

LEGAL FRAMEWORK & OPERATIONALIZATION

FINANCIAL AUTONOMY NOT OPERATIONAL

The Kwara State Audit Law enacted in November 2021 provides for financial autonomy of the Office of the Auditor-General. S. 20(1) of the law states that “not later than 90 days before the end of the financial year the Auditors-General shall prepare and submit draft estimates of revenue and expenditure of their offices for the subsequent financial year first to the House of Assembly, make necessary amendments after receiving comments from the House of Assembly and then submits to the Ministry responsible for budget and planning”.

S. 20(4) provides further that “the sum appropriated to the Offices of the Auditors-General by the House of Assembly in each financial year shall be charged on the Consolidated Revenue Fund of the State and paid as a first line charge in twelve equal installments for each month of that financial year”.

Response received indicated that the sum appropriated to the Office of the Auditor-General for the State in each year is released to it quarterly. However, the capital expenditure of the annual budget is not covered in such quarterly releases. The Kwara State Government should ensure full implementation of the Audit Law to allow for fiscal independence for recurrent and capital expenditure of the Office of the Auditor-General.

ADMINISTRATIVE INDEPENDENCE NOT ACTIVATED

The Kwara State Audit Service Board has not been inaugurated despite enacting the Audit Law since November 2021. S.26(1) and (2) of the Audit Law established the Audit Service Board while S.34(1-3) provides for its powers and functions including to handle all matters on recruitment, promotion, and discipline of members of staff of the Offices of the Auditors-General among others.

Feedback¹⁰⁹ collected showed that the Board has not been inaugurated by the Executive to begin performing its statutory functions of providing administrative support to the Office of the Auditor-General in Kwara State.

Administrative independence is crucial to effective functioning of Supreme Audit Institutions at subnational level and to ensure administrative autonomy for the Office of the Auditor-General for Kwara State, it is expected that the Audit Service Board would be inaugurated to limit reliance on the Civil Service Commission of the State for all human resource matters relating to recruitment, discipline, promotion, and remuneration for staff of the Office of the Auditor-General.

APPOINTMENT PROCEDURE FOR THE STATE

Auditor-General is Transparent

The process for appointing the Auditor-General in Kwara State as provided for in the Audit Law is transparent and competitive. S.2(3) indicates that “in recommending person(s) for appointment as an Auditor-General, the State Civil Service Commission shall advertise the vacancy on the State website, in 2 (two) national Newspapers, for a minimum period of six weeks prior to the date set for the interview”.

TENURE OF OFFICE FOR THE AUDITOR-GENERAL IS SECURED

S.5(2) of the Kwara State Public Audit (Re-Enactment) Law 2021 which addresses the tenure issue of the Auditor-General indicates that “the Auditors-General shall each be appointed for a term of four years, and may be reappointed once for another term of four years; but must compulsorily retire from office on the 8th anniversary of appointment as Auditor-General regardless of age or years of service if appointed from within the Civil Service”.

This legal provision stated above clarifies the maximum term and number of years an Auditor-General can spend in office. The Kwara State Public Audit (Re-Enactment) Law 2021 covers potential appointments from both within and outside the Civil Service of the State. Terms of office for AuGs must be well defined, consistent, and predictable to guarantee their independence. This will further ensure that an Auditor-General, whether appointed from within the Civil Service or private sector, is not subjected to the direction or control of any person or authority on the account of tenure instability.

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LEGAL MANDATE TO PUBLISH AUDIT REPORTS ONLINE IS DISCRETIONARY

The Kwara State Public Audit (Re-Enactment) Law 2021 did not mandate the State Auditor-General to publish audit reports online as soon as it is submitted to the State House of Assembly but the Law all gave discretionary powers to allow the Auditor-General to do the same.

S.16(6) and (7) indicates that “the annual reports of the Auditors-General shall be considered a public document and as such shall be made accessible to members of the public. Members of the public may obtain a copy at a nominal cost, which shall be used solely to defray the incidental expense of producing such copy. The Auditors-General shall have discretionary powers to determine whether the communication medium to be employed for making the annual audit report available to the general public shall include access in electronic format on the internet.

The legal provisions stated above allows the Auditor-General to decide whether or not to publish audit reports online. This negates the notion that the annual reports of the Auditors-General is considered a public document. Best practice requires the legal framework to mandate the Auditor-General to publish annual audit reports on an electronic portal as soon as it is submitted to the House of Assembly for citizens to access freely and this should not be subject to the discretion of the Auditor-General especially because audit reports are public documents.

ANNUAL ACTIVITY REPORT FOR 2023 NOT PUBLISHED

The Office of the Auditor-General for Kwara State did not publish its annual activity report for the 2023 fiscal year and it is not evident if the report was submitted to the State House of Assembly. However, S.16(8) of the Kwara State Public Audit (Re-Enactment) Law 2021 indicates that “the Auditors-General shall also submit report on the activities of their respective Offices for the year to the State House of Assembly and such shall be made accessible to members of the public. Members of the public may obtain a copy at a

nominal cost, which shall be used solely to defray the incidental expense of producing such copy”.

An annual activity report for the Audit Office should include the specific initiatives and activities undertaken during the previous/outgoing calendar year to strengthen the office and improve its performance as well as any impacts (financial and non-financial) that were achieved through audit.

AUDIT REPORT FOR 2023 PUBLISHED ONLINE NO LONGER ACCESSIBLE

The 2023 report of the Auditor-General published on a dedicated website is no longer accessible. It is not clear why the audit report is no longer accessible. Making the audit report (including audit issues, observations and recommendations) freely available to citizens enhances civic advocacy and investigative journalism on public finance management practices using audit information.

IMPLEMENTATION OF AUDIT RECOMMENDATIONS FOR 2022 ONGOING

Response received indicated that implementation of audit recommendations and resolutions of the House of Assembly for the 2022 financial year are ongoing. It is not evident if the Office of the Auditor-General and House of Assembly in Kwara State have effective mechanisms for monitoring implementation of audit recommendations and resolutions.

NO EVIDENCE OF PERFORMANCE AUDIT FOR 2023

The Office of the Auditor-General for Kwara State claimed to have conducted performance audit in 2023. However, the performance audit report was not published as a separate document from the annual statutory audit report. Best practice requires that a separate report on performance audit conducted be produced, submitted to Parliament and published online.

Performance audit refers to an independent examination of a program, function, operation or the management systems and procedures of a governmental entity to assess whether the

9. https://kwarastate.gov.ng/open_government/kwara-state-auditor-general-report-on-financial-statements-for-the-year-ended-31st-december-2023/

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entity is achieving economy, efficiency, and effectiveness in the employment of available resources.

CITIZENS' ACCOUNTABILITY REPORT FOR 2023 NOT AVAILABLE

The Kwara State Government did not publish the Citizens' Accountability Report for 2023. A Citizens' Accountability Report (CAR) is a series of graphic and tabular illustrations of the contents of the Audited Financial Statements prepared by a government agency on behalf of the government to the citizens to ensure accountability of public funds. This report details the government's performance in carrying out the duties assigned to it and the utilization of funds in the coffers of the government.

PAC REVIEW OF 2023 AUDIT REPORT STARTED

The Public Accounts Committee of Kwara State House of Assembly has commenced but not completed review of the 2023 report of the Auditor-General on the accounts of the Kwara State Government.

The role of the Public Accounts Committee in ensuring timeous review of annual audit reports cannot be over-emphasized and very crucial to concluding the audit action cycle for proper accountability. Recommendations of the Public Accounts Committee to improve accountability in the utilization of public funds must also be taken seriously and implemented as quickly as possible by Executive agencies.

The PAC is encouraged to improve its effectiveness and ensure reports of the State

Auditor-General for 2023 and other pending audit reports are given expeditious consideration. The PAC should also continue to involve civic society and media actors when reviewing audit reports and ensure its resolutions reflect the experiences and feedback from citizen groups particularly those who are victims of audit findings and other public accountability gaps.

CS/MEDIA ACTORS NOT INVOLVED IN THE AUDIT PROCESS

There is no indication that civil society and media actors are involved in the audit process of Kwara State, especially because civic actors do not have electronic access to the report of the Auditor-General on the accounts of the Kwara State Government. The report of the Auditor-General claimed to have been published is not accessible.

Also, a representative of a civil society organization working in Kwara State confirmed non-involvement in the public audit process of the State. "We were never invited both in the House of Assembly or the Office of the Auditor-General".

It is important that citizens, civic groups and journalists who are mostly affected by audit issues and public finance management gaps can engage with the Office of the Auditor-General and Public Accounts Committee to ensure their opinions and experiences reflect in planning and executing audit functions as well as the oversight role of the legislature.

