

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - MUKURWE-INI 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

Opinion

I have audited the accompanying financial statements of National Government Constituencies Development Fund - Mukurwe-Ini Constituency set out on pages 15 to 59, which of 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, the financial statements present fairly, in all material respects, the financial position of National Government Constituencies Development Fund - Mukurwe-Ini 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 Constituency Development Fund Act, 2015.

Basis for Opinion

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the National Government Constituencies Development Fund - Mukurwe-Ini 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 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 comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.267,733,569 and Kshs.204,547,536 respectively resulting to an under-funding of Kshs.63,186,033 or 24% of the budget. Similarly, the Fund expended Kshs.111,824,048 against an approved budget of Kshs.267,733,569, resulting into an under expenditure of Kshs.155,909,521 or 58%.

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

2. Unresolved Prior Year Matters

In the audit report of the previous year, a number of paragraphs were raised under the Report on Financial Statements. However, Management has not resolved the issues nor disclosed all the prior year matters as provided for by the Public Sector Accounting Standards Board templates.

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. Irregular Award of Contract

The statement of receipts and payments reflects an amount of Kshs.37,603,903 in respect of transfers to other government entities as disclosed in Note 6 to the financial statements. The amount includes Kshs.2,000,000 that was transferred to tertiary institutions. The transfer was for the purpose of proposed phase 1 Ground floor works for construction of tuition block and perimeter fence for Kenya Medical Training College (KMTC) at Mukurweini. The contract was awarded on 19 March, 2021 at a contract sum of Kshs.35,000,000 with a completion date of 30 September, 2021. However, review of tender evaluation report revealed that recommended evaluated tender price was Kshs.48,421,928. The amount exceeded the contract price and the budget of Kshs.35,000,000 by Kshs.13,421,928 or 38.3 % contrary to Section 132(2) of the Public Procurement and Assets disposal Act, 2015 which requires that in the case of bids above the available budget, an Accounting Officer of a procuring entity shall - (a) reveal its available budget to the bidders; and (b) limit its invitation to bidders whose evaluated prices are not more than twenty five percent above the available budget.

Further, the Fund did not provide a report of the competitive negotiation submitted to the head of procurement function for professional opinion and onward submission to the Accounting Officer for approval. This is contrary to Regulation 100(1) of the Public Procurement and Asset Disposal Act, Regulations, 2020 which provides that; In using competitive negotiations as provided for under section 131 of the Act and in applying the procedure set out in section 132 of the Act, an Accounting Officer of a procuring entity shall appoint an ad hoc evaluation committee pursuant to Section to 46(4) of the Act to negotiate with the bidder on the recommendation of the head of the procurement function.

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

2. Poor Project Implementation

During the year under review, the Fund transferred Kshs.37,603,903 as disclosed in Noted 6 to the financial statements to other Government entities. However, physical verification of the projects in the month of May, 2022 revealed payments to uncompleted projects as detailed below;

2.1. ACK Kiuu Secondary School

The Fund transferred an amount of Kshs.2,500,000 to the Project Management Committee (PMC) account for installation of columns, walling, beams, finishes and slab of a two (2) storied classrooms. At the ACK Kiuu secondary school, the tender for the project was awarded at a contract price of Kshs.2,490,230 with an expected completion

date of 31 October, 2021. However, physical verification revealed that windows, doors, plastering, floor finishes and paint works worth Kshs.331,380 as per the bill of quantities had not been completed.

2.2 Gaikundo Administration Police Post

The Fund transferred an amount of Kshs.1,500,000 to the PMC account on 27 November, 2020 for the renovation of 2 offices, roof repairs, ceiling, painting, replacement of steel door and windows at Gaikundo Administration Police Post. However, physical verification revealed that hacking off of the existing floor screed, plaster to the wall, wall paints, roof paints and purchase of water tank complete with tank base totalling to Kshs.603,700 as per priced bill of quantities had not been done as at the time of audit.

2.3 Wanjithi Primary School

The Fund disbursed Kshs.1,021,272 to the PMC account on 8 August, 2021 for leveling of the playing ground at Wangithi primary school. However, as at the time of physical verification the playing field was not leveled and instead the soil was removed leaving a deep hole in the playing field rendering it hazardous for use.

2.4 Nyakahuhu Primary School

The Fund disbursed Kshs.1,871,892 to the PMC account on 3 June, 2021 for renovation of 5 class rooms at Nyakahuhu primary school. However, the removal of the old corrugated roof cover, damaged timber, natural stone walling, roofing with sawn cypress, matching ridges and valleys, UPVC gutters and UPVC down pipes at a cost of Kshs.363,420 as per the priced bill of quantities had not been done at the time of the audit verification. Further the bill of quantities required that the use of Pre-painted box profile gauge 28 roofing sheets - MRM grade or any other equal. However, the physical verification revealed that the contractor used maisha mabati gauge 30 that were not box profiled and pre-painted.

In the circumstances, value for money on the above projects had not been realized by the citizens.

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 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 control, risk management and overall governance.

In preparing the financial statements, Management is responsible for assessing the 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 its 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 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 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 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 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 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 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 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

06 September, 2022