

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - EMUHAYA 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, 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 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 - Emuhaya Constituency set out on pages 1 to 41, which comprise of the statement of assets and liabilities as at 30 June 2022, and the statement of receipts and payments, statement of cash flows and summary statement of appropriation for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of the National Government Constituencies Development Fund - Emuhaya Constituency as at 30 June, 2022, 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 and National Government Constituencies Development Fund Act, 2015.

Basis for Qualified Opinion

1. Unsupported Training Expenditure

The statement of financial performance reflects use of goods and services of Kshs.8,839,185 which includes training expenses of Kshs.1,635,001 as disclosed in Note 5 to the financial statements. However, the schedule provided for training totalled to Kshs.1,631,900 resulting to unexplained and unreconciled variance of Kshs.3,101.

In addition, review of the payment vouchers revealed that they lacked sufficient and appropriate supporting documents. Further, payment vouchers amounting to Kshs.501,000 paid vide cheque numbers. 011260,011261 and 011330 were not provided for audit review.

In the circumstances, the accuracy and completeness of the training expenditure of Kshs.1,635,001 for the year ended 30 June, 2022 could not be confirmed.

2. Unsupported Bursaries Expenditure

The statement of financial performance reflects other grants and other transfers balance of Kshs.80,573,795 which includes bursaries of Kshs.60,567,556 as disclosed in Note 7 to the financial statements. However, only Kshs.22,940,547 (or 38%) of the disbursed bursaries were acknowledged, leaving a balance of Kshs.37,627,009 (or 62%) unacknowledged by the benefitting learning institutions.

In the circumstance, the accuracy and completeness bursaries disbursements of Kshs.37,627,009 for the year ended 30 June, 2022 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 - Emuhaya 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. Budgetary Control and Performance

The summary statement of appropriation reflects that the Fund had an approved final receipt budget of Kshs.207,865,996 and actual receipt of Kshs.182,604,105 resulting in a budget shortfall of Kshs.25,261,891 (or 12%) of budget.

Similarly, the Fund expended an amount of Kshs.154,988,174 against an approved budget of Kshs.207,865,996 resulting to an under expenditure of Kshs.52,877,822 or 25% of the budget.

In addition, review of the budget execution by projects and programs revealed that the Constituency incurred unapproved over-expenditure on bursaries as tabulated below:

Item	Final Budget (Kshs.)	Actual Expenditure (Kshs.)	Over-Expenditure (Kshs.)
Bursary-Secondary Schools	40,768,294	42,723,795	1,955,501
Bursary-Tertiary Institutions	14,336,498	17,843,761	3,507,263

The under-funding and under-expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

2. Late Authority to Incur Expenditure (AIE) Releases

The summary statement of appropriation reflects final budget of Kshs.207,865,996 which includes an amount of Kshs.46,288,879 referred to as previous years outstanding disbursements. However, examination of records indicated that AIE number A888 544 of Kshs.13,173,012 relates to exchequer releases to the Fund that were disbursed after the end of the financial year while Kshs.12,092,879.35 had not been received as at the time of the audit inspection in April, 2023.

Late release of Exchequer affected the Fund's budget performance and execution for the year ended 30 June, 2022.

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. Failure to Constitute a Project Management Committees for Implemented Projects

The statement of financial performance and reflects other grants and transfers amount of Kshs.80,573,795 which includes security projects expenditure of Kshs.11,066,029 as disclosed in Note 7 to the financial statements. However, four (4) projects were undertaken without constitution and involvement of project management committees.

In addition, transfer to other Government units of Kshs.62,191,780 as disclosed in Note 6 to the financial statements includes transfers to secondary schools of Kshs.22,294,000, out of which Kshs.7,544,000 was paid to a local contractor towards purchase of a school bus and the project implemented without involvement of a project management committee.

This is contrary to Regulation 15(1) of the NG-CDF Regulations 2016 which states that there shall be appointed a project management committee for each project in a Constituency which shall—(a) implement projects in consultation with the relevant departments of government; (b) maintain proper records of all minutes, accounting documents and other records in relation to projects being implemented; (c) open and maintain an independent bank account for each project; (d) prepare returns and file them with a Constituency Committee.

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

2. Failure to Report Utilization of Emergency Reserve to the Board

The statement of receipts and payments reflects other grants and transfers of Kshs.80,573,795 which includes emergency projects expenditure of Kshs.6,154,350 as disclosed at Note 7 to the financial statements. However, the utilization of the emergency reserve was not reported to the Board within thirty days of occurrence of the emergency. This is contrary to 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 circumstance, Management was in breach of the law.

3.0 Stalled Projects

3.1 Construction of Emusire Sub-County Offices

As previously reported, the construction of sub county offices in Emusire was awarded to a local contractor on 26 July 2019 at a contract sum of Kshs.49,666,629. The contract

was for a period of thirty-six (36) weeks and execution was to be done in two phases, with expected completion date of 3 April, 2020. However, review of records revealed that the amount certified as payable was Kshs.48,989,442 while the project implementation status report dated 30 June, 2022 indicated that the project stalled at 97% completion level.

In addition, field verification observed that the incomplete work(s) included tilling of third floor, construction of reception counter, electrical works, roof water down pipe drainage, balustrading, stairs and balcony rails, construction of garage, septic tank and terrazzo finishes at the stairs and the contractor was not on site.

In the circumstances, value for money from the expenditure of Kshs.48,989,442 on the project could not be confirmed.

3.2 Construction of Emuhaya Sub County Police Service Office

Review of records revealed that the Constituency constructed Emuhaya Sub County Police offices in phases at a contract sum of Kshs.8,467,300 with the contractor having been paid the full amount as at 30 June, 2022. However, field verification of the project carried out at the time of audit in March, 2023 revealed that the building had not been put into beneficial use as additional works that had not been implemented due to lack of funds. In addition, review of records revealed that there is an unresolved land dispute on the parcel of land on which the project was erected.

In the circumstances, the value for money from the expenditure of Kshs.8,467,300 expended on the project could not be confirmed. Also, in the absence of confirmation and determination of the rightful owners of the land, the dispute may escalate leading to loss of public funds.

3.3 Completion of a Two (2) Storey at Mungoye Secondary School

Review of records revealed that the works towards completion of a two storey building housing 12 classrooms and administration block at Mungoye Secondary School awarded to a local contractor at a contract sum of Kshs.18,100,000 during 2013-2014 financial year. However, information on the actual expenditure on the project was not provided for audit review. In addition, an amount of Kshs.9,000,000 allocated towards the project during the period under review had not been disbursed to the project management committee account by 30 June, 2022.

Further, field inspection at the time of audit in the month of March, 2023 revealed that the completion works had stalled and works on second floor consisting of 4 classrooms and staffrooms had not commenced.

In the circumstances, the value for money from the expenditure of Kshs.9,000,000 expended on the projects for the year ended 30 June, 2022 could not be confirmed

3.4 Construction of 2No. Classrooms at Mukhungu Primary School

Review of records revealed that works were awarded to a local contractor towards construction of 2 No. classrooms to completion at Mukhungu Primary School in the 2019-2020 financial year. However, field inspection at the time of audit in March, 2023 revealed that works which includes; plaster, external render, flooring, glazing and painting had not commenced as additional funding had been disbursed.

In the circumstances, members of the public have been denied the benefits accruing from completion of the project.

4. Underutilized Facilities at Eluyeka Primary School

The statement of receipts and payments reflects transfer to other Government units of Kshs.62,7801 which includes transfers to primary schools of Kshs.22,294,000 as disclosed in Note 6 to the financial statements. Review of records revealed that the Fund constructed two (2) classrooms, eight (8) door pit latrine to completion and purchased land at a total cost of Kshs.2,650,000. However, field inspection at the time of audit in March, 2023 revealed that one classroom was not occupied. Management explained that no teachers can be posted to the school since it is not registered.

In the circumstances, value for money from the expenditure of Kshs.2,650,000 incurred on Eluyeka primary school could not be confirmed.

5. Unutilized Primary School Project Funds

Review of the summary statement of appropriation reflects a balance of Kshs.52,877,822 as budget utilisation difference, and which as detailed in in the budget execution by sectors and projects to the financial statements which includes a balance of Kshs.2,300,000 in respect to a primary school to purchase land of approx.0.4 Ha and construction of 2 No. classrooms to completion at Kshs.800,000 and Kshs.1,500,000 respectively. The balance remained un-utilized as at the close of the financial year 2020/2021 and 2021/2022 and no explanation was provided for the failure utilize the available funds.

In the circumstances, under-utilization of the funds affected the planned activities and may have impacted negatively on service delivery to the public.

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 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 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 Fund's 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 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 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 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

05 July, 2023