

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - TIGANIA EAST 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 - Tigania East Constituency set out on pages 14 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 flow and the summary statement of appropriation for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of National Government Constituencies Development Fund - Tigania East 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 Qualification

1.0 Unsupported Training Expenses

The statement of receipts and payments and Note 5 to the financial statements reflect use of goods and services amount of Kshs.7,553,083 that includes training expenses of Kshs.1,028,400. The training expenses include an amount of Kshs.576,000 for a four (4) days training in a hotel that was not included in the list of prequalified suppliers for the period under review. Further, a training program, signed attendance register, report of the training and records of travel to the venue in support of the expenses were not provided for audit verification.

In the circumstances, the accuracy and completeness of training expenses of Kshs.576,000 could not be confirmed.

2.0 Irregular Procurement of Deputy County Commissioner's (DCC) Fence and Gate Construction

The statement of receipts and payments and Note 7 to the financial statements reflects other grants and transfers of Kshs.53,628,328 which includes Kshs.10,000,000 in respect to security projects. The security projects amount further includes Kshs.2,500,000 for the construction of Tigania East DCC office gate and fencing. Review of records revealed that the company which was contracted had not attached two-year bank statements, which was a mandatory document for a firm to win the tender award. It was therefore not possible to confirm how the firm was selected and awarded the works without providing the required bidding records and why the contract was subsequently awarded to the firm.

In the circumstances, the regularity of the expenditure of Kshs.2,500,000 could not be confirmed.

3.0 Unacknowledged Bursaries

The statement of receipts and payments and Note 7 to the financial statements reflect other grants and transfers of Kshs.53,628,328 which include bursaries to secondary schools and tertiary institutions of Kshs.22,427,828 and Kshs.12,600,500 respectively. Review of samples from each category revealed that Kshs.342,000 and Kshs.308,500 bursaries for secondary and tertiary institutions respectively were not acknowledged by

the receiving Institutions. Further, it was not possible to confirm that the amount benefitted the intended beneficiaries.

In the circumstances, the accuracy and completeness of the bursaries issued of Kshs.650,500 could not be confirmed.

4.0 Unsupported Other Committee Allowances

The statement of receipts and payments and Note 5 to the financial statements reflect use of goods and services amount of Kshs.7,553,083 which includes other committee expenses of Kshs.4,811,480. Records provided revealed that committee allowances of Kshs.300,000 were not supported by work tickets showing the dates when the visits were conducted and the itinerary for the monitoring and evaluation exercise.

In the circumstances, the regularity of other committee allowances of Kshs.300,000 could not be confirmed.

5.0 Understatement of Cash and Cash Equivalents Balance

The statement of assets and liabilities reflects a cash and cash equivalents balance of Kshs.55,057,027. Review of the bank reconciliation statements as at 30 June, 2021 revealed unpresented cheques totalling Kshs.21,053,895 out of which stale cheques amounting to Kshs.10,609,795 had not been reversed in the cashbook thereby understating the cash book balance by the same amount. No reason was given by the Fund Management for failure to reverse or replace the stale cheques.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.55,057,027 could not be confirmed.

6.0 Accuracy and Presentation of the Financial Statements

Annex 4 to the financial statements reflects a closing balance of Kshs.19,447,540 and an opening balance of Kshs.18,640,491 in respect to summary of fixed assets register historical cost for the current and comparative years balances respectively thus indicating that there were additions during the year under review of Kshs.807,049. However, the annex did not include the details of the additions during the year and therefore it was not possible to confirm the accuracy of the summary of fixed assets register.

The summary statements of appropriation for recurrent and development reflects actual total receipts on comparable basis of Kshs.138,681,285 comprising of Kshs.11,343,957 for recurrent and Kshs.127,337,328 for development. However, the statement of receipts and payments reflects receipts of Kshs.172,767,724 resulting to an unreconciled variance of Kshs.34,086,439.

Further, the financial statements do not include the summary statement of appropriation combined as required by the financial reporting template released by the Public Sector Accounting Standards Board (PSASB).

In the circumstances, the accuracy and completeness of the financial statements 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 - Tigania East 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 reflects a final budget and actual receipts on comparable basis of Kshs.233,977,191 and Kshs.138,681,285 respectively, resulting to an underfunding of Kshs.95,295,906 or 41% of the budget.

Similarly, the Fund spent Kshs.138,681,285 against an approved budget of Kshs.233,977,191 resulting to an under-expenditure of Kshs.95,295,906 or 41% of the budget.

The underfunding and underperformance 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 under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources. 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.

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 Project Implementation Status

During the year, the Fund allocated Kshs.137,088,879 to various projects. Review of the project implementation status indicated that forty-six (46) projects totalling Kshs.50,350,000 were complete, forty-two (42) projects totalling Kshs.85,738,879 were ongoing while one (1) project costing Kshs.1,000,000 had not commenced. No reason was provided for the delay in implementation and completion of the projects.

In the circumstances, delay in the implementation of projects may result in the escalation of costs and deny the residents of Tigania East Constituency the benefits that would have accrued from their completion.

2.0 Emergency Reserve Expenditure

The statement of receipts and payments and Note 7 to the financial statements reflect other grants and transfers of Kshs.53,628,328 which includes an emergency projects amount of Kshs.8,600,000. Included in the emergency projects amount is an expenditure of Kshs.8,100,000 paid to two contractors for road improvement. However, the improvement works expenditure was charged to emergency reserves account contrary to Section 8(3) of the National Government Constituencies Development Fund Act, 2015 which states that "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.

Further, the constituency road sector projects are devolved functions and therefore the expenditure of Kshs.8,100,000 contravened Section 24(a) of the National Government Constituencies Development Fund Act, 2015 which states that a project under this Act shall only be in respect of works and services falling within the functions of the National Government under the Constitution.

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

3.0 Unserviceable Fixed Assets

Annex 4 to the financial statements reflects historical cost of Kshs.19,447,540 in the summary of fixed assets. As previously reported, this cost includes unserviceable assets

of Kshs.4,000,940 comprising of motor vehicle Kshs.3,264,012, motor cycle Kshs.459,128 and furniture Kshs.277,800 which have not been earmarked for disposal contrary to Section 163(1) of the Public Procurement and Assets Disposal Act, 2015 which states that an accounting officer shall establish a disposal committee as and when prescribed for the purpose of disposal of unserviceable, obsolete, obsolescent or surplus stores, equipment or assets.

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, except for the matter described in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

Lack of a Disaster Management Recovery Plan

The Fund has not assessed the impact of an outage or disruption to the information communication technology system and thereby develop a business continuity or information technology disaster recovery plan. In case of a disaster, the Fund may not restore critical infrastructure services and system for continued operations. This is contrary to Section 68 (2)(c) of the Public Finance Management Act, 2012 which states that a public entity should ensure that all financial and accounting records that the entity keeps in any form including in electronic form are adequately protected and backed up. The Fund needs to collaborate with the Ministry of Information to develop, approve and implement disaster recovery plans for all key business systems.

In the circumstances, Management is not adequately prepared for any disaster that may adversely affect the activities of the Fund.

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether effective processes and systems of internal controls, risk management and overall governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Responsibilities of Management and those Charged with Governance

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Cash Basis) and for maintaining effective internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal control, 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 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 overall 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 Fund policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.
- Conclude on the appropriateness of the Management's use of the applicable basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Fund's ability to 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 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

07 September, 2022