No.	Current No.	Variance
Assistant III/, Commercial	5-6	Commercial	7	9	2
Assistant I/II Customer Care	5-6	Commercial	5	9	4
Assistant III/ Accounting	5-6	Finance	1	4	3
Officer II/I ICT	7-8	Commercial	0	1	1
Stores supervisor	5-6	HR & Administration	0	1	1
Officer III/I	7-8	HR & Administration	1	2	1

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

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, I confirm that, nothing has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

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 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.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

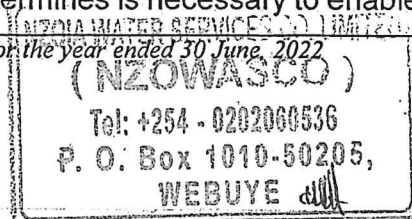
As required by the Companies Act, 2015, I report based on my audit, that:

- i. 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;
- ii. In my opinion, adequate accounting records have been kept by the Company, so far as appears from the examination of those records; and,
- iii. The Company's financial statements are in agreement with the accounting records and returns.

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 Financial Reporting Standards and for maintaining effective internal controls as Management determines is necessary to enable

Report of the Auditor-General on Nzoia Water Services Company Limited for the year ended 30 June, 2022



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 Company'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 liquidate the Company or to cease its 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 Company'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

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 controls in order to give an assurance on the effectiveness of internal controls, risk management and overall 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 controls would not necessarily disclose all matters in the internal controls that



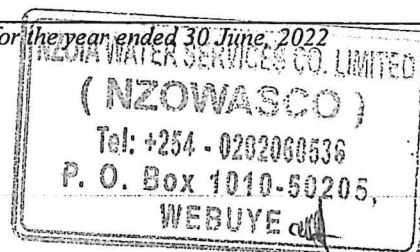
might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation 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 controls 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 controls.
- 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 going concern 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 as a going concern. 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 Company to cease to continue as a going concern.
- 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 Company 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 controls 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

20 April, 2023

