

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - EMUHAYA 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 – Emuhaya Constituency set out on pages 17 to 50, 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 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 - Emuhaya 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 the National Government Constituencies Development Fund Act, 2015.

Basis for Qualified Opinion

1. Unsupported Cash and Cash Equivalents Balance

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.28,689,131 as disclosed in Note 10 to the financial statements. However, the balance was not supported with bank reconciliation statements, certificate of bank balance and board of survey reports.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.28,689,131 could not be confirmed.

2. Unsupported Prior Year Adjustment

The statement of assets and liabilities reflects a prior year adjustment of Kshs.631,425 as disclosed in Note 14 to the financial statements. However, the Management has not explained or provided details of the adjustment.

In the circumstances, the accuracy and completeness of the prior year adjustment balance of Kshs.631,425 could not be confirmed.

3. Unsupported Expenditure on Use of Goods and Services

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.8,930,943 as disclosed in Note 5 to the financial statements. The amount includes committee allowances of Kshs.3,076,927 which further includes two (2) payments totaling Kshs.658,910 which were not supported by monitoring and evaluation reports, minutes of the CDF Committee and invitation letters for the attended workshops.

In the circumstances, the regularity of expenditure on use of goods and services of Kshs.658,910 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 - Emuhaya 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 receipts budget and actual on a comparable basis of Kshs.225,293,665 and Kshs.179,004,786 respectively, resulting to an under-funding of Kshs.46,288,879 or 21% of the budget. Similarly, the Fund spent Kshs.154,200,970 against an approved budget of Kshs.225,293,665 resulting to an underperformance of Kshs.71,092,695 or 32% 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

1.0 Implementation of Projects

1.1 Bunyore Teachers Training College

The statement of receipts and payments reflects an expenditure of Kshs.73,664,888 in respect of transfers to other Government entities which, as disclosed in Note 6 to the financial statements includes transfers to tertiary Institutions of Kshs.13,514,888. Review of records indicate that an initial contract for the construction of two (2) twin dormitories at the College was awarded at a sum of Kshs.14,771,000 for thirty-six (36) weeks. However, the contractor and the Management mutually agreed to terminate the contract after works valued Kshs.4,586,949 had been certified and paid.

The Management re-tendered the works at a contract sum of Kshs.10,360,400 for seventeen (17) weeks. However, performance bond was not provided for audit contrary to Regulation 135 of the Public Procurement and Assets Disposal Regulations, 2020 which states that the threshold for providing performance security for goods, works and non-consultancy services shall be for contracts above Kshs.5,000,000. The works were certified complete on 10 September, 2021 and a full payment was made. However, audit inspection conducted in April, 2022 revealed that works valued at Kshs.1,324,180 had not been carried out despite the full payment.

In the circumstances, value for money could not be confirmed.

1.2 Construction of Sub-County Offices in Emusire

The statement of receipts and payments and Note 7 to the financial statements reflects other grants and transfers amount of Kshs.63,527,117. The amount includes Kshs.16,190,466 for security projects. The construction of sub county offices in Emusire was awarded on 26 July, 2019 for a sum of Kshs.49,666,629 for thirty-six (36) weeks and execution in two phases expected to have ended on 3 April, 2020. Physical verification carried out in the month of April, 2022 revealed that the works were incomplete, the contractor was still on site and the time had lapsed by more than two (2) years. The incomplete works included tilling of 3rd floor, construction of a reception counter, electrical works, roof water down pipe drainage, balustrading, stairs and balcony rails, construction of garage, septic tank, terrazzo finishes at stairs and final painting although Kshs.48,989,442 or 98% had been certified as payable. Further, contract extension and performance bond were not provided for audit.

In the circumstances, the objectives of the project have not been attained and value for money may not be realized.

1.3 Rural Electrification Project

The statement of receipts and payments reflects other grants and transfers of Kshs.63,527,117 as disclosed in Note 7 to the financial statements. The amount includes Kshs.16,190,466 in respect to security projects. The Management entered into a framework contract with Rural Electrification Corporation on 20 July, 2020 for the establishment of 1*50 Kva transformer, construction of approximately 1.2km of Kv 3-phase and 3.56km single phase lines and connect approximately fifty-five (55) households to the grid and a commitment amount of Kshs.3,130,646 paid. However, audit inspection carried out in the month of April, 2022 revealed that the households are yet to be connected to the grid and the Corporation has not provided support documents for the commitment amount of Kshs.3,130,646.

In the circumstances, value for money for the expenditure of Kshs,3,130,646 could not be confirmed.

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 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 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 Fund's ability 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 intentions 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 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 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 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

23 September, 2022