

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - IGEMBE CENTRAL 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 - Igembe Central Constituency set out on pages 1 to 43, 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 National Government Constituencies Development Fund - Igembe Central 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, 2012 and the National Government Constituencies Development Fund Act, 2015.

Basis for Qualified Opinion

1. Unconfirmed Fixed Assets Register and Land Ownership

Annex 4 to the financial statements reflects a balance of Kshs.60,060,686 in respect of summary of fixed assets register. However, the fixed asset register provided for audit review was incomplete since details such as individual description of assets including model, asset number, and quantity/size of the assets were missing.

Further, Management did not provide land ownership documents, and the assets were not coded or tagged for ease of identification or tracking as required by Regulation 139(1) (b) of the Public Finance Management (National Government) Regulations, 2015.

In the circumstances, the accuracy, completeness, ownership, and existence of the fixed assets balance of Kshs.60,060,686 could not be confirmed.

2. Cash and Cash Equivalents - Stale Cheques

The statement of assets and liabilities and as disclosed in Note 10(A) to the financial statements reflects a balance of Kshs.2,335,759 in respect of cash and cash equivalents. However, the bank reconciliation statement includes unrepresented cheques amounting to Kshs.5,009,879 out of which stale cheques totalling Kshs.22,986 have not been reversed in the cashbook

In the circumstances, the accuracy and completeness of the cash and bank balance of Kshs.2,335,759 could not be confirmed.

3. Variances in the Project Implementation Status

The statement of receipts and payments and as disclosed in Notes 6 and 7 to the financial statements reflects amounts of Kshs.123,704,767 and Kshs.55,659,840 in respect of transfers to other Government units and other grants and transfers respectively both totalling to Kshs.179,364,607 which were earmarked for project implementation during the year. However, the project implementation status provided for audit review reflects an amount of Kshs.123,649,493 resulting to an unexplained and unreconciled variance of Kshs.55,715,114.

In the circumstances, the accuracy and completeness of project implementation status amounting to Kshs.55,715,114 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 - Igembe Central 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 other key audit matters to report in the year under review.

Other Matter

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, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management had not resolved the issues or given any explanation for failure to implement the recommendations.

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. Project Verification

1.1 Poor workmanship in the Construction of a Classroom for Matiandui Primary School

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects an amount of Kshs.123,704,767 in respect of transfers to other Government units which includes an amount of Kshs.47,729,927 relating to transfer to primary schools. Included in the transfer is an amount of Kshs.1,200,000 transferred to Matiandui Primary School for construction of one classroom. However, review of the project files and physical verification done in the month of March, 2023 revealed that the project had two labels, one stating that the project was funded and done in the financial year 2020/2021 and other stating that it was done in the financial year 2021/2022, hence it could not be established which year the project was done. Further, poor workmanship was noted as the floor had numerous cracks. In addition, electrical works, project sign post and plaque had not been done as provided for in the bill of quantities. In addition, it

was noted that even though the project had been marked as complete and in use, there were no completion certificate, inspection and acceptance report, hence it could not be confirmed how the contractor was paid in full.

1.2 Unsupported Renovation of Three Classrooms at Kabukuro Primary School

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects an amount of Kshs.123,704,767 in respect of transfers to other Government units which includes an amount of Kshs.47,729,927 relating to transfer to primary schools. Included in the transfer is an amount of Kshs.1,000,000 for renovation of three (3) classrooms at Kabukuro Primary School. However, review of the project files and physical verification done in the month of March, 2023 revealed that the project was not labelled and electrical conduits work, project sign post and a plaque had not been done as provided for in the bill of quantities.

Further, even though the project had been marked as complete and in use, there was no completion certificate, inspection and acceptance report, hence it could not be established how the contractor was paid in full.

1.3 Poor workmanship in the Construction of Two (2) Classrooms at Bureiruri Secondary School

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects an amount of Kshs.123,704,767 in respect of transfers to other Government units which includes an amount of Kshs.51,238,220 relating to transfer to secondary schools. Included in the transfers is an amount of Kshs.2,200,000 for construction of two (2) classrooms to completion at Bureiruri Secondary School. However, review of the project files and physical verification done in the month of March, 2023 revealed that only ten (10) windows had been done instead of fourteen and door stoppers had not been fixed as provided for in the bill of quantities.

Further, poor workmanship was noted as the floor had holes and the paint had started peeling off.

In the circumstances, value for money for the construction of the above classrooms could not be confirmed.

2. Irregular Procurement of Primary Schools Projects

The statement of receipts and payments and as disclosed in Note 6 to the financial statement reflects an amount of Kshs.123,704,767 in respect of transfers to other Government units which includes an amount of Kshs.47,729,927 in respect of transfers to primary schools. Included in the transfers is an amount of Kshs.2,100,000 for construction and renovation of classrooms at Rikiau and Thamare Primary Schools. Review of the project files revealed that procurement process of the projects was irregularly done as the expenditures were not supported by certificate of incorporation, CR12, Valid tax compliance certificate, valid NCA certificate, current trade license, single business permit, proof of similar works and details of key personnel for the winning bidder, invoices, completion certificates and inspection and acceptance reports. This is contrary to Section 79(1) of the Public Procurement and Asset Disposal Act, 2015 which states

that a tender is responsive if it conforms to all the eligibility and other mandatory requirements in the tender documents.

Further, the Management of the Fund assumed the powers of the Project Management Committees (PMCs) by irregularly engaging in the procurement process of the project contrary to Section 36(1) of the National Government Constituencies Development Fund Act, 2015 which states that projects under this Act shall be implemented by the Project Management Committee appointed in accordance with the regulations made under Section 57, with the assistance of the relevant department of Government and all payments through cheques or otherwise shall be processed and effected in accordance with Government regulations for the time being in force.

In the circumstances, the regularity and value for money for the expenditure amounting to Kshs.2,100,000 could not be confirmed. Further, Management was in breach of the law.

3. Lack of Fairness and Equitable Rotation of Registered Suppliers

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects an amount of Kshs.123,704,767 in respect of transfer to other Government units which includes an amount of Kshs.51,238,220 transfer to secondary schools. Includes in the transfer is an amount of Kshs.23,369,900 for construction of various secondary schools. Review of the expenditure revealed that the Management engaged the services of various suppliers in the procurement of the construction services. However, quotations and subsequent evaluation and award were given to the same supplier. Further, it was noted that one supplier featured in every request for quotations sent and was awarded the tender contrary to Regulation 91(5) of the Public Procurement and Asset Disposal Regulations, 2020 which states that an Accounting officer shall ensure a fair and equitable rotation amongst the persons on the list under Sections 57, 71 and 106 of the Act and these Regulations.

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

4. Lack of Inspection and Acceptance Report on Construction of a Tuition Block for the Kangeta KMTC

The statement of receipts and payments and as disclosed in Note 6 to the financial statement reflects an amount of Kshs.123,704,767 in respect to transfers to other Government units which includes Kshs.24,736,620 for transfers to tertiary institutions for the construction of a tuition block at Kenya Medical Training College (KMTC) - Kageta Campus. However, the expenditure was not supported by inspection and acceptance reports contrary to Section 48(3)(a) of the Public Procurement and Asset Disposal Act, 2015 which states that, the inspection and acceptance committee shall immediately after the delivery of the goods, works or services inspect and review the goods, works or services in order to ensure compliance with the terms and specifications of the contract.

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

5. Non-Compliance with Law on Ethnic Composition

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects an amount of Kshs.2,552,518 in respect to compensation of employees. Review of personal files revealed that all employees were from the dominant ethnic community contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which states that no public establishment shall have more than one third of its staff from the same ethnic community.

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

6. Failure to Appoint Security Project Management Committees

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects an amount of Kshs.55,659,840 in relation to other grants and transfers which includes an amount of Kshs.3,756,023 for security projects. However, the Management did not form Project Management Committees (PMCs) to oversee the implementation of the security projects but instead assumed the powers of the PMCs in implementation of the projects by doing the PMC's roles contrary to Section 36(1) of the National Government Constituencies Development Fund Act, 2015.

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

7. Non-Maintenance of List of Registered Suppliers

Review of documents provided for audit revealed that the Management did not maintain a list of registered suppliers contrary to Section 57 of the Public Procurement and Asset Disposal Act, 2015 which states that the Head of the Procurement function of a procuring entity shall maintain and update lists of registered suppliers, contractors and consultants in the categories of goods, works or services according to its procurement needs and submission of names shall be continuous and the registration list shall be updated periodically as prescribed in Regulations and in accordance with this Act.

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 governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Responsibilities of Management and those Charged with Governance

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

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

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal controls.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.
- Conclude on the appropriateness of the Management's use of the applicable basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Fund's ability to continue to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My

conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the Fund to cease to continue to sustain its services.

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the Fund to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with the Management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal controls that are identified during the audit.

I also provide Management with a statement that I have complied with relevant ethical requirements regarding independence and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.



CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

08 June, 2023