

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - BORABU CONSTITUENCY FOR THE YEAR ENDED 30 JUNE, 2021

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 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 National Government Constituencies Development Fund - Borabu Constituency set out on pages 15 to 49, which comprise of the statement of assets and liabilities as at 30 June, 2021, and the statement of receipts and payments, statement of cash flows and summary statement of appropriation 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 effects of the matter 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 National Government Constituencies Development Fund - Borabu Constituency as at 30 June, 2021, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Cash Basis) and comply with the National Government Constituencies Development Fund Act, 2015 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

Inaccuracy of Expenditure on Use of Goods and Services

The statement of receipts and payments reflects expenditure on use of goods and services amount of Kshs.9,460,548 as disclosed in Note 3 to the financial statements. The amount includes other committee expenses and committee allowances totalling Kshs.2,701,419. However, the supporting expenditure returns and ledger reflects Kshs.4,398,000 resulting to an unreconciled variance of Kshs.1,696,581.

In the circumstances, the accuracy and completeness of other committee expenses and committee allowances amount of Kshs.2,701,419 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the National Government Constituencies Development Fund - Borabu Constituency 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

1. Budgetary Control and Performance

The summary statement of appropriation reflects a final budget and actual receipts on comparable basis of Kshs.206,560,632 and Kshs.162,371,753 respectively, resulting to an underfunding of Kshs.44,188,879 or 21% of the budget. Similarly, the Fund spent Kshs.156,006,941 against an approved budget of Kshs.206,560,632 resulting to an under-expenditure of Kshs.50,553,691 or 24% of the budget.

The underfunding and under-performance affected the planned activities and may have impacted negatively on service delivery to the public.

2. Delayed Implementation of Projects

Review of Project Implementation Status (PIS) report revealed that thirty-five (35) projects for the years 2013/2014 to 2019/2020 valued at Kshs.29,090,000 were still on-going as at 30 June, 2021, despite their completion dates having elapsed. Further, twelve (12) projects for administration, primary and secondary schools, tertiary institutions, environment, sports and security, with an approved budget of Kshs.9,900,000 were not implemented although they were funded.

In the circumstances, the intended benefits may not be realized.

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 the Use of Public Resources section of my report, I confirm that, nothing else has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

1. Construction of Tuition Block

The statement of receipts and payments reflects transfers to other Government units of Kshs.73,479,001 as disclosed in Note 4 to the financial statements. The amount includes transfer to tertiary institutions of Kshs.23,652,855 which further includes Kshs.8,252,420 disbursed for construction of a Teachers Training College tuition block. The contract was to commence on 24 May, 2017 and end on 24 July, 2018 for a contract sum of Kshs.37,654,965.

The original contract sum of Kshs.37,654,965 was revised to Kshs.42,346,479. Review of payments revealed that the payment of Kshs.8,252,420 was for roofing Kshs.1,932,880, rainwater disposal Kshs.3,059,950 and ceiling finishes Kshs.3,259,590 which were not in the original or revised design of the tuition block.

As at 30 June, 2021, a sum of Kshs.40,430,907 or 95.5% of the revised contract sum had been paid. Physical verification carried out in the month of April, 2022 revealed that the building has been constructed to slab level, paving slabs, installation of two (2) water tanks and fire extinguishers which were part of the works had not been done despite the contract period having expired.

In the circumstances, the regularity and value for money of the expenditure of Kshs.40,430,907 on the project could not be confirmed.

2. Delayed Renovation Tuition Block Ablutions

The statement of receipts and payments reflects transfers to other Government units of Kshs.73,479,001 as disclosed in Note 7 to the financial statements which includes transfers to secondary schools of Kshs.23,205,650. Included in this amount is a transfer of Kshs.1,000,000 to Menyanya Secondary School for renovation of tuition block ablutions in the three storey building. However, audit inspection carried out in the month of April, 2022 revealed that the amount of Kshs.1,000,000 had not been utilized and the renovation had not started. Further, the students of the school had no access to adequate ablution services.

In the circumstances, value for money on the expenditure of Kshs.1,000,000 could not be confirmed.

3. Stalled Projects

Verification carried out in the month of April, 2022 on a sample of on-going projects revealed that Eturungi water project approved in 2015/2016 with an estimated cost of Kshs.4,100,000 and a completion date of September, 2016 has stalled. As at 30 June, 2021 Kshs.1,700,000 or 41% of the cost had been paid. However, water tank and pipes which were part of the works had not been installed.

In addition, Endiba secondary school water project was approved in 2019/2020 at a cost of Kshs.2,100,000 and Kshs.1,940,000 or 92% has been paid. The project involved equipping of an existing borehole by purchasing a pump, tank and construction of water point and was to be completed in September, 2020. However, the pump house and water pump have not been constructed and installed. The two (2) projects have therefore stalled.

In the circumstances, value for money on the expenditure of Kshs.3,640,000 could not be confirmed.

4. Failure to Insure Fixed and Movable Assets

Review of records revealed that the Fund had insured motor vehicles valued at Kshs.6,000,000. Other fixed and movable assets costing Kshs.24,674,932, reflected in Annex 3 to the financial statements were not insured. This is contrary to Section 36(3) of the National Government Constituencies Development Fund Act, 2015, which stipulates that all fixed and movable assets, including equipment bought under this Act for use by the Constituency Committee shall be the property of the Board and shall be insured in the name of the Board.

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 Article 229(6) of the Constitution, based on the audit procedures performed, except for the matter described in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, I confirm that, nothing else has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

Incomplete Fixed Assets Register

Annex 3 to the financial statements on summary of fixed assets register reflects assets with a historical cost of Kshs.30,674,932 while the assets register maintained by the Fund lists thirty-nine (39) fixed assets valued at Kshs.8,150,103. The resulting variance of Kshs.22,524,829 was attributed to cumulative cost of a building under construction omitted from the assets register.

In the circumstances, the accuracy and completeness of the summary of fixed assets register could not be confirmed.

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standard requires that I plan and perform the audit to obtain assurance about whether processes and systems of internal controls, risk management and overall governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Responsibilities of Management and those Charged with Governance

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Cash 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 controls, risk management and overall governance.

In preparing the financial statements, Management is responsible for assessing the ability of the Fund to continue to sustain its 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 Fund 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.

Those charged with governance are responsible for overseeing the Fund's financial reporting process, reviewing the effectiveness of how the 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 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 controls 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 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 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 ability of the Fund 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 Fund to cease to continue 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 Fund 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

21 September, 2022