

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - OL KALOU 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 Ol Kalou Constituency set out on pages 29 to 38, which comprise of the statement of assets and liabilities as at 30 June, 2021, 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 the National Government Constituencies Development Fund – Ol Kalou 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. Unsupported Use of Goods and Services

The statement of receipts and payments reflects use of goods and services totalling to Kshs.7,977,246 (2019/2020 - Kshs.6,875,180) and as disclosed in Note 5 to the financial statements. However, balances include various expenditure totalling to Kshs.6,635,165 being payment to the Fund Manager that was not supported by detailed schedules of goods purchased or services rendered.

Further, the balance includes committee allowance and expenses of Kshs.3,730,000 and Kshs.908,000 respectively. However, the balances were not supported with detailed payment schedules, minutes of committee meetings held and monitoring and evaluation reports.

In the circumstances, the accuracy and completeness of use of goods and services expenditure totalling to Kshs.4,638,000 could not be confirmed.

2. Inaccuracies in Bank Balances

The statement of assets and liabilities and as disclosed in Note 10A to the financial statements. reflects bank balances totalling to Kshs.20,631,489 (2019/2020 - Kshs.20,572,209). The bank reconciliation statement reflected payments in cashbook not recorded in the bank statement of unrepresented cheques amounting to Kshs.28,114,604 which included stale cheques totalling to Kshs.1,444,669. However, the stale cheques were not reversed in the cashbook as at 30 June, 2021.

Similarly, the statement reflected receipts in bank not recorded in cashbook amounting to Kshs.12,010,495 being salary refunds and transfers from the National Government Constituencies Development Fund Board received in bank statement between February, 2016 and April, 2020. The Management had however not recorded the transactions in cashbook.

In the circumstances, the accuracy and completeness of the bank balances totalling to Kshs.20,631,489 could not be confirmed.

3. Unsupported Project Committee Account Balances

Note 17.4 to the financial statements reflects Project Management Committee account balances totalling to Kshs.22,181,180 held in sixty-six (66) accounts as disclosed in Annex 5 to the financial statements. However, supporting documents such as bank

reconciliation statements, certificate of bank balances and bank statements were not provided for audit verification.

Further, a review of the project's implementation status report indicated that an amount of Kshs.63,830,000 had been released to various Project Management Committee accounts whose various projects had either not started or were ongoing. However, these account balances were not disclosed.

In the circumstances, the accuracy and completeness of the reported project management committee account balances of Kshs.22,181,180 could not be confirmed.

4. Unsupported Expenditure -Transfers to Other Government Entities

The statement of receipts and payments and as disclosed in Note 6 of the financial statements reflects Kshs.81,290,000 in respect of transfers to other government entities Included in the amount is Kshs.58,640,000 in respect of Primary Schools projects. However, the support schedule amounted to Kshs.46,779,500 while an amount of Kshs.11,860,500 was not supported.

In the circumstances, the accuracy and completeness of transfer to primary school balance of Kshs.11,860,500 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 – Ol Kalou 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

1.0 Budgetary Control and Performance

The summary statement of appropriation of budget and actual amounts reflects final receipts budgets and actual receipts on comparable basis of Kshs.227,194,811 and Kshs.187,005,933 respectively resulting to an underfunding amounting to Kshs.40,022,878 (or 17%) of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis totalling to Kshs.227,194,811 and Kshs.167,800,984 respectively, resulting to an under expenditure amounting to Kshs.59,393,827 (or 26%) of the budget.

The under-funding and under-performance affected the planned activities and may have impacted negatively on service delivery to the public.

2.0 Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised. However, the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board Templates and The National Treasury and Planning Circular Reference No. AG.4/16/3 Vol.1(9) dated 24 June, 2020.

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. Non-Compliance with Public Sector Accounting Standards Board Requirements

The annual report and the financial statements have numerous errors and omissions including; page numbering not being consistent, table of contents omits Annexures to the financial statements, approval date is not disclosed at pages 27 - 30. The summary statement of appropriation for both the recurrent and development expenditures are not separately disclosed. This is contrary to Public Sector Accounting Standards Board Templates.

In the circumstances, the presentation of the financial statements for the year under review is not in accordance with the prescribed PSASB format.

2. Delay in Implementation of Projects - OI Kalou Technical and Vocational College

The Management disbursed a total Kshs.10,000,000 to OI Kalou Technical and Vocational College for erection of twin workshops, classrooms, and office block (2 storey). The project was co-financed with the Ministry of Education at a total contract cost of Kshs.52,000,000 with the Fund contributing a total of Kshs.10,000,000.

However, the CDF disbursed the allocated amount of Kshs.10,000,000 without any defined phase or component of the project contrary to Section 25(1) of the National Government Constituencies Development Fund Act, 2015.

The audit inspection noted delays in project implementation for almost two years with the initial completion date set at February, 2020. Pending works included wall finishes, floor finishes, construction of septic tank, electrical and plumbing works.

In the circumstances, failure to implement projects within the stipulated period may have denied the constituents of Ol Kalou Constituency the much desired development.

3. Emergency Transfers

Audit inspection conducted in the month of June, 2022 revealed that emergency projects amounting to Kshs.2,678,000 had not been implemented and the funds were still in respective Project Management Committee accounts.

This was contrary to Section 8(3) of the National Government Constituencies Development Fund Act, 2015 which states that an emergency shall be construed to mean an urgent, unforeseen need for expenditure for which it is in the opinion of the Committee that it cannot be delayed until the next financial year without harming the public interest of the constituents.

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

4. Delay in Project Implementation

The project implementation status report indicated that the Constituency had two hundred and twelve (212) projects with an allocation totalling to Kshs.136,960,447. However, one hundred and eighty-three (183) projects valued at Kshs.112,435,878 were incomplete due to the slow tendering processes and delays in receipt or reallocation of funds from the NGCDF Board.

Further, the Management paid a total of Kshs.13,216,569 to various projects. However, physical verification in January, 2021 revealed unsatisfactory implementation of the projects as shown in **Appendix I**.

In the circumstances, value for money for the expenditure of projects being implemented totalling Kshs.136,960,447 could not be ascertained.

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 (Accrual 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 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 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 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 policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional scepticism 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 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 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

09 September, 2022

Appendix I: Unsatisfactory Implementation of Projects

| No. | Beneficiary | Details | Amount (Kshs) | Observations |
|------------|-----------------------------|---|----------------------|--|
| 1. | Wangatabuthi Primary School | Construction of one classroom to completion | 900,000 | <ul style="list-style-type: none"> - The floor was already worn out. - Some window glasses were missing. - Painting and Branding were not done. |

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|------------|----------------------------|---|----------------------|--|
| | | | | <ul style="list-style-type: none"> - The contractor was paid on 5 October, 2019 before completion of works. |
| 2 | Kiaduba Primary School | Construction of six (6) door toilet block to completion | 350,000 | <ul style="list-style-type: none"> - The Project was worn out and doors were broken. - PMC was not involved in the project implementation. - Bills of Quantities (BQ) was not provided. - Branding had not been done although the contractor was fully paid. |
| 3. | Mukindu Primary School | Construction of a six-door toilet block to completion | 300,000 | <ul style="list-style-type: none"> - The Project had already worn out and floors peeled off. - PMC was not involved in the project implementation. - BQ was not provided. - Branding had not been done although the contractor was fully paid. |
| 4. | Gathima Primary School | Construction of one classroom to completion | 900,000 | <ul style="list-style-type: none"> - Classroom had been put to use before completion. - The Contractor after being paid the full amount, abandoned the project site. - Pending works included; branding, window panes, internal and external wall finishes and fixing of a broken door. - The floor was already fully worn out, three months after construction. |
| 5. | J.M Kariuki Primary School | Construction of one classroom to completion | 1,000,000 | <ul style="list-style-type: none"> - The Project was being implemented by the Fund instead of the PMC. - Procurement records were not provided. - The contractor was not on site, project was incomplete and in use. - The pillars were falling. |
| 6. | Kio Primary School | Construction of an administration block to completion | 1,400,000 | <ul style="list-style-type: none"> - The administration block has been put into use before completion while the Contractor after being paid the full amount abandoned the Project site. - Procurement records were not provided. - Pending works included ceiling cornice, and electrical works. |
| No. | Beneficiary | Details | Amount (Kshs) | Observations |

| | | | | |
|------------|--------------------------|---|----------------------|---|
| 7. | Kagaa Primary School | Construction of one classroom to completion | 900,000 | <ul style="list-style-type: none"> - The classroom had been put into use before completion. - The Contractor abandoned the project site after being paid the full amount. - Procurement records were not provided. - Pending works included painting, electrical works and branding. |
| 8. | Rumathi Secondary School | Construction of two classrooms to completion | 1,900,000 | <ul style="list-style-type: none"> - The project was incomplete but put in use with the contractor having been fully paid. - Procurement records and BQ were not provided. - Branding had not been done. |
| 9. | Matunda Secondary School | Construction of one classroom to completion | 1,000,000 | <ul style="list-style-type: none"> - The class was incomplete but put in use with the contractor having been fully paid. - Pending works included painting and partitioning. - Procurement records and BQ were not provided. - Substandard works were noted including wearing out of the floor. |
| 10. | Kibendera Primary School | Construction of one classroom to completion | 900,000 | The Project was complete and in use but not branded. |
| 11. | Micharage Primary School | Construction of one classroom to completion | 900,000 | <ul style="list-style-type: none"> - The Project was complete and in use. - The Project was initiated without proposal from the PMC. - Procurement records were not provided. |
| 12. | Micharage Primary School | Renovation of four (4) classrooms (Flooring, plastering, painting, wall keying and construction of a verandah). | 900,000 | <ul style="list-style-type: none"> - One of the renovated classrooms has been turned into a kitchen despite the school having a designated kitchen. - Procurement records were not provided. - The Contractor had been fully paid without completing the renovation works including fixing of window glasses and branding. |
| | Nyaituga Primary School | Construction of an eight (8) -door toilet block. | 400,000 | <p>The Project was complete and in use but it was initiated without proposal from the PMC.</p> <ul style="list-style-type: none"> - Procurement records and BQ were not provided. - Branding was not done. |
| 14. | Rumathi Secondary School | Construction of a six (6) - door students toilet block and staff toilets to completion | 666,569 | <ul style="list-style-type: none"> - Both projects were completed and in use. - Branding had not been done. - Procurement records and BQ were not provided. |
| No. | Beneficiary | Details | Amount (Kshs) | Observations |

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|--------------|-------------------------------------|---|------------------|--|
| 15. | Kirima Location Welfare Association | Construction of a two-door toilet block and a urinal to completion | 250,000 | - The Project was complete but there was no proof of ownership for confirmation of its eligibility for financing by NGCDF. |
| 16. | Micharage Primary School | Construction of a six (6) - door toilet block to completion. | 300,000 | - The Project was complete and in use. - Branding had not been done. - BQ were not provided. |
| 17. | Matunda Secondary School | Construction of a six (6) - door toilet block and urinal to completion. | 250,000 | - The Project was complete and in use. - Branding had not been done. - Procurement records and BQ were not provided. |
| Total | | | 2,766,569 | |