

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - THIKA TOWN 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 - Thika Town Constituency set out on pages 18 to 38, 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 National Government Constituencies Development Fund - Thika Town 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

1.0 Unsupported Expenditure for Sports and Environment Projects

The statement of receipts and payments and as disclosed in Note 7 reflects Kshs.68,861,291 in respect to other grants and transfers. Included in this amount is an expenditure under sports amounting to Kshs.3,747,354 and environment amounting to Kshs.750,000. However, the Management did not provide payment vouchers, goods received notes, distribution lists and other supporting documentation for the expenditure.

In the circumstances, completeness and accuracy of the amount of Kshs.4,497,354 spent on sports and environment projects could not be confirmed.

2.0 Irregular Payments on Emergency Expenses

The statement of receipts and payments and as disclosed in Note 7 reflects Kshs.68,861,291 in respect to other grants and transfers. Included in this amount is emergencies reserves of Kshs.5,200,000. However, no documentary evidence was provided to show that the Management had reported any of the emergency expenditure to the Board.

In the circumstances, the completeness and validity of Kshs.5,200,000 spent on emergency project could not be confirmed.

3.0 Unsupported Project Management Committee Bank Balances

Disclosed under Annex 5 to the financial statements are Payment Management Committee (PMC) bank balances for eighteen (18) bank accounts for various projects maintained at Equity bank which had a combined total of Kshs.14,603,311,047,800. However, the certificate of bank balances in relation to six (6) of the eighteen (18) PMC bank accounts were not provided for audit verification.

In the circumstances, the accuracy and completeness of the PMC bank balances Kshs.14,603,311 could not be confirmed.

4.0 Unsupported Contingency Fund, Administration and Stationery Expenses

Examination of Bills of Quantity relating to various projects implemented during the year under review indicate that the project costs included contingency expenses amounting to Kshs.970,000 as shown in the table below: -

Project	Amount (Kshs)
Proposed Construction of Concrete Fencing at Komo Primary School	200,000
Proposed Renovation of 10 No. of Classrooms Komo Primary	50,000
Proposed Renovation of Kitchen and Staffroom Komo Primary	50,000
Proposed Renovation of 10 Classrooms at Gatuanyaga Primary School	200,000
Proposed Renovation of 10 Classrooms at Komo Primary School	300,000
Construction of Chiefs Office, at Kiadutu Contract No.TT/NG-CDF/TENDERS/28/2020-2021	70,000
Construction of Child Protection Unit at Thika Police Station	50,000
Construction of 4 Cells at Thika Police Station.Tender No.TT/NG-CDF/Tenders/024/2020/2021	50,000
Total	970,000

However, the project management did not support this expenditure by way of payment vouchers.

In the circumstances, the accuracy and completeness of the emergency fund expenditure 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 - Thika Town 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 a final expenditure budget of Kshs.220,063,527 against actual expenditure of Kshs.139,439,121 resulting to budget under absorption of Kshs.80,624,407 or approximately 36% of the budgeted funds. The under absorption of budgeted funds affected the planned activities and may have impacted negatively on service delivery affecting the residents of Thika Town Constituency.

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

1.0 Failure to Withhold Value Added Tax (VAT) on Office Rent Payments

The statement of receipts and payments reflects an expenditure of Kshs.7,545,550 in respect to use of goods and services. Included in the amount is Kshs.832,758 spent on office rent. However, examination of payment vouchers and supporting documents reveal that the entity has not been withholding VAT as required by Section 19(A1) of VAT Act, 2013 despite being an appointed withholding agent.

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

2.0 Transfers to Other Government Units

The statement of receipts and payments indicate that during the year under review, the Fund made payments amounting to Kshs.61,010,000 towards implementation of various projects in primary, secondary and tertiary institutions. However, the audit revealed several unsatisfactory issues on various projects implemented as outlined below:-

2.1 Unapproved Over Expenditure

The statement of receipts and payments indicate that during the year under review, the Constituency made transfers to other Government units amounting to Kshs.61,010,000. Among the projects implemented was the Biashara Chief's Office with a budget of Kshs.2,500,000. However, the actual cost amounted to Kshs.2,521,680 leading to an over-expenditure of Kshs.21,680. Further, a budget of Kshs.1,400,000 was set aside for the construction of Maryhill Girls High School gate. However, the actual cost amounted to Kshs.2,996,000 resulting to an over-expenditure of Ksh.1,1596,000.

Approvals for the over-expenditure were not provided.

2.2 Missing Procurement Documents for Security Projects

National Government Constituencies Development Fund (NGCDF) - Thika Town Constituency carried out the following security projects for the year under review.

- i. Proposed Construction of chiefs' office at Kiandutu chief's office. The contract was to cost of Kshs.951,084.

- ii. Proposed construction of assistants chief's office at Gatiiguru at a cost of Kshs.1,624,140.
- iii. Proposed construction of child protection unit at Thika Police station at cost of Kshs.999,970.
- iv. Proposed construction of 4 cells at Thika Police Station.

However, the following unsatisfactory observations were made;-

- i. No appointment letters for both tender opening and tender evaluation Committee by the Accounting Officer were provided, contrary to Section 78(1) and Section 46(1) of Public Procurement and Asset Disposal Act, 2015 respectively which requires an accounting officer of a procuring entity to appoint a tender opening committee specifically for the procurement in accordance with the following requirements and such other requirements as may be prescribed then.
- ii. The evaluation was done jointly by the evaluation committee members, contrary to Section 78(1)b which states that, at least one of the members shall not be directly involved in the processing of tenders.
- iii. No professional opinion was provided contrary to Section 84(1) of the Public Procurement and Asset Disposal Act, 2015, which states that the head of procurement function of a procuring entity shall, alongside the report to the evaluation committee as secretariat comments, review the tender evaluation report and provide a signed professional opinion to the accounting officer on the procurement or asset disposal proceedings.
- iv. The Accounting Officer only notified the successful tenderer and did not notify the unsuccessful bidders contrary to Section 87(3) of Public Procurement and Asset Disposal Act, 2015, which requires that, when a person submitting the successful tender is notified under subsection (1), the accounting officer of the procuring entity shall also notify in writing all other persons submitting tenders that their tenders were not successful, disclosing the successful tenderer as appropriate and reasons thereof.
- v. The contract documents signed by both the contractors and the Constituency did not indicate the periods of the contracts.
- vi. Inspection and acceptance Committee minutes were not provided for audit contrary to Section 48(3a) which requires that, the inspection and acceptance committee shall immediately after the delivery of the goods, works or services—
(a) inspect and where necessary ,test the goods received.

Audit verification carried during the month of May, 2022 revealed that the proposed construction of chiefs' office at Kiandutu had been completed but handing over had not been done. Further, proposed construction of child protection unit at Thika Police station and construction of four (4) cells had been completed and put into use, but certificate of practical completion and handing over certificate had not been issued.

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

2.3 Delayed Project Implementation

National Government Constituencies Development Fund - Thika Town Constituency had an approved expenditure budget of Kshs.220,063,527 for implementation of various projects and administrative expenses for the year ended 30 June, 2021. During the year under audit, as per the approved project code list, the NGCDF received an approval of projects worth Kshs.137,088,878 for both recurrent and development expenditure. However, an examination of the approved code list shows four projects which had been approved for the year under audit but were not implemented as tabulated below.

Project	Amount (Kshs)
Renovation of 10 classrooms at St. Patrick Primary School	4,000,000
Construction of Administration Block and Ngoigwa Police Post	3,000,000
Construction of Administration Block at Gatuanyaga Police Post	3,000,000
Construction of Classroom at Kyangombe Primary School	<u>4,000,000</u>
TOTAL	14,000,000

2.4 Partially Implemented Projects

i. Gatuanyaga Primary school

The Thika Town NGCDF implemented a project at Gatuanyaga Primary School. The Bill of Quantities Bill No.3 made provisions for fourteen (14) windows and glasses for a sum of Kshs.136,500 and Kshs.180,000 respectively. However, audit verification revealed that the works were not done even though the full contract price was paid. Further, Bills of Quantities Bill No.3 on roof finishes made a provision for one hundred and fifty-six (156) 28-gauge roofing sheets at a cost of Kshs.187,200, However, audit verification revealed that replacement was done for less than ten (10) 32-gauge roofing sheets. The variation was not explained.

ii. Komo Primary School

The Thika Town NGCDF also undertook a project at Komo Primary School in respect of renovation of kitchen and staffroom. The Bill of Quantities Bill No. 4 made a provision for four (4) steel casements for a sum of Kshs.30,000. However, audit verification revealed that, the already existing- steel window casements were not replaced, but a coat of paint was applied on the old casements. In addition, the Thika Town NGCDF implemented a

concrete post fencing project at the same school. The fence was to cover seven hundred and twenty-six metres. A provision was made for a Kshs.110,000 pedestrian gate and a Kshs.192,780 purpose made gate. At the time of audit verification, the two gates were not in place but the full contract sum had been paid.

3.0 Lack of Bursary Sub Committee

The statement of receipts and payments reflect payments amounting to Kshs.68,861,291 during the year under review in respect of other grants and other payments. Included in this is an amount of Kshs.55,518,000 in respect of bursary to students attending secondary, tertiary and special institutions. Review of committee minutes provided for audit showed that, there was no sub-committee for effective and efficient administration of education bursary schemes, mock examination and continuous assessment tests in the Constituency. The NGCDF committee handles bursary issues together with other projects of NGCDF. Further, the officer in charge of education in the sub county is not involved in bursary issues contrary to the guidelines Ref NG-CDFB/CEO/Board Circulars Vol II (021) Part (b) Institutional Structure for Administration of Bursary guideline for administration of education bursary schemes, mock examination and continuous assessment tests, on structure for administration of bursary, which states that, in conformity with paragraph 7(6) of the NG-CDF Regulation, 2016, NGCDF committee in every constituency shall establish a sub-committee for effective and efficient administration of education bursary schemes, mock examination and continuous assessment tests.

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

4.0 Non-Remittance and Diversion of Un-utilized Fund Balances

Annex 3 of the financial statement of National Government Constituencies Development Fund - Thika Town Constituency discloses unutilized funds amounting to Kshs.80,624,406 under various expenditure items. Review of project bank accounts of the completed project revealed that accounts relating to already completed projects with cash balances amounting to Kshs.5,901,177 were not closed and funds transferred or credited to the main account of the Constituency from which the funds were withdrawn. Instead these funds were utilized as follows: -

- i. The funds allocated to the constructions of abolition block at Mary Hill Girls' High School Kshs.1,400,000 were diverted and topped up with funds that were retained in the said institution PMC account and used to construct a gate.

The Constituency transferred Kshs.2,000,000 to Umoja primary PMC Account for the construction of abolition block in Umoja primary. The said PMC ended up utilizing Kshs.1,498,823 for the project. The remaining balance of Kshs.501,177 was not refunded back to the main Thika NGCDF account.

- ii. The NGCDF – Thika Town transferred Kshs.4,000,000 from Kimuchu primary school PMC account for the construction of another school at Kyangombe,

however the funds were not utilized for the project and the same has been held at the PMC account of Kimuchu primary school for the last one year.

Hence the process of finalisation and closure of completed projects have not been done.

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

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 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 control, risk management and governance.

In preparing the financial statements, Management is responsible for assessing the Fund's ability to continue to sustain 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 the entity 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 Constituency 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 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

29 July, 2022