

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - SAKU 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 - Saku Constituency set out on pages 16 to 63, 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 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 - Saku 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. Undisclosed Retention Monies

The statement of assets and liabilities and as disclosed under Note 12A to the financial statements reflect Nil balance under retention money. However, the Fund paid an amount of Kshs.14,700,000 for construction of Constituency Development Fund office (CDF) in Saku and withheld Kshs.1,470,000 as retention money. The money remained unpaid as at the closure of the financial year. However, Management did not disclose the retention money of Kshs.1,470,000 in the financial statements.

In the circumstances, the accuracy and completeness of retention monies could not be confirmed.

2. Unreconciled Cash and Cash Equivalents

The statement of assets and liabilities and as disclosed under Note 10 to the financial statements reflect cash and cash equivalents balance of Kshs.54,532,136. However, the bank reconciliation statement revealed unrepresented cheques totalling Kshs.5,724,640 which were stale and had not been reversed to the cash book. Further, the bank reconciliation showed total unrepresented cheques of Kshs.13,461,069, however, the support schedule reflects a total of Kshs.14,252,809 resulting to an unreconciled difference of Kshs.791,740.

In the circumstances, the accuracy of the cash and cash equivalents balance of Kshs.54,532,136 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 - Saku 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 Appropriation reflects final receipt budget and actual on comparable basis of Kshs.234,683,499 and Kshs.189,594,620 respectively resulting to an under-funding of Kshs.45,088,879 or 19% of the budget. Similarly, the Fund expended Kshs.137,354,006 against an approved budget of Kshs.234,683,499 resulting to an under-expenditure of Kshs.97,329,493 or 41% of the budget.

The underfunding and under-performance 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. Unbudgeted Expenses

The summary statement of appropriation reflects a final budget of Kshs.13,568,675 under use of goods and services. The Fund incurred an expenditure totalling Kshs.11,847,739 under use of goods and services. Included in the expenditure is an amount of Ksh.1,974,110 incurred on routine maintenance of vehicles and other transport equipment. Annex 1 to the financial statements and as disclosed in Note 17.1 to the financial statements revealed pending accounts payables amounting to Kshs.2,50,403 relating to repairs and service of motor vehicle. This was an indication that the Fund did not have sufficient budgetary provision under repairs of Motor vehicles. This was contrary to Section 51(2) of the Public Finance Management (National Government) Regulations, 2015 which require expenditure commitment to be controlled based on allocations and allotments from approved budgets.

In the circumstances, the Fund was in breach of law

2. Unconfirmed Implementation of a Project

The statement of receipts and payments and as disclosed under Note 6 to the financial statements reflects Kshs.56,877,988 in respect to transfer to other Government entities. Included in this amount is Kshs.1,299,500 incurred on construction of a classroom at Karare Primary School. Physical verification revealed that although the building was in existence, the labelling was for the financial year 2018/2019 rendering it impossible to ascertain whether the project for the year 2019/2020 existed as alluded.

In the circumstances, value for money could not be confirmed.

3. Poor Workmanship on Construction of a Pit Latrine

The statement of receipts and payments and as disclosed under Note 6 to the financial statements reflects Kshs.56,877,988 under transfer to other Government entities. Included in this amount is Kshs.899,260 transferred to Karare Secondary School for construction of two (2) double door pit latrine to completion. Inspection of the project revealed that the pit latrine had collapsed, an indication that it was as a result of poor workmanship and lack of proper supervision.

In the circumstances, value for money on the project worth Kshs.899,260 could not be confirmed.

4. Non-Compliance with Law on Budget Allocation to Bursary

The statement of receipts and payments and as disclosed under Note 7 to the financial statements reflects Kshs.49,296,856 relating to other grants and other payments. The amount includes Kshs.19,016,582 and Kshs.21,125,800 relating to bursaries to secondary schools and bursaries to tertiary institution respectively all totalling Kshs.40,142,382. The bursaries accounted for 17 % of the total CDF approved budget of Kshs.234,683,499. This was contrary to Section 21(5) of the National Government Constituencies Development Fund Regulations, 2016 which provides that a Constituency Committee shall allocate not less than twenty five percent of the funds to a Constituency for bursaries.

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

5. Unconfirmed Application, Selection and Vetting Procedures

The statement of receipts and payments reflects an expenditure of Kshs.49,296,856 under other grants and transfers and as disclosed in Note 7 to the financial statements. The Fund disbursed Kshs.40,142,382 as bursaries to secondary and tertiary students, however, the disbursements were not supported by the selection and vetting records both by the Ward Committees and Constituency Development Committee (CDFC) contrary to Section 21(3) of National Government Constituencies Development Fund Regulations, 2016 which states that a Constituency Committee shall vet all persons proposed to receive support in accordance with guidelines issued by the Board.

In the circumstances, the regularity of the bursary disbursements could not be ascertained.

6. Irregular Appointment of Staff

The statement of receipts and payments and as disclosed under Note 4 to the financial statements reflects Kshs.4,493,423 relating to compensation of employees. Examination of records revealed that contracts for six (6) members of staff were not supported with appointment letters contrary to Section 9(1) of the Employment Act, 2007, which provides that every contract of service shall be in writing.

In the circumstances, the terms and conditions of service including the expiry of the contracts could therefore not be confirmed.

7. Failure to Maintain Project Documentation

The statement of receipts and payments and as disclosed in Note 6 and 7 to the financial statements reflects Kshs.56,877,988 and Kshs.49,296,856 all totalling Kshs.106,174,844 relating to transfers to other Government entities and other grants and payments respectively. Included in these transfers are approved projects amounting to Kshs.5,448,000 whose files did not contain important information such as bills of quantities, work inspection certificates and contract agreements between the PMC and the suppliers of services and structural drawings of the projects. This was contrary to Section 15(1)(b) and (d) of the National Government Constituencies Development Fund (NGCDF) Regulations, 2016 which provides that the Project Management Committee for each project shall maintain proper records of all minutes, accounting documents and other records in relation to projects being implemented and prepare returns and file them with a Constituency Committee on a timely basis.

In the circumstances, the completeness of the transferred amount totalling Kshs.106,174,844 could not be confirmed.

8. Slow Project Implementation

The statement of receipts and payments and as disclosed in Notes 6, 7 and 8 to the financial statements reflect Kshs.56,877,988, Kshs.49,296,856 and Kshs.14,838,000 relating to transfers to other Government entities, other grants and other payments and acquisition of assets respectively all totalling Kshs.121,012,844 which was earmarked for project implementation. The project implementation status report indicated that thirty-nine (39) projects worth Kshs.124,752,207 were budgeted to be implemented. However, twelve (12) projects worth Kshs.58,972,207 were completed, four (4) projects worth Kshs.28,746,000 were ongoing while twenty-three (23) projects worth Kshs.37,034,000 had not started due to delays in disbursement of funds.

In the circumstances, the effectiveness on implementing the projects 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 comply, 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 sections 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

Failure to Institute Internal Audit Arrangements

The Fund did not have an Internal Audit Section contrary to Section 73(1) (a) of the Public Finance Management (PFM) Act, 2012 which stipulates that every National Government entity shall ensure that it has appropriate arrangements for conducting internal audit according to the guidelines issued by the Accounting Standards Board.

In the circumstances, the Fund 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 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 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 intentions to terminate the Fund or 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 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 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 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 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

09 September, 2022