

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - EMBAKASI EAST 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 - Embakasi East Constituency set out on pages 1 to 26, which comprise 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 - Embakasi East 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 Public Finance Management Act, 2012 and National Government Constituencies Development Fund Act, 2015.

Basis for Qualified Opinion

1. Unsupported Payment of Committee Allowances

The statement of receipts and payments reflects use of goods and services expenditure totalling to Kshs.11,481,143 which includes committee allowances amounting to Kshs.2,779,000 as disclosed in Note 5 to the financial statements. However, payments amounting to Kshs.541,000 were not supported with the attendance registers, minutes of the meetings and list of beneficiaries.

In the circumstances, the accuracy and completeness of committee allowances amounting to Kshs.541,000 could not be confirmed.

2. Unreconciled Cash and Cash Equivalents

The statement of assets and liabilities reflects bank balances of Kshs.10,658,943 as disclosed in Note 10A to the financial statements. Review of the bank reconciliation statement reflects payments in cash book not recorded in bank statement totalling to Kshs.6,239,142 out of which an amount of Kshs.737,178 related to stale cheques that dated back to November, 2017. Further, the stale cheques also included statutory deductions that had not been remitted to the Kenya Revenue Authority (KRA) and the National Hospital Insurance Fund (NHIF) amounting to Kshs.440,719 and Kshs.4,400, respectively. The Management did not explain why the stale cheques had not been reversed in the cashbook as at 30 June, 2021.

In addition, the bank reconciliation statement for the month of June, 2021 revealed long outstanding payments in the bank statement not yet recorded in cash book totaling to Kshs.721,112 which relates to a forgery that was carried in the financial year 2016/2017. Other than reporting the forgery to the Directorate of Criminal Investigations (DCI) vide OB. Number 26/25/4/2017, no evidence was provided on measures the Management has taken to have the matter concluded.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.10,658,943 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 - Embakasi East 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 final receipts budget and actual on comparable basis totalling to Kshs.299,627,850 and Kshs.218,911,292 respectively, resulting to an underfunding amounting to Kshs.80,716,558 or 27% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis totalling to Kshs.299,627,850 and Kshs.208,252,349 respectively, resulting to an under expenditure of Kshs.91,375,501 or 30% of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the residents of Embakasi East Constituency.

2. Unresolved Prior Year Matters

Various prior year audit issues remained unresolved as at 30 June, 2021. Management has not provided reasons for the delay in resolving the prior year audit issues.

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-Compliance with Bursary Application and Awarding Guideline

The statement of receipts and payments reflects other grants and transfers amount of Kshs.92,120,016 which includes bursaries to secondary schools and tertiary institutions totalling to Kshs.66,509,759 as disclosed in Note 7 to the financial statements. However, review of bursary records provided revealed that there was no Education Bursary, Mock Examinations and Continuous Assessment Tests Committee in place to invite, analyze applications and make appropriate recommendations to the NG-CDF Committee. Further, the application forms used were outdated and did not conform to the prescribed template and had not been vetted. In addition, the awarded amounts to the successful applicants were not indicated on the forms. This is contrary to circular CDFB/CEO/BOARD CIRCULARS VOL II (021) dated 16 June, 2020.

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

2. Failure to Report on Emergency Utilization

The statement of receipts and payments reflects other grants and transfers totalling to Kshs.92,120,016 which includes emergency expenditure totalling to Kshs.6,401,792 as disclosed in Note 7 to the financial statements. However, Management did not provide documentary evidence indicating that the emergency expenditure was reported to the Board using the prescribed format. This is contrary to Regulation 20(2) of the National Government Constituencies Development Fund Regulations, 2016 which provides that the utilization of emergency reserve shall be reported to the Board within 30 days of the occurrence of emergency in the format prescribed by the Board.

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

3. Irregularities in Transfers to Other Government Units

The statement of receipts and payments reflects transfers to Government entities totalling to Kshs.99,927,550 as disclosed in Note 6 to the financial statements, which includes transfers to primary and secondary schools of Kshs.42,512,769 and Kshs.57,414,781 respectively. Review of the records provided, and physical verification carried out in the Month of May, 2022 revealed instances of non-compliance with relevant authorities as enumerated below;

3.1 Construction of Toilet Block and School Laboratory at Mihango Secondary School

The Constituency disbursed amounts of Kshs.4,400,000 and Kshs.5,669,010 to Mihango Secondary School for construction of a toilet block and a school laboratory respectively. However, Management did not provide appointment letters of the Project Management Committee (PMC) Members, approval minutes on opening of PMC bank account and appointment of its signatories, procurement documents and project implementation progress report for audit verification. Further, review of the project file for the construction of the toilet block revealed that PMC allowances amounting to Kshs.70,000 were paid without signed attendance registers and minutes. This is contrary to Regulation 15(2) of the of the National Government Constituencies Development Fund Regulations, 2016 which provides that the Project Management Committee shall maintain proper records of all minutes, accounting documents and other records in relation to projects being implemented.

3.2 Renovation of Classrooms at Edelvale Primary School

The Constituency disbursed a total of Kshs.7,000,000 to Edelvale Primary School for reroofing of 12 classrooms. However, the tender evaluation minutes, contract agreement, invoices and engineer completion certificates were not provided for audit review. This is contrary to Regulation 15(1b) of the of the National Government Constituencies Development Fund Regulations, 2016 which provides that the Project Management Committee shall maintain proper records of all minutes, accounting documents and other records in relation to projects being implemented. In addition, physical verification carried out on 1 April, 2022 revealed that reroofing of the 12 classrooms had been completed but rain water goods for five (5) classrooms were not done.

3.3 Construction of Three (3) Classrooms at Maua Primary School

The Constituency disbursed a total of Kshs.4,500,000 to Maua Primary School for construction of three (3) classrooms. However, the project contract agreement, local purchase order, invoices, progress reports and engineer completion certificates were not provided for audit. This is contrary to Regulation 15(1b) of the of the National Government Constituencies Development Fund Regulations, 2016 which provides that the Project Management Committee shall maintain proper records of all minutes, accounting documents and other records in relation to projects being implemented. Further, physical verification carried out on 1 April, 2022 established that the project was ongoing and at approximately 40% completion rate with the foundation and walling finalized and the construction works at lintel level.

3.4 Renovation of Classrooms at Embakasi Primary School

The Constituency disbursed a total of Kshs.13,702,264 to Embakasi Primary School for renovation of classrooms. Review of records provided revealed that the contract was awarded to a local contractor at a contract sum of Kshs.13,018,080. However, the contract was varied upwards by Kshs.650,000 within one month from the date of signing the contract contrary to Section 139(3) of the Public Procurement and Asset Disposal Act, 2015 which provides that no contract price shall be varied upwards within twelve months from the date of the signing of the contract.

Further, the Accounting Officer approval of the variation in line with Section 139(1) the Public Procurement and Assets Disposals Act, 2015 which provides that an amendment or a variation to a contract resulting from a procurement proceeding is effective only if it has been approved in writing by the respective tender awarding authority within a procuring entity was not provided for audit verification. In addition, physical verification carried out on the project on 1 April, 2022 revealed that rain water goods were not done for the five (5) classrooms.

3.5 Donholm Secondary School-Construction of Tuition Block

The Constituency disbursed a total of Kshs.30,713,620 to Donholm Secondary School for construction of a tuition block. Review of records provided revealed that the contract was awarded to a local contractor at a contract sum of Kshs.40,249,703. However, the appointment letters for the Tender Opening Committee, Tender Evaluation Committee and Project Progress Reports were not provided for audit. This is contrary to Regulation 15(1b) of the of the National Government Constituencies Development Fund Regulations, 2016 which provides that the Project Management Committee shall maintain proper records of all minutes, accounting documents and other records in relation to projects being implemented.

In addition, physical verification carried out on 1 April, 2022 revealed that the construction of the new tuition block phase 1 was still ongoing and the ground floor was not complete. The construction was at slab level and only walling had been done which is approximately 40%. The contractor had been paid the first payment of Kshs.14,747,611.80.

Consequently, Management was in breach of the law and value for money was not realized from works not done and incomplete projects.

4. Construction of Utawala Chief's Camp on Private Land

The statement of receipts and payments reflects other grants and transfers amounting to Kshs.92,120,016 which, as disclosed in Note 7 to the financial statements, includes transfers to security projects amounting to Kshs.8,700,000 for construction of Utawala Chiefs Camp. However, the Bill of Quantities, site meeting and instructions minutes and works progress reports were not provided for audit. This is contrary to Regulation 15(1b) of the of the National Government Constituencies Development Fund Regulations, 2016 which provides that the project management committee shall maintain proper records of all minutes, accounting documents and other records in relation to projects being implemented.

Further, review of documents provided revealed that the Chiefs Camp had been constructed on private land contrary to the provisions of NG-CDF Guidelines on Land Ownership for CDF Related Projects, 2010 which provides that CDF projects should be erected on public land and where no public land is available or where a need has been identified to expand public land, the CDFC should initiate the process of procurement of land from alternative sources and obtain the title in the name of the public institution which is to benefit from the project, or in the name of the constituency. In addition, physical inspection carried out in the month of April, 2022 revealed that the construction was 85% complete.

Consequently, Management was in breach of the law and value for money was not realized from works not done and incomplete projects.

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 has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

Weak Internal Controls in Preparation of the Cash Book

Review of the cash book provided for audit revealed that it was not checked, balanced at the end of the day or approved by senior officials. In addition, payment vouchers posted in the cash book did not have detailed description of the payee, the nature of payments

and payment voucher numbers were not posted or recorded in their respective columns and only cheque numbers were entered.

In the circumstances, accuracy and completeness of records maintained by the Fund 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 control, risk management and governance.

In preparing the financial statements, Management is responsible for assessing the Fund's ability to continue to sustain services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless Management is aware of intention to terminate the Fund or 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 governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibilities for the Audit

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with

Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal control in order to give an assurance on the effectiveness of internal controls, risk management and governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal control would not necessarily disclose all matters in the internal control that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

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

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

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

29 July, 2022