

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - AWENDO CONSTITUENCY FOR THE YEAR ENDED 30 JUNE, 2022

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, gazetted 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 the 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 - Awendo Constituency set out on pages 1 to 40, which comprise of the statement of assets and liabilities as at 30 June, 2022, and the statement of receipt and payments, statement of cash flows and the summary statement of appropriation for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of National Government Constituencies Development Fund - Awendo 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 National Government Constituencies Development Fund Act, 2015.

Basis for Qualified Opinion

1. Unsupported Routine Maintenance - Motor Vehicles and Other Transport Equipment

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.10,219,766, as disclosed in Note 5 to the financial statements. The expenditure includes an amount of Kshs.628,676 in respect of routine maintenance – vehicles and other transport equipment which further includes an amount of Kshs.408,385 spent on repair of the motor vehicle used by the Fund. However, pre-inspections and post inspections reports from the Ministry of Transport and original work tickets showing movement of the vehicle to and from the garages were not provided for audit review.

In the circumstances, the accuracy, completeness and occurrence of the repair of motor vehicle expenditure of Kshs.408,385 could not be confirmed.

2. Unsupported Emergency Projects Expenditure

The statement of receipts and payments reflects other grants and transfers balance of Kshs.88,536,259 as disclosed in Note 7 to the financial statements which includes an amount of Kshs.8,176,834 spent on emergency projects. However, no documentary evidence was provided to confirm that the expenditure was emergency in nature. This is contrary to Section 8(3) of The National Government Constituency Development Fund Act 2015 which provides 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.

In the circumstances, the accuracy and completeness of the emergency projects expenditure of Kshs.8,176,834 could not be confirmed.

3. Non-Compliance with the Prescribed Financial Reporting Template

The summary statement of appropriation reflects percentage (%) utilization for compensation of employees of 81% whose explanatory note is not provided as required by the reporting template recommended by the Public Sector Accounting Standards Board, which requires percentage utilizations of below 90% to have an explanatory note. Further, this is contrary to the provisions of Section 81(3) of Public Financial Management Act, 2012, which states that the accounting officer shall prepare the financial statements

in a form that complies with the relevant accounting standards prescribed and published by the Public Sector Accounting Standards Board of Kenya from time to time.

In the circumstances, the financial statements do not comply with the prescribed reporting template for the year ended 30 June, 2022

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the National Government Constituencies Development Fund - Awendo 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.

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, 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. Delays in Completion of Approved Projects

During the financial year under review the approved code list for the Constituency had projects with total budgetary allocation of Kshs.137,088,879. However, review of the project implementation status report revealed that six (6) projects with a total budget of Kshs.7,900,000, which were to be completed within the year under review, had not been completed by 30 June, 2022.

In the circumstance, the expected benefits from the projects of Kshs.7,900,000 for the year ended 30 June, 2022 may not be achieved.

2. Transfers to Other Government Units

The statement of receipts and payments reflects transfer to other government units balance of Kshs.85,200,000 as disclosed in Note 6 to the financial statements. The following unsatisfactory matters were observed:

2.1. Unsatisfactory Implementation of Awendo Kenya Medical Training College Project

The balance of Kshs.85,200,000 includes transfers to tertiary institutions amount of Kshs.16,650,000 which was transferred to Awendo Constituency Kenya Medical Training College (KMTC) for construction of a tuition block (Kshs.14,200,000), construction of a kitchen (Kshs.1,450,000) and purchase of furniture (Kshs.1,000,000). The contract for two (2) of the construction projects was awarded to a local Company on 9 July, 2020 at a contract sum of Kshs.41,858,525 for a contract period of 48 weeks.

However, review of records and audit inspection revealed the following anomalies:

- (i). The contract expired on 3 November, 2021 but works were completed on 11 January, 2022 as per the practical completion certificate. Further, two of the payments to the contractor during the year under review amounting to Kshs.3,631,049 as per the certificates did not have the summary of work done.
- (ii). The Project Management Committee (PMC) bank account balance disclosed in the financial statements as at 30 June, 2022 was Kshs.293,661, although the retention money of Kshs.2,173,879 was still due to the contractor. However, Management did not explain in which account the retention money was held.
- (iii). The transfer of Kshs.1,450,000 for the construction of a kitchen was classified as an emergency item and charged from emergency vote but reported as a transfer to other Government units. No explanation was provided for this anomaly. However, the kitchen was not complete as the ceiling had not been fixed, cracks had already developed on the floor whereas the electrical works and the inside fittings had not been done.
- (iv). The tuition block was complete but not in use. Review of available records revealed that the college was awaiting intake of students.
- (v). The Kshs.1,000,000 incurred on purchase of furniture for the College was paid directly from the Constituency account, contrary to Section 36(1) of the National Government Constituencies Development Fund Act, 2015, which states that projects under this Act to be implemented by the project management committee appointed in accordance with the regulations made under Section 57.

In the circumstances, Management was in breach of the law and the regularity and value for money of the transfer to tertiary institution expenditure of Kshs.16,650,000 could not be confirmed.

2.2. Poor Workmanship in Implementation of Projects

2.2.1 Construction of Classroom to Completion at Obama Primary School

The transfers to other government units balance of Kshs.85,200,000 includes transfers to primary schools amount of Kshs.24,100,000 out of which Kshs.900,000 was disbursed to Obama Primary School for the construction of one (1) classroom. However, audit inspection carried out on 15 March, 2023, revealed that the project was complete and in use, but the floor had worn out, an indication of poor workmanship.

In the circumstances, value for money from the primary school project expenditure of Kshs.900,000 could not be confirmed.

2.2.2 Construction of Classroom Project at Koyier Primary School

The transfers to primary schools balance of Kshs.24,100,000 includes an amount of Kshs.900,000 disbursed to Koyier Primary School for the construction of one (1) classroom at the School. However, audit inspection carried out on 15 March, 2023 revealed that the project was in use, but there were cracks on the floor and the project was not properly labelled since signage indicated the name of an individual as the financier. This is contrary to the provisions of Regulation 11(1)(c) of the National Government Constituencies Development Fund Regulations, 2016, which requires a constituency committee to ensure that completed projects are labelled in accordance with the guidelines issued by the Board.

In the circumstances, the Management was in breach of the regulations and value for money of the expenditure of the Kshs.900,000 could not be confirmed.

2.2.3 Renovation of Classrooms at Ombasa Primary School

The transfers to primary schools balance of Kshs.24,100,000 also includes an amount of Kshs.1,000,000 disbursed to Ombasa Primary School for the renovation of five (5) classrooms at the School. However, audit inspection carried out on 15 March, 2023 revealed that the project was in use, but the floor had worn out and window panes had already been vandalized.

In the circumstances, value for money of the expenditure of the Kshs.1,000,000 could not be confirmed.

2.2.4 Construction of a Classroom at St. Pauline Malunga Mixed Sec. School

The transfers to other government units balance of Kshs.85,200,000 includes transfers to secondary schools amount of Kshs.44,450,000 which further includes Kshs.800,000 disbursed to Malunga Mixed Secondary School for the construction of one (1) classroom at the School. However, an audit inspection carried out on 15 March, 2023 revealed that the classroom was in use, but its window panes had been vandalized, there were cracks on the floor and the project was not labelled.

In the circumstances, value for money of the expenditure of Kshs.800,000 for the year ended 30 June, 2022 could not be confirmed.

2.2.5 Completion of Dormitory at Kogelo Mixed Secondary School

The transfers to secondary schools amount of Kshs.44,450,000 further includes a balance of Kshs.1,600,000 disbursed to Kogelo Mixed Secondary School for the completion of a dormitory at the School. However, an audit inspection carried out on 15 March, 2023 revealed that the dormitory was in use, but its windows panes had been vandalized and there were cracks on the floor, an indication of poor workmanship.

In the circumstances, value for money of the expenditure of Kshs.1,600,000 could not be confirmed.

2.2.6 Completion of a Laboratory at St. Nicholas Koyier Mixed Sec. School

The transfers to secondary schools balance of Kshs.44,450,000 includes an amount Kshs.1,000,000 disbursed to St. Nicholas Koyier Mixed Secondary School for the completion of a laboratory at the School. However, an audit inspection carried out on 15 March, 2023 revealed that the project was in use, but there were cracks on the floor which is an indication of poor workmanship.

In the circumstances, value for money of the expenditure of Kshs.1,000,000 could not be confirmed.

2.3. Non Branded Renovation of Classrooms at Malunga Primary School

The transfers to primary schools of Kshs.24,100,000 further includes Kshs.1,000,000 disbursed to Malunga Primary School for the renovation of five (5) classrooms at the School. However, audit inspection carried out on 15 March, 2023 revealed that although the project was complete and in use, the project was not labelled. This is contrary to the provisions of Regulation 11(1)(cc) of the National Government Constituencies Development Fund Regulations, 2016, which requires a constituency committee to ensure that completed projects are labelled in accordance with the guidelines issued by the Board.

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

2.4. Unapproved Re-allocation of Project Funds and Poor Workmanship at Bondo Kogelo Primary School

The transfers to primary schools balance of Kshs.24,100,000 includes an amount of Kshs.1,000,000 disbursed to Bondo Kogelo Primary School for the construction of one (1) classroom at the School. However, the approved code list indicates that the amount was for renovation of 5 classrooms with a capacity of 225 pupils. This was contrary to Section 6(2) of the National Government Constituencies Development Fund Act, 2015, which states that once funds are allocated for a particular project, they shall remain allocated for that project and may only be re-allocated for any other purpose during the financial year with the approval of the Board.

In addition, an audit inspection carried out on 15 March, 2023 revealed that the project was complete and in use, but the floor had already worn out, an indication of poor workmanship.

In the circumstances, Management was in breach of the law and value for money from the expenditure of Kshs.1,000,000 could not be confirmed.

2.5. Unapproved Re-allocation of Project Funds and Delayed Construction of a Dining Hall at Komolorume Secondary School

The transfers to other government units balance of Kshs.85,200,000 includes transfers to secondary schools amounting to Kshs.44,450,000 which further includes an amount of

Kshs.1,500,000 which was disbursed to Komolorume Secondary School for the construction of a dining hall. However, the approved project in the code list was the construction of a laboratory with a capacity of 60 students. This was contrary to Section 6(2) of the National Government Constituencies Development Fund Act, 2015, which states that once funds are allocated for a particular project, they shall remain allocated for that project and may only be re-allocated for any other purpose during the financial year with the approval of the Board.

In addition, an audit inspection carried out on 15 March, 2023 revealed that the project had been constructed up to the roof level only and the remaining works to complete the project had not been done. In addition, the contract agreement for the project and certificate from Public Works Department were not provided for audit and the project had not been labeled. However, the school had no funds to continue with the project.

In the circumstances, the Management was in breach of the law and value for money from the expenditure of Kshs.1,500,000 could not be confirmed

2.6. Non-Branded Administration Block at St. Joseph Bongu Mixed Secondary School

The transfers to secondary schools amount of Kshs.44,450,000 includes a balance Kshs.2,750,000 transferred to St. Joseph Bongu Mixed Secondary School for the completion of one storey administration block at the School. However, an audit inspection carried out on 15 March, 2023 revealed that the project was complete and in use, but it was not labelled. As a result, it was not possible to know whether the project was funded by the Fund. This is contrary to the provisions of Regulation 11(1)(cc) of the National Government Constituencies Development Fund Regulations, 2016, which requires a constituency committee to ensure that completed projects are labelled in accordance with the guidelines issued by the Board.

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

3. Other Grants and Transfers

The statement of receipts and payments reflects other grants and transfers balance of Kshs.88,536,259 as disclosed in Note 7 to the financial statements. However, the following anomalies were noted:-

3.1. Failure to Report Emergency Expenditure to the Board

The other grants and transfers balance of Kshs.88,536,259 includes an amount of Kshs.8,176,834 spent on emergency projects. However, no evidence was provided for audit to show that utilization of Kshs.8,176,834 from the emergency reserve was reported to the National Government Constituencies Development Fund Board within thirty (30) days as required by Regulation 20(2) of the National Government Constituency Development Fund Regulations, 2016.

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

3.2. Unsatisfactory Implementation of Emergency Projects

The expenditure on emergency projects of Kshs.8,176,834 includes an amount of Kshs.6,526,834 disbursed to various institutions. However, an audit inspection carried out in the month of March, 2023 revealed the following unsatisfactory matters:

Project	Activity	Amount (Kshs)	Findings
Awendo Constituency KMTC PMC	Construction of an ongoing project	1,600,000	It was not possible to isolate the works funded.
Awendo Constituency KMTC PMC	Construction of an ongoing project	1,200,000	It was not possible to isolate the works funded.
Ombasa Primary School	Construction of 6 door pit latrine	600,000	Funds were used to renovate 2 classrooms, plastering, screening and painting, instead of construction of 6 door pit latrine.
St. Gabriel Siruti Secondary School	Construction of 12 door pit latrine	850,000	Construction of 8, not 12, door pit latrines was ongoing.
Kachangwe Primary School	Construction of 4 door pit latrine	350,000	Construction completed, but project was not branded. School was in a deplorable state of affairs.
St. Pauline Malunga Secondary School	Replacement of blown off roof of teachers houses.	500,000	The project was completed and in use, but was not branded.
Total		5,100,000	

In the circumstances, value for money from the emergency expenditure of Kshs.6,526,834 could not be confirmed.

3.3. Un-utilized Central Sakwa Chiefs' Office

The other grants and transfers balance of Kshs.88,536,259 includes expenditure on security projects of Kshs.4,250,000 out of which, an amount of Kshs.1,600,000 was spent on construction of an office at Central Sakwa Chiefs' Office. However, an audit inspection carried on 15 March, 2023 revealed the project was complete, but not in use.

In the circumstances, value for money of the expenditure of Kshs.1,600,000 on security project 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 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 overall governance.

In preparing the financial statements, Management is responsible for assessing the Fund's ability to continue to sustain its 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 Management monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibilities for the Audit

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal control in order to give an assurance on the effectiveness of internal controls, risk management and governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal control would not necessarily disclose all matters in the internal control that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Because of its inherent limitations, internal control may not prevent or detect misstatements and instances of non-compliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies and procedures may deteriorate.

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

13 June, 2023