

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - KABETE 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 - Kabete Constituency set out on pages 1 to 45, 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, 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 - Kabete Constituency as at 30 June, 2022, and of its financial performance and its cash flows for the year then ended, in accordance with the 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. Unsupported Project Management Committees Bank Balances

Annex 5 to the financial statements reflect Project Management Committees (PMC) bank balances of Kshs.10,929,906. However, the certificate of the PMC bank balances was not provided for audit review. In addition, twenty-five (25) PMC bank accounts are listed as having had balances as at 30 June, 2022 although quarterly returns to the Fund Account Manager (FAM) by the PMCs were not provided for review and sixteen (16) PMC bank accounts had opening bank balances but no closing bank account balances.

In the circumstances, the accuracy and completeness of the Project Management Committee bank balances of Kshs.10,929,906 could not be confirmed.

2. Unsupported Other Grants and Transfers Payments

The statement of receipts and payments and Note 7 to the financial statements reflect payments totalling to Kshs.90,427,012. Review of the payment records revealed that Kshs.51,752,303 was paid out as bursaries to needy students in special schools, secondary schools and tertiary institutions. However, the following unsatisfactory matters were noted;

- i. No bursary applications register was maintained to show the names of applicants and their identification details, location of domicile, schools and colleges where admitted. In addition, forty-seven (47) students were awarded bursaries without being vetted by the bursary committee.
- ii. Schedules provided for audit indicated total bursaries allocation of Kshs.39,275,400 resulting to an unexplained variance of Kshs.12,476,903.
- iii. No bursary allocation policy was maintained by the Committee and therefore the basis for the award of the bursaries could not be confirmed.

Further included in the other grants and transfers is Kshs.7,563,500 in respect of social security programmes (NHIF) towards medical cover for poor needy people. However, whereas the approved budget provided for 1,333 beneficiaries, each at Kshs.6,000 for one year, Management paid for 1,503 beneficiaries contrary to the approval and authorization. Also, although the programme was to run for one year as per the approved budget, Management failed to remit Kshs.649,500 for the months of March and April for the 1,299 beneficiaries. This may lead to the Fund incurring penalties. Further, the audit

could not establish the criteria used by the Fund to identify the poor older persons as no documentary evidence was provided

In addition, the payments on other grants and transfers includes expenditure on emergency projects amounting Kshs.200,000 for rectifying blocked sewerage at DCC's Office. However, no proof has been provided to ascertain that the emergency relates to "urgent, unforeseen need for expenditure that could not be delayed until the next financial year without harming the public interest of the constituents."

In the circumstances, the regularity, accuracy and completeness of other grants and transfer payments of Kshs.90,427,012 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 - Kabete 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 audit 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, 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. Unconfirmed Land Ownership and Valuation

The Fund engaged a contractor for the construction of Kabete phase I NG-CDF offices at a contract sum of Kshs.28,676,480 under Tender No. NGCDF/KBT/T/OFBLK/01/2022. As at the time of audit on March, 2023, the Fund had paid Kshs.8,311,596, under interim certificate 1. However, enquiry on land ownership revealed that the structure is on land of unknown measurement given by Kiambu County Government and the Fund does not possess either an allotment letter or title deed of the land in its name as a proof of ownership. Further, no valuation report was provided for audit verification.

In the circumstances, land ownership and valuation could not be confirmed.

2. Irregular Payments

Review of records revealed that Management entered into a contract with a contractor on 01 March, 2022 for the construction of Kabete NG-CDF Office block Phase I and works were to start immediately. However, the contract did not state the contract duration thus failing to meet the disclosure requirements required as per Public Procurement and Assets Disposal Act, 2015. An amount of Kshs.26,000,000 had been transferred to the PMC Account for the project for the year under review while payment on interim certificate 1 of Kshs.8,311,596 was paid on 23 May, 2022 to the contractor for practical completion. This payment was however against Clause 14.6.1 of the contract as there was no performance security bond of 5% of the contract price.

During site verification, it was noted that after the ground floor to 3rd floor structure was done, the NGCDF Committee in its Project Proposal for the financial year 2022/2023 resolved and have added two floors. However, this was done without opinion from structural engineer to ascertain whether the initial structures can withstand the stress and pressure upon construction of two additional floors. In addition, there was no justification provided for the change in scope and value of the project.

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

3. Projects Inspection

Physical inspection of sampled projects revealed the following issues:

i. Construction of Classrooms at Rungiri High School

The scope of works included the construction of three (3) classrooms. Site visit revealed the project was complete and in use, however poor workmanship was observed with visible cracks on the floor and external walls appeared rough with only one coat of paint instead of the three (3) provided for in the Bills of Quantities (BQ). The painting of the ceiling boards was also poorly done. Element 5 of the BQ provided for twenty-one (21) windows costing Kshs.315,000, but only twelve (12) were done. Additionally, cornice on ceiling surfaces costing Kshs.27,750 was not done.

ii. Construction of Four (4) Storied Classrooms at Kibiku Secondary School

The project was completed and put to use. However, cracks and depressions were visible in the classrooms, corridors, edges and staircases. Cracks were also noticeable on the ceiling finishes with some areas appearing to have poor paint works.

iii. Construction of Two (2) Classrooms at Kahuho Uhuru High School

The project status was complete and had been put to use. The classroom was built as an extension to an existing one with a shared wall. The architectural drawings with measurements were not submitted for review while the workmanship appeared poor as cracks on the walls, floors, paving slabs and pillars had developed. Painting works were

also poorly done and the cornice for ceiling surfaces for both classrooms worth Kshs.22,500 were not done as per the bills of quantities.

In the circumstances, the value for money on the projects could not be confirmed and 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 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 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 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 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 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 the Fund's 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 Management.
- Conclude on the appropriateness of 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 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 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

26 May, 2023