

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - SOUTH IMENTI 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 – South Imenti Constituency set out on pages 15 to 70, 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 - recurrent and development combined 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 Fund – South Imenti 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. Cash and Cash Equivalents

The statement of assets and liabilities reflects Kshs.43,470,227 in respect to cash and cash equivalents as disclosed in Note 10A to the financial statements. Review of the bank reconciliation statement for the month of June, 2021 provided for audit revealed unrepresented cheques totaling to Kshs.12,143,517. However, the supporting schedule provided for audit reflects a balance of Kshs.12,607,517 resulting to unexplained and unreconciled variance of Kshs.464,000.

In the circumstances, the accuracy of the cash and cash equivalents balance of Kshs.43,470,227 could not be confirmed.

2. Project Management Committee (PMC) Balances

Annex 5 to the financial statements reflects Kshs.24,217,495 in respect to Project Management Committee (PMC) balances. As previously reported, management has not provided respective cashbooks and bank reconciliation statements for audit review.

In the circumstances, the accuracy of PMC balances of Kshs.24,217,495 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- South Imenti 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- recurrent and development combined reflects final receipts budget and actual on a comparable basis of Kshs.216,471,047 and Kshs.178,282,168 respectively resulting to an under-funding of Kshs.38,188,879 or 18% of the budget. Similarly, the Fund expended Kshs.136,201,161 against an approved

budget of Kshs.216,471,048 resulting to an under-expenditure of Kshs.80,269,887 or 37% of the budget.

The underfunding and 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 has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

Basis of Conclusion

1. Development Projects

1.1 Kinoro Police Post

Note 7 to the financial statements reflects Kshs.82,342,290 in respect to other grants and other payments which includes Kshs.15,383,406 in respect to security projects out of which Kshs.1,800,000 was disbursed for the completion of police offices. Review of project records revealed that the works were initiated four years before. However, the budget and work plan for the project were not provided contrary to Regulation 15(4) of the National Government Constituencies Development Fund Regulations, 2016 which stipulates that the project management committee shall prepare the requisite budgets and bills of quantities, assisted by relevant government officers; and work plans showing how it intends to utilize the funds given to it for implementing the project, which shall be approved by a Constituency Committee before the funds are released.

Further, physical verification done in March, 2022 revealed that the contractor was not on site and the project seemed abandoned even though the project was initiated four years ago.

1.2 Igoji Departmental Offices

Note 7 to the financial statements reflects Kshs.82,342,290 in relation to other grants and other payments which include Kshs.15,383,406 in respect to security projects out of which Kshs.2,500,000 was transferred to Igoji Departmental Offices for electrical installation, fencing and construction of a gate. Review of documents provided revealed that the project had been funded for eleven (11) years since financial year 2010/2011 and had been allocated a total of Kshs.44,528,045 as at 30 June, 2021. However, physical verification of the project in March, 2022 revealed the project was not in use. Further, project status reports, completion certificates and hand over minutes were not provided for audit.

In the circumstances, the value for money for the expenditure of Kshs.4,300,000 could not be confirmed.

2. Incomplete Annual Procurement Plan

Review of the Fund's procurement plan revealed that details of the planned delivery, implementation or completion dates for all goods, works or services needed were not indicated. Further, the procurement plan did not include the appropriate procurement method for each procurement requirement, estimated values for each package of goods, works or services required and an indication of the budget available and source of funding. Contrary to Section 53(2) of the Public Procurement and Asset Disposal Act, 2015.

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

3. Irregular Expenditure on Emergency Projects

Disclosed in Note 7 to the financial statements is emergency projects expenditure of Kshs.5,556,000 which includes Kshs.998,000 incurred on the repair of bio digester, construction of pit latrines and urinal. However, no evidence was provided to justify that the expenditure was an emergency and that the use of the emergency reserves was reported to the Constituencies Development Fund Board by the committee within thirty (30) days contrary to Section 8(3) of the National Constituency Development Fund Act, 2015 and Regulation 20(2) of the National Government Constituencies Development Fund Regulations, 2016 which states that the utilization of the emergency reserve shall be reported to the Board within thirty days of the occurrence of the emergency, in the format prescribed by the Board.

In the circumstances, Management was in breach of law.

4. Unsupported Sports Activities

Note 7 to the financial statements reflects Kshs.82,342,290 in respect to other grants and other payments which include Kshs.2,743,737 relating to sports projects that entailed installation of goal posts, annual constituency tournament and procurement of uniform and sport equipment's. However, no documentary evidence was provided to confirm that market survey was undertaken to justify prices quoted by the suppliers contrary to section 54, (2) and (3) of the Public Procurement and Asset Disposal Act, 2015. In addition, the calendar of events and evidence to confirm that the tournament took place were not provided.

In the circumstances, Management was in breach of law.

5. Mocks and Continuous Assessment Tests (CATs) and Revision Books

Note 7 to the financial statements reflects Kshs.82,342,290 in respect to other grants and other payments which includes Kshs.3,341,931 in respect to mocks and CATs / revision books relating to revision textbooks procured, supplied, and delivered to various schools within South Imenti Constituency. A review of the procurement process revealed that the books were procured through request for quotation method. However, the register of prequalified suppliers was not availed for audit contrary to the provisions of Section 95 (3) of the Public Procurement and Asset Disposal Act, 2015.

Further, the bidders quoted a fixed price for three thousand and thirty (3,030) books which was a deviation from tender requirement that itemized prices to be quoted. In addition no evidence was provided to confirm that a market survey had been conducted and that an

inspection and acceptance was done by a duly constituted committee contrary to Section 48(3)(a) of the Public Procurement and Asset Disposal Act, 2015.

In the circumstances, Management was in breach of law.

6. Unauthorized Environmental Project

Note 7 to the financial statements reflects other grants and other payments of Kshs.82,342,290 which includes Kshs.5,491,092 utilized on environmental projects. The project undertaken involved planting of 11,500 bamboo seedlings along four rivers. However, no evidence was provided to confirm that an environmental impact assessment had been carried out before the inception of the project and that written authority from the Director General of National Environment Management Authority (NEMA) to implement the project had been given contrary to Section 42(1)(d) of the Environmental Management and Co-ordination Act.

Physical verification along two of the rivers in March, 2022 revealed that most of the bamboo seedlings were missing.

In the circumstances, Management was in breach of the law and value for money for the resources spent on the project could not be confirmed.

7. Transfer to Upper Kithangari Resource Center

Note 7 to the financial statements reflects Kshs.18,700,000 in respect to others (social/youth empowerment centres) which includes Kshs.2,700,000 transferred to Upper Kithangari Resource Centre for the construction of four hundred (400) capacity resource centre to completion. Review of records revealed that the tender was awarded to a firm on 03 February, 2019 at a contract sum of Kshs.7,514,100 out of which Kshs.5,912,138 had been paid to the contractor as at 30 June, 2021. However, physical verification done in March, 2022 revealed the project was incomplete and the contractor was not on site.

In the circumstances, the value for money may not be obtained for the resources already incurred on the project.

8. Project Implementation Status

The project implementation status report indicated that one hundred and ninety-four (194) projects worth Kshs.186,042,290 were budgeted to be implemented during the year under review. However, fifty-eight (58) projects worth Kshs.71,453,632 were completed, thirty-three (33) projects worth Kshs.31,738,658 were ongoing and one hundred and three (103) worth Kshs.82,850,000 had not started as at 30 June, 2021.

In the circumstances, the public did not get the expected services equivalent to ongoing projects worth Kshs.31,738,658 and the not started projects worth Kshs.82,850,000.

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 procedures performed, I confirm that, nothing has come to my attention to cause me to believe that internal controls, risk management and 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 Controls, Risk Management and 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 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 comply 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 controls 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 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 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

29 September, 2022