

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - LAGDERA 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 which considers whether the financial statements are fairly presented in accordance with the applicable financial reporting framework, accounting standards and the relevant laws and regulations which 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 the 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 - Lagdera Constituency set out on pages 1 to 38, 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 - Lagdera 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. Cash and Cash Equivalents

The statement of assets and liabilities and Note 8 to the financial statements reflects cash and cash equivalents balance of Kshs.10,383,510. Included in the bank reconciliation statements for June, 2022 were unpresented cheques amounting to Kshs.1,331,792 which further included a stale cheque of Kshs.20,000 which had not been cancelled and reversed in the cash book.

In the circumstances, the accuracy and completeness of cash and cash equivalent balance of Kshs,10,383,510 could not be confirmed..

2. Unsupported Compensation of Employees

The statement of receipts and payments and Note 2 to the financial statements reflects compensation of employees' expenditure of Kshs.2,848,572. Included in the expenditure is Kshs.2,589,372 in respect of staff salaries for ten (10) employees. However, the Management did not provide for audit review contracts of service for the employees to support the expenditure.

In the circumstances, the validity of the expenditure of Kshs.2,589,372 on compensation of employees could not be confirmed.

3. Office Rent - Elapsed Lease Agreement

The statement of receipts and payments and Note 3 to the financial statements reflects use of goods and services of Kshs.12,954,396 Included in this amount is Kshs.600,000 in respect of office rent. Review of the lease agreement supporting the expenditure revealed that the agreement had expired in January, 2022 and had not been renewed.

In the circumstances, the validity and legality of expenditure of Kshs.600,000 on office rent could not be confirmed.

4. Unsupported Bursary Payments

The statement of receipts and payments as disclosed in Note 5 to the financial statements reflects other grants and transfers balance of Kshs.84,467,354. Included in the amount are bursary payments of Kshs.18,772,500 and Kshs.20,724,300 disbursed to various secondary schools and tertiary institutions respectively. However, review of the expenditure revealed that an expenditure of Kshs.7,264,000 was not supported by acknowledgment receipts and students' fees statement from the institutions that received

the bursaries. Further, a payment of Kshs.1,700,000 to a driving school was not supported by procurement records as required by Section 68(1) of the Public Procurement and Assets Disposal Act, 2015, which provides that an Accounting Officer of a procuring entity shall keep records for each procurement for at least six years after the resulting contract has been completed or if no contract resulted, after the procurement proceedings were terminated.

In the circumstances, it was not possible to confirm the accuracy of the bursaries totalling Kshs.7,264,000 issued during the year under review.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the National Government Constituencies Development Fund - Lagdera 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 which, 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 final receipts budget and actual on comparable basis of Kshs.217,614,466 and Kshs.205,225,587 respectively resulting to underfunding of Kshs.12,388,879 (or 5.7%) of the approved budget. The total actual expenditure during the year was Kshs.194,842,077 against actual receipts of Kshs.205,225,587 resulting to an under expenditure of Kshs.10,383,510 (or 5.3%) of the total receipts during the year.

The under absorption may have negatively impacted on service delivery to the residents of Lagdera Constituency.

2. Project Implementation Status

Review of the Project Implementation Status report indicated that the Management planned to implement ninety-two (92) projects at a total cost of Kshs.187,235,141 during the year under review. However, the Fund completed eighty-five (85) projects at a cost of Kshs.173,387,109, two (2) projects with a budget of Kshs.2,348,032 were ongoing while five (5) projects with a budget of Kshs.11,500,000 had not started as at 30 June, 2022.

Failure to complete projects as planned may have negatively impacted on delivery of services to Lagdera residents.

3. Unresolved Prior Year Matters

The audit report for the previous year raised several issues on financial statements for the year ended 30 June, 2021. The report on follow-up on auditor's recommendations appended to the financial statements for the year under review indicates that these issues had not been resolved as at 30 June, 2022. Management did not provide an explanation for the failure to resolve the issues.

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. Late Remittances and Non-Remittances of Statutory Deductions

1.1 Non-Remittance of National Hospital Insurance Fund Deductions

The statement of receipts and payments reflects compensation of employees' expenditure of Kshs.2,848,572 as disclosed in Note 2 to the financial statements. Included in the expenditure is Kshs.90,000 in respect of National Hospital Insurance Fund deductions. However, the Management did not remit the deductions to the National Hospital Insurance Fund contrary to Section 18(1) of the National Health Insurance Fund Act, 2012 that provides that subject to the provisions of this section and without prejudice to any other penalty imposed under this Act, if any contribution which any person is liable to pay under this Act in respect of any month, is not paid on or before the day on which payment is due, a penalty equal to five times the amount of that contribution shall be payable by that person for each month or part thereof during which the contribution remains unpaid.

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

1.2 Late Remittance of National Social Security Fund Deductions

The statement of receipts and payments reflects compensation of employees' expenditure of Kshs.2,848,572 as disclosed in Note 2 to the financial statements. Included in the expenditure is Kshs.259,200 in respect of social security benefits. However, examination of the relevant documentation provided for audit revealed that National Social Security Fund deductions amounting to Kshs.64,800 were not remitted within the statutory timelines attracting penalties. This was contrary to Section 27(1) of the National Social Security Fund Act, 2013 which states that, if any contributions for which a contributing employer is required to pay to the Fund is not paid within one month after the end of the month in which the last day of the contribution period to which it falls,

a sum equal to five per cent of the amount of that contribution shall be added to the contribution for each month or part of a month that the amount due remains unpaid.

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

2. Unutilized Projects

The statement of receipts and payments reflects other grants and transfers and other payments balance of Kshs.84,467,354 and Kshs.4,000,000 respectively as disclosed in Notes 5 and 7 to the financial statements. Included in this expenditure is an amount of Kshs.16,600,000 disbursed for implementation of four (4) projects. However, audit inspection conducted on 16 March, 2023 established that the projects were not in use almost one year after completion.

In the circumstances, it was not possible to confirm whether funds spent in the four (4) projects were utilized effectively and in a productive manner.

3. Failure to Report Expenditure from Emergency Reserve to the Board

The statement of receipts and payments reflects other grants and transfers balance of Kshs.84,467,354 as disclosed in Note 5 to the financial statements. Included in the amount is Kshs.6,652,000 incurred from emergency reserve. However, the Management did not report to the National Constituencies Development Fund Board the utilization of the emergency funds within 30 days as required by Regulation 20(2) of the National Government Constituencies Development Fund Regulations, 2016 that 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, the Management was in breach of the law.

4. Project Management Committee Bank Balances

Annex 5 to the financial statements reflects thirty-nine (39) Project Management Committees (PMC) with bank balances all totalling to Kshs.56,435 as at 30 June, 2022. However, the balances were not supported by respective bank balance certificates and bank statements. Further, the Management did not provide an explanation for the failure to return the unutilized funds to the constituency account as required by Section 12(8) of National Government Constituencies Development Fund Act, 2015 that states that all unutilized funds of the Project Management Committee shall be returned to the constituency account.

In the circumstances, the 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 which 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, except for the matters described in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

1. Summary of Fixed Assets Register

1.1 Lack of Ownership Documents and Disclosure of Assets

Annex 4 of the financial statements reflects summary of fixed assets register with historical cost balance of Kshs.13,813,071 as at 30 June, 2022. Although the Management maintained a fixed asset register, the register did not contain all information required including Identification or serial number, acquisition date, description of asset, location, class, cost of acquisition, accumulated depreciation, net book value and assets tag identification codes. As a result, the total value of Kshs.13,813,071 worth of assets disclosed in the financial statement could not be easily traced in the assets register provided. In addition, ownership documents for land owned by the Fund were not provided.

In the circumstances, the ownership status of the fixed assets and existence of effective internal controls on fixed assets could not be confirmed.

1.2 Valuation of Assets

Annex 4 of the financial statements reflects assets with historical cost of Kshs.13,813,071. However, the Management did not provide evidence to confirm that assets whose value may have significantly changed overtime were revalued. In addition, the value of land was not disclosed in the financial statements.

In the circumstances, it was not possible to confirm the valuation status of the assets.

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 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 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 which 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 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 which 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 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

29 May, 2023