

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - EMURUA DIKIRR 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 - Emurua Dikirr Constituency set out on pages 16 to 53, which comprise of the statement of financial assets and liabilities as at 30 June, 2021 and the statement of receipts and payments, statement of cash flows and summary statement of appropriation: recurrent and development combined 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 the National Government Constituencies Development Fund - Emurua Dikirr 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. Inaccuracies in the Cash and Cash Equivalents

The statement of financial assets and liabilities reflects bank balance of Kshs.24,347,590 as disclosed in Note 10A to the financial statements. However, the bank reconciliation statement reflects balance as per cash book of Kshs.18,347,589 resulting into an unreconciled cash book balance of Kshs.6,000,000. Further, the reconciliation statements reflect a balance of Kshs.61,831,814 in respect of bank statement while the bank certificate indicates a balance of Kshs.73,931,814. The difference between the two (2) amounts of Kshs.12,100,000 has not been reconciled.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.24,347,590 could not be confirmed.

2. Un-receipted and Unconfirmed Transfer to Other Government Entity Funds

The statement of receipts and payments reflects transfer to other Government units of Kshs.76,758,000 as disclosed in Note 6 to the financial statements which includes Kshs.12,100,000 transferred to a Medical Training College. However, physical verification of the project conducted on the month of April, 2022 revealed that the College did not receive Kshs.12,100,000 as no bank statement was provided to confirm the transfers. The Principal of the College denied receipt of funds from the Fund and confirmed that no Project Management Committee bank account exists where the amount could have been banked. In addition, the transfer of Kshs.12,100,000 was disbursed without a joint financing agreement specifying the particular phase or phases, assets or any other defined unit of the project. No work plans were provided for use of the funds.

In the circumstances, the accuracy and completeness of the transfer to other Government units amounting to Kshs.12,100,000 could not be confirmed.

3. Unconfirmed Bursary Disbursements

The statement of receipts and payments reflects other grants and other payments of Kshs.44,704,697 as disclosed in Note 7 to the financial statements which includes bursary payments to secondary and tertiary institution amount of Kshs.13,170,000 and Kshs.17,645,068, respectively. However, examination of beneficiary schedules revealed the following unsatisfactory matters: -

- i. The beneficiary schedules provided had an amount of Kshs.38,001,500 which differed with the reported amount of Kshs.30,815,068 resulting to an unreconciled and unexplained variance of Kshs.7,186,432;
- ii. Out of the amount of Kshs.38,001,500 disbursed to beneficiary only Kshs.937,000 was supported by cheque number leaving the balance of Kshs.37,064,500 unsupported;
- iii. Six hundred and ninety-one (691) students who benefited were issued with multiple bursaries totalling Kshs.15,659,000 without justification.
- iv. Sixty-three (63) students from the same learning Institution had same registration numbers and were paid a total amount of Kshs.468,000 without justification.

In circumstances, the accuracy and completeness of bursary expenditure of Kshs.30,815,068 could not be confirmed.

4. Unconfirmed Emergency Projects Payments

The statement of receipts and payments reflects other grants and payments of Kshs.44,704,697 as disclosed in Note 7 to the financial statements which includes emergency payments amounting Kshs.6,747,500. However, physical verification of projects conducted in the month of April, 2022 revealed that the projects are not in existence and no evidence of re-allocation of funds was provided for audit. Further, documentary evidence including the application forms from the affected Wards, Constituency Development Fund Committee minutes approving the projects to be funded under emergency were not provided for audit.

In addition, expenditure of Kshs.2,472,500 was incurred in procuring water tanks to schools but the list of beneficiary schools and delivery notes to confirm that they were delivered were not provided for audit. The funds may not have been used for the intended purpose.

In the circumstances, the regularity, accuracy and completeness of emergency projects expenditure of Kshs.9,220,000 could not be confirmed.

5. Unconfirmed Payment of Roads Projects

The statement of receipts and payments reflects an amount of Kshs.4,667,027 in respect of roads projects as disclosed in Note 7 to the financial statements. The construction of Chesoen-Kapchumbe access road contract was awarded to a contractor on 14 July, 2020 at a contract price of Kshs.4,667,450 and payment of Kshs.4,667,027 made. However, invoice and certificate of completion were not attached in the payment voucher. The payee according to the payment voucher was indicated as Emurua Dikirr CDF Chesoen-Kapchumbe road and not in the name of the contractor. It was therefore difficult to confirm whether the amount was paid to the contractor as no bank statement was provided for audit.

In addition, it was not explained why the contractor was still owed Kshs.3,546,380 as reported in the summary statement of payment dated 6 August, 2020 after payment of

Kshs.4,667,027 was made. Further, the expenditure was not part of the roll over funds for 2019/2020 financial year as evidenced in the unutilized funds annex.

In the circumstances, the accuracy and regularity of roads projects expenditure of Kshs.4,667,027 could not be confirmed.

6. Unconfirmed Compensation of Employees - Staff Gratuities

The statement of receipts and payments reflects an amount of Kshs.2,747,570 in respect of compensation of employee as disclosed in Note 4 to the financial statements. However, the amount excludes payments for staff gratuities of Kshs.822,049 that were not captured in the supporting schedule.

In the circumstances, the accuracy and completeness of compensation of employees amount of Kshs.2,747,570 could not be confirmed.

7. Irregular Expenditure on Committee Allowances

The statement of receipts and payments reflects use of goods and services amount of Kshs.7,581,614 as disclosed in Note 5 to the financial statements which includes committee expenses of Kshs.2,765,200. However, this amount includes payment of Kshs.290,000 which has not been supported by Committee minutes, notice of meeting and a register of attendance. Further, Kshs.500,000 was paid to non-committee members contrary to Section 43 of National Government Constituency Development Fund Act, 2015 which defines the establishment and constituent of the committee members. In addition, included in the expenditure is payment of Kshs.340,000 which is not related to the committee expenses and no evidence of meetings held, notice, agenda and attendance register were provided for audit.

In the circumstances, the regularity of committee expenses of Kshs.2,765,200 could not be confirmed.

8. Misstatement of Unutilized Funds

Annex 3 to financial statements discloses unutilized fund of Kshs.69,367,724. However, analysis of budget execution by sector and projects, reflects fund balance of Kshs.77,236,470 resulting to an unreconciled and an unexplained variance of Kshs.7,868,746.

In the circumstances, the accuracy and completeness of unutilized funds balance of Kshs.69,367,724 could not be confirmed.

9. Unconfirmed Prior Year Adjustments

The statement of assets and liabilities reflects comparative prior year adjustments of Kshs.8,767,974. However, no disclosure has been made in the financial statements showing what the error relates to and how the correction has been done in the financial statements to report a Nil balance in the year under review.

This is in contravention of the International Public Sector Accounting Standards (IPSAS) No. 3 which requires that the amount of correction of an error that relates to prior period be done retrospectively in the first set of financial statements authorized for issue after their discovery and by adjusting the opening balance of accumulated surplus or deficit.

In the circumstances, the accuracy, presentation and disclosure of prior year adjustments of Kshs.8,767,974 could not be confirmed.

10. Unconfirmed Project Management Committee Bank Balances

Annex five (5) to the financial statements reflects a balance of Kshs.2,663,603 in respect of ten (10) Project Management Committee bank balances which were not supported by certificates of bank balance. Further, fifteen (15) Project Management Committee comparative bank balances of Kshs.5,700,000 have not been reflected in the financial statements. No evidence was provided for audit to confirm that the Project Management Committee bank accounts were closed and their account balances returned to the Constituency account as provided by Section 12(8) of the National Government-Constituencies Development Fund Act, 2015.

In addition, the Fund budgeted to finance and implement seventy-five (75) projects. However, only ten (10) projects have been reported under annex 5.

In the circumstance, the accuracy and completeness of Project Management Committee bank balances of Kshs.2,663,603 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 - Emurua Dikirr 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 statement of appropriation - recurrent and development combined reflects final receipts budget and actual receipts on a comparable basis of Kshs.209,515,351 and

Kshs.153,567,724 respectively, resulting to an underfunding of Kshs.55,947,627 or 26% of the budget. Similarly, the Fund spent Kshs.132,278,882 against approved budget of Kshs.209,515,352 resulting to an underperformance of Kshs.77,236,471 of 37% of the budget.

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

2. Unresolved Prior Year Audit Matters

The status of the progress on follow up of some of the prior year auditor's recommendations was not provided in the financial statements as required by the Public Sector Accounting Standards Board (PSASB).

In the circumstances, the Fund's financial statements do not comply with the financial reporting guidelines provided by PSASB pursuant to Section 194 of the Public Finance Management Act, 2012.

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. Incomplete and Unconfirmed Procurement of Projects

Review of records revealed that the Fund implemented projects in forty-one (41) primary and thirteen (13) secondary schools at a cost of Kshs.84,750,000. However, contract documents were not provided for audit. Therefore, it was not possible to establish whether the contracts were awarded in accordance to Article 227(1) of the Constitution of Kenya, 2010.

Further, eighteen (18) projects with a total allocation of Kshs.27,000,000 were verified in the month of April, 2022. An amount of Kshs 400,000 was used to purchase two (2) parcels of land, however, ownership documents have not been provided. In addition, five (5) incomplete projects amounted to Kshs.10,300,000, eleven (11) projects totalling Kshs.16,300,000 were not in use, labelled, poorly constructed and lacked amenities.

In addition, engineers estimate on the projects, records of contractor's retention fees and evidence that withholding tax was being deducted by the Fund and remitted to Kenya Revenue Authority were not provided. In addition, the projects did not have interim and final completion certificates contrary to Section 150(3) of the Public Procurement and Asset Disposal Act, 2015.

In the circumstances, Management was in breach of the law and value for money may not have been achieved and the public may not receive the intended benefits from the projects.

2. Lack of Fixed Assets Register

Annex 4 to the financial statements reflects summary of fixed assets register with a historical cost of Kshs.8,311,266. However, the assets register has not been provided for audit to confirm the existence of the assets. This is contrary to Regulation 143(1) of the Public Finance Management (National Government) Regulations, 2015 which provides that the Accounting Officer shall be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws.

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

3. Late Submission of Financial Statements

As previously reported, the financial statements for the year 2019/2020 were submitted for audit on 11 February, 2021 four and a half months after the due date, contrary to Section 47(1) of the Public Audit Act, 2015 which states that, the financial statements shall be submitted to the Auditor-General within three (3) months after the end of the fiscal year to which the accounts relate.

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

The Fund does not have a Risk Management Policy in place as required by Regulation 165(1) of the Public Finance Management (National Government) Regulations, 2015

which states that the Accounting Officer shall ensure that the National Government entity develops a risk management strategy, which include fraud prevention mechanism and a system of risk management and internal controls that builds robust business operations.

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

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 control, 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 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 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 controls 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 Fund's 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 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

07 September, 2022