

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - ELDAMA RAVINE 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 - Eldama Ravine Constituency set out on pages 15 to 68 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 the 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 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 National Government Constituencies Development Fund - Eldama Ravine 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

1. Unsupported Use of Goods and Services

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects use of goods and services expenditure of Kshs.39,021,541 which includes committee allowances expenses of Kshs.23,454,100, other committee expenses of Kshs.10,864,500 and office and general supplies and services expenditure of Kshs.1,337,299. However, the amounts were not supported by payment vouchers, proof of inspection of the projects, monitoring and evaluation reports, quotations, evaluation minutes, notifications of award, inspection committee certificates, goods received/issue notes and the stock cards.

In the circumstances, the accuracy and completeness of use of goods and services expenditure of Kshs.39,021,541 could not be confirmed.

2. Unsupported Other Grants and Transfers

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects other grants and transfers expenditure amounting to Kshs.30,324,116. However, the following components were not supported:

Item	Unsupported Amount (Kshs.)	Missing Documents
Security Projects - Construction of a Chief's Office	987,180	Contract agreements, valuation certificates and board minutes
Emergency Project - construction of six (6) door pit latrine at G.K Prison	450,000	Contract agreements, valuation certificates and board minutes
Sports Projects - Volleyball and FKF Koibatek Sub-branch	830,500	Documentation for uniforms issued
Total	2,267,680	

Further, the note reflects total bursary disbursements of Kshs.17,793,037 which differed with the list of beneficiaries which amounted to Kshs.16,536,500 leading to an unreconciled variance of Kshs.1,256,537. In addition, documents to confirm whether applicants for the bursaries were vetted and identified as needy students by the Bursary Sub-committee, receipts and acknowledgement of the bursaries by students and the respective institutions were not provided.

In the circumstances, the regularity, accuracy and completeness of other grants and transfers expenditure of Kshs.30,324,116 could not be confirmed.

3. Unsupported Transfers to Other Government Units

The statement of receipts and payments and Note 6 to the financial statements reflects transfers to other Government units amounting to Kshs.71,095,000. The expenditure includes transfers to secondary schools amounting to Kshs.43,565,000 which differs with the ledger balance of Kshs.43,215,000 resulting to an unreconciled variance of Kshs.350,000.

Further, review of the supporting schedules revealed that an amount of Kshs.27,530,000 was transferred to various primary schools. However, tender documents including request for quotations, tender evaluation minutes, award minutes, professional opinion, local purchase/service order, invoices and completion certificates were not provided.

In the circumstances, the accuracy and completeness of transfers to other Government units amounting to Kshs.71,095,000 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 - Eldama Ravine 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

Budgetary Control and Performance

The summary statement of appropriation reflects final receipt budget and actual on comparable basis of Kshs.209,084,974 and Kshs.172,267,724 respectively resulting to underfunding of Kshs.36,817,250 or 18% of the budget. Similarly, the Fund expended Kshs.153,440,487 against an approved budget of Kshs.209,084,974 resulting to an under-expenditure of Kshs.55,644,487 or 27% of the budget.

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

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-adherence to the Bursary Allocation Ratios

Section 7 of the Eldama Ravine NG-CDF Bursary Policy provided for maximum financial assistance for the various categories as follows; Kshs.12,000 for boarding secondary schools; Kshs.15,000 for colleges and Kshs.25,000 for universities. However, an analysis of the list of beneficiaries revealed that 37 students were irregularly awarded higher amounts contrary to the policy. There was no evidence to confirm that the students are fully sponsored by the Fund.

Further, Section 7 of the Bursary Policy states that bursary shall be granted by the bursary committee and allocated as follows; 35% boarding secondary schools and 65% University applicants and middle level colleges applicants. However, an analysis of the disbursements of Kshs.17,973,037 issued during the year revealed the ratios were not maintained.

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

2. Irregular Project Management Committee Bank Accounts

Annex 5 to the financial statements reflects project bank balances totalling Kshs.8,505,104 for one hundred and sixteen (116) Project Management Committee bank accounts. However, ninety-six (96) projects had their status indicated as complete and in use, yet the related Project Management Committee bank accounts had a total balance of Kshs.338,971 as at 30 June, 2021 and the accounts were active. This is contrary to Section 12(8) of the National Government Constituencies Development Fund Act, 2015 which states that, 'all unutilized funds of the Project Management Committee shall be returned to the Constituency account.

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

3. Irregular Construction Contract of Library and Offices

Review of contract documents for construction of a Library and Offices revealed that an aggregate amount of Kshs.81,583,689 had been paid to the contractor, architect, consultant and sub-contractors since the inception of the contract in year 2015. Phase 1 and Phase 2 contract sums totalled Kshs.58,804,694. There was thus an increment of the total contract price of Kshs.22,778,994 or 39 %. This was beyond the set limit of 25% of the contract price contrary to Section 139(4)(e) of the Public Procurement and Asset Disposal Act, 2015 which states that the cumulative value of all contract variations do not result in an increment of the total contract price by more than twenty five per cent of the original contract price. Further, the contract works that had been scheduled to end by mid-2017 were yet to be completed.

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, 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 internal controls, risk management and overall governance were not effective.

Basis for Conclusion

Lack of Risk Management Policy

Review of records revealed that Management had not put in place Risk Management Policy and Strategies. It was, therefore, not clear how risk exposures are managed by Management. This is contrary to Regulation 165 (1)(a) and (b) of the Public Finance Management (National Government) Regulations, 2015 which requires the Accounting Officer to ensure that the national government entity develops risk management strategies, which include fraud prevention mechanism, and develops a system of risk management and internal control that builds robust business operations.

In the circumstances, existence of an effective risk management measures could not be confirmed.

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether effective processes and systems of internal 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.

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 Fund's ability to continue to sustain its services, disclosing, as applicable, matters related

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 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 overall 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 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 control would not necessarily disclose all matters in the internal control that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal control components does not

reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Because of its inherent limitations, internal 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 Fund's ability to continue to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the Fund to continue to cease to sustain its services.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the 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 control that are identified during the audit.

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



CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

06 September, 2022