

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - KISUMU WEST 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 - Kisumu West Constituency set out on pages 1 to 49, 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 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 the National Government Constituencies Development Fund - Kisumu West Constituency as at 30 June, 2022, and of its financial performance

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and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Cash Basis) and comply with the National Government Constituencies Development Fund Act, 2015 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1. Inaccuracies in the Financial Statements

The summary statement of appropriation shows actual receipts on transfers from NGCDF board of Kshs.209,265,196. However, the statement of receipts and payments reflects Kshs.187,126,956 resulting to a variance of Kshs.22,138,240. Further, the statement of budget execution by sectors and projects shows actual compensation of employees of Kshs.4,614,087 while the statement of receipts and payments shows an amount of Kshs.4,098,630 resulting to unexplained variance of Kshs.515,457.

In the circumstances, the accuracy of the financial statements could not be confirmed.

2. Use of Goods and Services

2.1 Unsupported Use of Goods and Services

The statement of receipts and payments reflects use of goods and services of Kshs.9,207,711 as disclosed in Note 5 to the financial statements. However, amount of Kshs.300,000 relating to fuel was not supported with relevant documents such as the work tickets, fuel cash receipts, the fuel register, statement of the litres drawn and the detailed orders authorizing the drawing of the fuel from the supplier. Further, hospitality supplies and services of Kshs.1,752,910 includes payments totalling to Kshs.1,250,300 whose supporting documents such as approvals and evidence of expenditure were not provided for audit review.

2.2 Misclassification of Expenditure

The statement of receipts and payments reflects use of goods and services totalling to Kshs.9,207,711 as disclosed in Note 5 to the financial statements. This balance includes routine maintenance of vehicles and other transport equipment of Kshs.842,683 out of which Kshs.112,759 was paid to a consultant to undertake impact assessment. However, the expenditure was charged under repair of motor vehicle instead of consultancy services. Further, the Management did not provide the impact assessment report and implementation status.

In the circumstances, the accuracy and completeness of use of goods and services amount of Kshs.1,663,059 could not be confirmed.

3. Unsupported Prior Year Adjustments

The statement of assets and liabilities reflects prior year adjustment of Kshs.1,500,000 as disclosed in Note 14 to the financial statements. Although, the Management explained that the adjustment relates to unrepresented bursary cheque expensed in the year 2020/2021 which became stale and reversed during the year under review. However, the list of the reversed bursaries was not provided for audit verification.

In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

4. Cash and Cash Equivalents

The statement of assets and liabilities and as disclosed in Note 10 to the financial statements reflects cash and cash equivalents balance of Kshs.10,195,158 which differs with the reconciled cashbook balance of Kshs.10,694,900 resulting in unreconciled variance of Kshs.499,742.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.10,195,158 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 - Kisumu West 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 judgement, 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

Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board guidelines.

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. Irregular Provision of Security Services

The statement of receipts and payments reflects use of goods and services of Kshs.9,207,711 which includes Kshs.360,000 paid to a firm for provision of security services procured in the financial year 2012/2013. However, the contract was awarded and signed in May, 2013, since then the services have never been subjected to competitive bidding while the same contract was renewed year after year. This was contrary to Article 227(1) of the constitution of Kenya 2010 which states that, when a state organ or any other public entity contracts for goods or services, it shall do so in accordance with a system that is fair, equitable, transparent, competitive and cost-effective.

Further, there was no evidence that the service provider submitted a performance security contrary to Section 142(1) of the Public Procurement and Asset Disposal Act, 2015 which states that subject to the Regulations, a successful tenderer shall submit a performance security equivalent to not more than ten per cent of the contract amount before signing of the contract.

In the circumstances, Management was in breach of law.

2. Unsupported Emergency Reserves

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects other grants and transfers of Kshs.97,343,208 which includes an expenditure on emergency projects amounting Kshs.8,801,251. However, there was no evidence provided to confirm 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 contrary to Section 8(3) "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 addition, there was no evidence provided to confirm that the use of the emergency reserves was reported to the Board within thirty (30) days of occurrence contrary to Regulation 20(2) of the National Government Constituencies Development Fund Regulations, 2016 which provides 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 circumstances, Management is in breach of law.

3. Irregular Issuance of Bursaries

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects other grants and transfers of Kshs.97,343,208 which includes bursaries to secondary schools, tertiary institutions and special schools of Kshs.34,108,323, Kshs.16,449,895 and Kshs.4,669,600 totalling to Kshs.55,227,818.

However, the following anomalies were observed: -

- i. Bursary applications register was not maintained to show the names of applicants and their identification details, location of domicile, schools and colleges where admitted.
- ii. Bursary allocation policy was not maintained by the Fund's Committee and therefore the basis for the award of the bursaries could not be confirmed.
- iii. The appointment letters of the Bursary Vetting Committee were not provided for audit review and therefore the basis of appointment and terms of service could not be ascertained.
- iv. The Bursary vetting committee minutes were not provided for audit verification and therefore, the basis of payment could not be ascertained.
- v. Confirmations or acknowledgement receipts that the bursaries were indeed received by the respective Institutions were not provided for audit.

In the circumstances, regularity and authenticity of bursaries of Kshs.55,227,818 could not be confirmed.

4. Proposed Chain Link Fencing and Installation of Gate at the Sub County Education Office Project

Review of procurement records provided for audit reveal that a Contractor was awarded tender No. KSMWEST/ NG-CDF/EDU/33/OFFICE/2020/2021 for the construction of proposed chain link fencing and installation of gate at the Sub County Education Office at a contract sum of Kshs.650,000. The budget for the project was Kshs.650,000. The contract was awarded on 9 November, 2021. However, the completion date and duration of contract was not stated. Audit inspection carried in March, 2022 revealed that the whole area was estimated to be 350M. However, physical verification gave an estimated length of 250M resulting to an over estimation of 100M at Kshs.400 per Linear Meter which translates to a loss of Kshs.40,000. Further, the project Manager did not provided valuation of certified works. it was therefore not possible to confirm the basis of the payments. In addition, project status report from the engineer was not provided for audit review.

In the circumstances, the validity and legality of the procurement process, award and costing of the contract could not be confirmed.

5. Over Priced Proposed Chain Link Fencing and Gate

Examination of payment records held at Kisumu West Constituency NGCDF shows that Kshs.2,400,000 was transferred to a school for the Proposed Chain-link and Gate. However, audit review of the signed contract showed that a local company was awarded for the chain-link at a rate of Kshs.2,000 per linear Metre which appears to be slightly higher in terms of the price resulting to loss of Kshs.400,000. The Management could not adequately support the pricing and therefore, value for money was not achieved in the said project.

In the circumstances, the overpricing denied the public value for money.

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

Responsibilities of Management and those Charged with Governance

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Cash Basis) and for maintaining effective internal 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 controls in order to give an assurance on the effectiveness of internal controls, risk management and overall governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal controls would not necessarily disclose all matters in the internal 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 controls may not prevent or detect misstatements and instances of non-compliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the Fund'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 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 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

11 July, 2023