

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - NYANDO 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 - Nyando Constituency set out on pages 16 to 48, 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 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 - Nyando 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. Unconfirmed Receipts

The statement of receipts and payments reflects transfers from National Government Constituencies Development Fund Board balance of Kshs.128,040,845 as disclosed in Note 1 to the financial statements. However, the amount includes reversed cheques totalling Kshs.673,121 which were treated as receipts.

In the circumstances, the accuracy and completeness of the transfers from other Government entities could not be confirmed.

2. Unsupported for Cash and Cash Equivalents

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.14,683,122 as disclosed in Note 9A to the financial statements. However, the bank reconciliation statements were not provided for audit.

In the circumstances, the accuracy and completeness of the bank balance of Kshs.14,683,122 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 - Nyando 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 budgeted receipts of Kshs.174,641,444 and actual receipts of Kshs.129,552,566 resulting in budget shortfall of Kshs.45,088,879 or 26% of the approved budget. Similarly, the statement reflects final budgeted payments of Kshs.174,641,444 and actual payments of Kshs.114,675,477 resulting in net under expenditure of Kshs.59,965,967 or 34% of the budget.

In the circumstances, the underfunding and the 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. Irregular Procurement of Use of Goods and Services

The statement of receipts and payments reflects use goods and services amount of Kshs.9,061,146 as disclosed in Note 4 to the financial statements. However, audit inspection revealed that the procurement of assorted goods and services amounting to Kshs.5,611,950 was not supported with National Government Constituencies Development Fund committee minutes, inspection and acceptance reports, receipts and issue vouchers/notes and the goods were not taken on charge.

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

2. Project not Implemented According to Contract Agreement

The statement of receipts and payments reflects transfers to other Government entities amount of Kshs.69,695,221 as disclosed in Note 6 to the financial statements. Review of project files and audit verification carried out in March, 2022 revealed that an amount of Kshs.4,600,000 was paid for construction of and rehabilitation of classrooms in four (4) schools. However, though the work was complete it was not done as per the specifications in the Bills of Quantities.

In the circumstances, value for money may not have been realized.

3. Poorly Implemented Projects

The statement of receipts and payments reflects transfers to other Government units amount of Kshs.69,695,221 as disclosed in Note 5 to the financial statements which includes an amount of Kshs.6,000,000 disbursed to five (5) schools. Audit verification revealed that works in the five (5) schools was poorly executed as cracks were visible on the walls, external walls finish and paint works was also poorly done.

In the circumstances, value for money may not have been realized.

4. Payment for Incomplete Works

The statement of receipts and payments reflects transfers to other Government units amount of Kshs.69,695,221 as disclosed in Note 5 to the financial statements. Physical verification of the Constituency Development Fund office and four classrooms revealed that payments totalling Kshs.1,320,000 were made though the work was incomplete and poorly carried out.

In the circumstances, it could not be confirmed if the Fund received value for money for the works carried out.

5. Delay in Implementation of ICT Hub Project

The statement of receipts and payments reflects an amount of Kshs.1,149,097 for other payments and as disclosed in Note 8 to the financial statements. The expenditure was in respect to an ICT Hub, to be set up within the Constituency which included installation of satellite antenna, router, digital access kit, digital tablets, Wi-fi with outdoor wireless device complete with 12U cabinet and other accessories.

Review of payment documents revealed that an amount of Kshs.1,149,097 paid in January, 2021 was based on an agreement between the Ministry of ICT and service provider dated 30 September, 2020. However, during audit inspection in March, 2022 the project was yet to commence and no explanation was provided for the delay.

In the circumstances, there was no value for the Kshs.1,149,097 spent on a project which has not been implemented.

6. Un-Supported Project Implementation Process

The statement of receipts and payments reflects a total of Kshs.69,695,221 as transfers to other Government entities and as disclosed in Note 5 to the financial statements. Twelve (12) project files for projects worth Kshs.23,100,000 were sampled for audit review. The review revealed that, the files lacked vital project documentations which included valuation minutes, contracts, local service orders, and payment evidence contrary to Section 36 of the National Government Constituencies Development Fund Act, 2015 states that the officer of the Board in every Constituency shall compile and maintain a record showing all receipts, disbursements, and actual expenditures on a monthly basis in respect of every project and sub-project.

In the circumstances, it was not possible to confirm whether due process was followed in the implementation of these projects.

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 Internal Audit Review

During the audit it was noted that no internal audit reviews were performed on the Fund's internal processes and no risk assessment was carried out to identify and address key areas of concern and document specific controls in response to identified risks contrary to Regulation 160(1)(b) of the Public Financial Management (National Government) Regulations, 2015 which states that the internal audit function has a duty to give reasonable assurance through the audit committee on the state of risk management, control, and governance within the organization.

In the absence of internal audit reviews, it was not possible to confirm the effectiveness of internal controls, risk management and governance of the Fund.

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 controls, risk management and governance.

In preparing the financial statements, Management is responsible for assessing the Fund's ability 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 Fund's 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 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 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 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 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 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

30 September, 2022