

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - KISUMU 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 - Kisumu East Constituency set out on pages 20 to 59, 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 statement of summary of appropriations 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 effects 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 - Kisumu 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 the National Government Constituencies Development Fund Act, 2015.

Basis for Qualified Opinion

1. Unsupported Cash and Cash Equivalents Balances

The statement of assets and liabilities and Note 10A to the financial statements reflects a bank balance of Kshs.49,640,350. Review of the bank reconciliation statement for the month of June, 2021 indicated unpresented cheques amounting to Kshs.4,440,561. However, Management did not provide bank statements to confirm when unpresented cheques were cleared. Further, Annex 5 to the financial statements reflects Project Management Committee (PMC) bank balances amounting to Kshs.19,062,254. Out of this balance, an amount of Kshs.14,448,757 in respect of five (5) PMC accounts were not supported with certificates of bank balances and bank reconciliation statements.

In the circumstances, the accuracy and completeness of cash and cash equivalents of Kshs.49,640,350 and the PMC bank balances of Kshs.19,062,254 could not be confirmed.

2. Failure to Maintain an Updated Fixed Assets Register

Annex 4 to the financial statements reflects a summary of fixed assets register with assets amounting to Kshs.73,854,870. Review of the assets register provided for audit revealed that the register did not reflect land and buildings and two television sets bought during the year under review. Further, the cost values for some assets were not indicated in the register. In addition, as reported in the previous year audit report, three (3) motorcycles had private registration numbers, yet they were owned the Fund.

In the circumstances, the accuracy and completeness of fixed assets balance of Kshs.73,854,870 could not be confirmed.

3. Unsupported Retention Money

The statement of assets and liabilities and Note 12A to the financial statements reflects retention money of Kshs.226,867 whose supporting documents were not provided for audit.

In the circumstances, the accuracy and completeness of retention money amounting to Kshs.226,867 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 - Kisumu 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

Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.217,628,973 and Kshs.163,440,094 respectively resulting to an under-funding of Kshs.54,188,879 or 25% of the budget. Similarly, the Fund expended Kshs.113,799,744 against an approved budget of Kshs.217,628,973 resulting to an under-expenditure of Kshs.103,829,229 or 48% of the budget.

In the circumstances, 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. Anomalies in Projects Implementation

The statement of receipts and payments and Note 6 to the financial statements reflects transfers to other Government entities of Kshs.47,500,000. The transfers includes an amount of Kshs.4,000,000 allocated to St. Mark Nyabera Primary School comprising of Kshs.2,500,000 for renovation of 6 classrooms and Kshs.1,000,000 for construction of dykes around the school. Review of records indicated that an agreement was signed on 9 November, 2021 with a construction company for renovation of six (6) classrooms and chain link fencing at a contract sum of Kshs.2,993,206. The projects were to be completed within eight (8) weeks running from 9 November, 2021 to 9 January, 2022. However, physical verification of the project in March, 2022, revealed that the renovation of classrooms had not been completed three months after the expected completion date. Further, the gutters had not been fixed and the painting on the outside pillars had already started peeling off and the contractor was not on site yet the fencing work had not started.

Further, review of projects records indicates that an agreement was signed on 22 September, 2021 between Kasagam primary school & St. Mark Nyabera primary

School and a construction company for construction of dykes at a contract sum of Kshs.2,675,000 and the contract was to be completed within a period eight (8) weeks from the date of site handing over. However, physical verification of the project in March, 2022 confirmed that the works were not complete and the contractor was not on site. Similarly, the contract sum of Kshs.2,675,000 exceeded the budget allocation of Kshs.1,000,000 contrary to Section 44(2)(a) of the Public Procurement and Asset Disposal Act, 2015.

In the circumstances, Management was in breach of the law and no value for money was obtained on expenditure on the projects.

2. Irregular Payments for Construction Works

The statement of receipts and payments and Note 6 to the financial statements reflects transfers to other government entities of Kshs.47,500,000 which includes an amount of Kshs.18,000,000 in respect to transfers to secondary schools. This amount in turn includes Kshs.15,000,000 which was transferred to Kibos Secondary PMC account. The Project Management Committee (PMC) of Kibos Secondary School entered into an agreement on 6 August, 2020 with a construction company for the proposed construction of dormitory block, two-bedroom twin staff house and dining hall at Kibos Secondary School at contract sum of Kshs.15,000,000. Further, a second agreement dated 27 January, 2021 with the same contractor for the same works a contract price of Kshs.11,557,925 and the contract was expected to take 16 weeks from the date of site handing over. Examination of records provided for audit verification revealed that the project was 98% complete as indicated in the inspection report dated 5 January, 2022. However, the contractor was paid a total of Kshs.33,573,073 which was beyond the total contract sum of Kshs.26,557,925.

In the circumstances, the regularity of expenditure of Kshs.33,573,073 could not be confirmed.

3. Over-payment for Construction Works

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects transfers to other government entities of Kshs.47,500,000 which includes an amount of Kshs.18,000,000 in respect to transfers to Secondary Schools. The amount includes Kshs.2,000,000 which was transferred to St. Dominic Bukna Secondary School PMC account. The Project Management Committee entered into an agreement with a construction company dated 24 June,2020 for the proposed construction of four (4) classroom (Storey Block) at a contract sum of Kshs.7,993,096. The contract period was expected to take 8 weeks from the date of site handing over. Examination of records provided for audit review revealed that the project was completed and an inspection & acceptance report and a certificate of practical completion were issued on 3 and 4 February, 2021 respectively. Physical verification carried out in April, 2022 revealed that the four (4) classroom storey block was complete and in use. However, it was noted that the contractor had been paid a total of Kshs.9,388,915 instead of Kshs.7,993,096 resulting to an overpayment of Kshs.1,395,819 which was not explained.

In the circumstances, the regularity of the overpaid amount of Kshs.1,395,819 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, 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 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 controls 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 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 financial reporting process, reviewing the effectiveness of how the entity 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 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 controls 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 controls 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 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 to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with 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

27 September, 2022