

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - MATUNGULU 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 - Matungulu Constituency set out on pages 17 to 58, 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 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 the National Government Constituencies Development Fund - Matungulu 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. Misstated Cash and Cash Equivalents Balance

The statement of assets and liabilities and Note 10A to the financial statements reflects cash and cash equivalents balance of Kshs.43,954,258. Review of bank reconciliation statement revealed that the unrepresented cheques schedule includes a cheque for VAT of Kshs.1,852 dated 12 September, 2020 which was stale as at 30 June, 2021. Further, the bank reconciliation statement reflects receipts of Kshs.96,594 in the bank statements but not recorded in the cashbook. The receipts relates to financial years 2017, 2018 and 2019 .

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.43,954,258 could not be confirmed.

2. Lack of Land Ownership Documents

Annex 4 to the financial statements reflects the historical cost balance for fixed assets of Kshs.15,486,660 as at 30 June, 2021. The Annex include land with a Nil balance. The Management did not provide valuation report and title deed to confirm ownership.

In the circumstances, the accuracy and completeness of the fixed assets balance of Kshs.15,486,660 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 - Matungulu 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 comparable basis of Kshs.241,508,049 and Kshs.161,601,724 respectively, resulting to an underfunding of Kshs.79,906,325 or 33% of the budget. Similarly, the Fund expended Kshs.152,464,912 against the actual receipts of Kshs.161,601,724 resulting to an under-absorption of Kshs.9,136,812.

The under funding and expenditure 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. Lack of Public Participation in Projects Identification

The statement of receipts and payments and Notes 6 and 7 to the financial statements reflects expenditure on transfer to other Government entities and other grants and transfers of Kshs.98,740,207 and Kshs.41,822,028 respectively being funds for implementation of projects during the period under review. However, evidence of public participation in the identification and prioritization of the projects and programmes as required under Article 232(d) of the Constitution of Kenya, 2010 was not provided for audit.

In the circumstances, it was not possible to establish implemented projects and programmes were prioritized by the Public.

2. Lack of Appointment Letters for Tender Opening and Evaluation Committees

The statement of receipts and payments reflects expenditure of Kshs.98,740,207 on transfers to other government units as disclosed in Note 6 to the financial statements. Included in the balance is an expenditure on transfers to Primary Schools' projects of Kshs.43,222,582. However, review of project files and tender documents for six (6) projects, Donyo Coffee, Koma Ranch, Koma Hill, Kithayooni, Kwa Kisinga and Kambusu Primary Schools revealed that there were no appointment letters for tender opening and evaluation committee members.

In the circumstances, it was not been possible to confirm regularity of tender openings and evaluations committee.

3. Project Implementation

Review of projects implementation files revealed that Management planned to implement seventy-six (78) projects with total allocation of Kshs.133,821,257 during the period under review. Out of this, sixty-four (64) projects with an allocation of Kshs.89,362,564 were completed, nine (9) projects with an allocation of Kshs.41,823,249 were on-going. There were five (5) projects with a total allocation of Kshs.2,635,444 which were not started. Further, the approved code list for the financial year 2020/2021 indicated that seventy-one (71) projects with an allocation of Kshs.134,088,880 were approved for implementation. The Management projects implementation report and the budget are at variance.

In addition, physical inspection conducted on 8 April, 2022 revealed that construction of student laboratory at St. Joseph Kikuyuni Secondary School at a cost of Kshs.2,225,000 was at 55% completion level. However, the project lacked signage indicating the name of the project and financier. It was also noted that, construction of 8 door emergency toilet at St. Martin Matuu Wendano Secondary School at a cost of Kshs.2,400,000 was poorly implemented as it had major crack on the floor and wall an indication of poor workmanship.

In the circumstances, value for money was not realized due to the substandard work.

4. Overpayment of Leave Allowances

The statement of receipts and payments reflects compensation of employees expenditure of Kshs.2,988,452. The expenditure includes an amount of Kshs.126,632, being leave allowance paid to eight (8) employees. However, review of employment contracts revealed that the employees were paid Kshs.94,632 above their entitlement contrary to Regulation 43(b) of the Public Finance Management (National Government) Regulation, 2015, which requires Accounting Officers to ensure funds entrusted to their care are properly safeguarded and applied for purposes for only which they were intended and appropriated by the National Assembly.

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 matters 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 Internal Audit Function and Audit Committee

The Fund has not established an internal audit function. This is contrary to Section 155 of the Public Finance Management Act, 2012 which provides for the establishment of the internal audit function. As such, the Fund did not benefit from the assurance and advisory services from the internal audit function.

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 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 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 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 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 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

19 September, 2022