

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - KIBWEZI WEST 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 - Kibwezi West Constituency set out on pages 21 to 99, 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 - Kibwezi West 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. Inaccuracies in the Financial Statements

The comparative balances for unutilized funds reflected at Annex 3 to the financial statements differ with the balances reflected in the prior year audited financial statements as shown below:

Item	Comparative Balance in 2020/2021 Financial Statements (Kshs.)	Balance as per the 2019/2020 Audited Financial Statements (Kshs.)	Variance (Kshs.)
Use of Goods and Services	5,547,637	5,142,476	405,161
Other Grants and Other Transfers	29,425,207	29,504,199	(78,992)

The variances were not explained or reconciled.

In addition, Note 17.1 to the financial statements reflects a comparative pending accounts payable balance of Kshs.2,224,650 which differs with the nil balance reflected at Annex 1.

The accuracy and completeness of the balances could therefore, not be confirmed.

2. Inaccurate Cash and Cash Equivalents Balance

The statement of assets and liabilities reflects a cash and cash equivalents balance of Kshs.47,454,104 which as disclosed at Note 10A to the financial statements, relates to the bank balance held in an account operated at a local bank. However, review of the bank reconciliation statement for the month of June, 2021, revealed that payments which were in bank statements but not in the cashbook amounting to Kshs.810,600 dated back to financial year 2014/2015. No satisfactory explanation was provided for failure to update the cash book and to clear the long outstanding reconciling items.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.47,454,104 could not be confirmed.

3. Unsupported Payment of Prime Costs and Provisional Sums

The statement of receipts and payments and Note 6 to the financial statements reflect transfers of Kshs.63,328,318 to other government units. However, the balance includes Kshs.2,683,900 paid by three (3) Project Management Committees to three (3) contractors for prime costs and provisional sums, without supporting documents. Further, authority to incur expenditure by the Accounting Officer was not provided for audit contrary to the provisions of Regulation 104 (1) Public Financial Management (National Government) Regulations, 2015 which requires that all receipts and payments of public money should be supported by appropriate authority and documentation.

In the circumstances, accuracy and regularity of the expenditure of Kshs.2,683,900 could not be confirmed.

4. Progress on Follow up of Prior Year Auditor's Recommendations

Status of the progress on follow up of 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.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the National Government Constituencies Development Fund – Kibwezi West 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 budgeted receipts of Kshs.222,926,105 and actual receipts of Kshs.178,737,226, resulting into a budget shortfall of Kshs.44,188,880 or 20% of the budget. Similarly, the Fund spent Kshs.131,283,122 against an approved budget of Kshs.222,926,106, resulting to an under-expenditure of Kshs.91,642,984 or 41% of the budget.

The under-funding and under-expenditure constrained the execution of the planned activities and delivery of services to the constituents of Kibwezi West.

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. Delayed Project Implementation

Review of the Project Implementation Status (PIS) report provided revealed that a total of Kshs.76,395,223 was allocated for implementation ninety-five (95) projects during the year. Out of these, fifty-nine (59) projects valued at Kshs.57,350,000 were completed and put to use. However, two (2) projects valued at Kshs.1,625,223 were completed but had not been put to use. Further, eleven (11) projects valued at Kshs.8,700,000 were ongoing, while twenty-three (23) projects worth Kshs.8,720,000 had not been started.

In the circumstances, it was not possible to confirm that value for money would be obtained from the Kshs.17,420,000 allocated to projects that had not been completed during the year under audit.

2. Poorly Implemented Classroom Construction Project

Review of documents relating to transfers to other Government units revealed that the Project Management Committee (PMC) of a Primary School awarded a tender for construction of one (1) classroom with floor tiles and supply of twenty-three (23) two-seater desks to a contractor at a contract sum of Kshs.1,090,620 as per the contract agreement dated 5 August, 2021. The contract period was eight (8) weeks, commencing on 9 August, 2021 and ending on 9 October, 2021. However, audit inspection on 27 April, 2022, revealed that the contractor was still on site and the Project was about 95% complete. In addition, the PMC had approved and paid the Contractor an amount of Kshs.824,508. However, the contract period had lapsed by about six (6) months and there was no evidence that the contractor had been granted an extension of the contract period or that the Fund Management claimed liquidated damages for delayed performance from the contractor as required under Section 140(b) and (c) of the Public Procurement and Asset Disposal Act, 2015.

In addition, although the floor tiles were poorly fixed and the plastered walls were wearing out, no evidence was provided that the Fund Management had placed a demand on the contractor to address the defects.

In the circumstances, value for money may not have been obtained for the funds spent on the Project.

3. Irregular Variation of Contract for Construction of a Classroom

During the year under review, the Project Management Committee (PMC) for a medical college received Kshs.1,350,000 from the Fund for construction of one (1) classroom. The PMC subsequently awarded the tender to a contractor at a contract sum of Kshs.1,220,105 as evidenced by contract agreement dated 17 November, 2020. However, the PMC approved and paid the contractor an amount of Kshs.1,323,205 resulting to an overpayment of Kshs.103,100 within a period of one (1) year contrary to the provisions of Section 139 (3) of the Public Procurement and Asset Disposal Act, 2015 which provides that no contract price shall be varied upwards within twelve (12) months from the date of the signing of the contract.

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

4. Failure to Report on Utilization of Emergency Reserve

As disclosed at Note 7 to the financial statements, Fund Committee utilized Kshs.7,930,249 on twenty (20) emergency projects from the emergency reserves. However, no evidence was provided that the expenditure was reported to the National Government Constituencies Development Fund Board within thirty (30) days of occurrence as required under Regulation 20 (2) of National Government Constituencies Development Fund Regulations, 2016.

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

5. Contracting Un-registered Suppliers

Review of documents in support of use of goods and services expenditure revealed that the Fund Management procured printing services a total cost of Kshs.1,317,604 from a firm that was not in the Fund's list of registered suppliers contrary to the provisions of Section 71 (4) of the Public Procurement and Asset Disposal Act, 2015 which requires a procuring entity to apply the list of registered suppliers on alternative procurement methods.

In the circumstances, the regularity of the expenditure could not be confirmed.

6. Payment to Contractors Without Valid Contracts

The amount of Kshs.14,990,223 reflected under Note 7 to the financial statements for security projects includes Kshs.4,174,147 paid by four (4) Project Management Committees (PMCs) to four (4) contractors who were awarded tenders for construction of various facilities at four (4) police stations. However, written and duly signed procurement contract agreements between the respective parties as required under Section 135 (2) of the Public Procurement and Asset Disposal Act, 2015 were not provided for audit.

In the circumstances, the legality of the payments could not be confirmed.

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, 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

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 sustain services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless the 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 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 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 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

28 July, 2022