

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - LAMU 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 Fund 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 Fund.

An unmodified opinion does not necessarily mean that the Fund 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 the National Government Constituencies Development Fund - Lamu West Constituency set out on pages 1 to 30, which comprise 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 effects of the matter 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 - Lamu West 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 National Government Constituencies Development Fund Act, 2015 and Public Finance Management Act, 2012.

Basis for Qualified Opinion

Other Grants and Transfers - Unsupported Bursary Disbursements

The statement of receipts and payments reflects other grants and transfers balance of Kshs.63,036,889 which, as disclosed in Note 7 to the financial statements, includes bursary disbursements of Kshs.20,039,800, Kshs.19,987,690 and Kshs.1,126,000 for students in secondary schools, tertiary institutions and special schools respectively, all totalling to Kshs.41,153,490. However, the latter amount includes Kshs.976,500 in respect of which, acknowledgment letters from the receiving institutions were not provided for audit.

Further, the amounts of Kshs.20,039,800, Kshs.19,987,690 and Kshs.1,126,000 include bursaries amounting to Kshs.87,000, Kshs.440,000 and Kshs.16,000 respectively, awarded to students who did not have admission numbers.

In the circumstances, the authenticity of bursary disbursements totalling to Kshs.1,519,500 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 - Lamu West Constituency 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

1.0. Budgetary Control and Performance

The summary statement of appropriation reflects final receipts budget of Kshs.210,783,754 which was actually received in full. Similarly, the Fund spent Kshs.202,547,452 against an approved budget of Kshs.210,783,753, resulting in under-expenditure of Kshs.8,236,301 or 4% of the budget.

The under-expenditure of Kshs.8,236,301 may have impacted negatively on service delivery to the Lamu West constituents.

2.0. Project implementation Status

During the year under review, the Fund budgeted to implement a total of thirty-six (36) projects out of which, thirty-five (35) projects were completed, while one (1) project was not implemented.

In the circumstances, the intended services from the unimplemented project may not be realized.

3.0. Unresolved Prior Year Matters

In the audit report for the previous year, several issues were raised under report on the financial statements, report on lawfulness and effectiveness in use of public resources and report on effectiveness of internal controls, risk management and governance. However, Management had not resolved the issues as at 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

1.0. Transfer to Secondary schools - Mpeketoni Girls Secondary School Project

The statement of receipts and payments reflects transfers to other government units balance of Kshs.119,930,927 which, as disclosed in Note 6 to the financial statements, includes transfers to secondary schools amount of Kshs.63,333,744 out of which, Kshs.31,233,743 was disbursed to Mpeketoni Girls Secondary in respect of a tender for the construction of a twelve-classroom block, borehole and ablution block at the school. The tender was awarded in the financial year 2019/2020 at a total contract sum of Kshs.54,498,139 which was transferred to the Project Management Committee (PMC) in full, and out of which, an amount of Kshs.46,370,219 had been paid to the contractor as at 30 June, 2022.

However, audit inspection conducted on 11 March, 2023 revealed that the project was complete and in use, but had not been formally handed over to the School by the PMC and the Constituency Development Committee. It was also noted that the septic tank constructed was left open, thus exposing the water to dust and other foreign bodies, which may pose danger to the users in the School. In addition, site clearance was not done as debris was left at the site. Further, the hand wash sinks' pipes in the ablution block had deteriorated causing water leakages, a sign of poor workmanship.

In the circumstances, value for money of the expenditure of Kshs.46,370,219 could not be confirmed.

2.0. Security Projects

The statement of receipts and payments reflects other grants and transfers balance of Kshs.63,036,889 as disclosed in Note 7 to the financial statements. However, the following audit issues were noted:

2.1. Hindi Police Station

The balance of Kshs.63,036,889 includes Kshs.3,500,000 disbursed to Hindi Police Station PMC for the construction of a perimeter chain link fence round a 3-acre parcel of land, construction to completion of one block with two (2) pit latrines and construction to completion of additional cells with concrete ceiling. However, the Management did not provide key tender documents such as advertisements of the projects, tender opening minutes, evaluation and awarding minutes, inspection and acceptance reports, site meeting minutes, project status report, certificate of practical completion and handing over report. Further, audit inspection on 11 March, 2023 revealed that the project was not implemented due to a request by the PMC to restructure the project design from police post to police station whose approval was being sought from the National Government Constituencies Development Fund Board.

In the circumstances, value for money of the transfer of Kshs.3,500,000 could not be confirmed. Also, the intended services from the project may not be delivered to the Lamu West constituents.

2.2. Pangani Police Station

The balance of Kshs.63,036,889 also includes Kshs.5,000,000 transferred to the Project Management Committee of Pangani Police Station in respect of the construction to completion of a police station. It was, however, noted that all security projects did not have cost estimates prepared by engineer to act as a guide to the evaluation committees on determining whether the bidders' quoted prices were reasonable. In addition, certificates of practical completion were not provided for audit.

In the circumstances, value for money of the expenditure of Kshs.5,000,000 could not be confirmed.

3.0. Project Management Committee Balances

Annex 5 to the financial statements reflects a balance of Kshs.8,236,299 comprising Projects Management Committees' unutilized bank balances. However, Management did not provide an explanation for failure to close all the dormant accounts of the PMC's and transfer the unutilized balances to the National Government Constituencies Development Fund Account, as required by Section 12(8) of the National Government Constituencies Development Fund Act, 2015.

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, except for the matter 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

Ownership, Valuation and Existence of Fixed Assets

Annex 4-summary of fixed asset register- reflects total assets balance of Kshs.29,022,490 which includes Kshs.13,007,240, being the historical cost of the Fund's office block. However, Management did not disclose the costs of the land where the Fund's offices were built and did not provide ownership documents like the title deed or allotment letter for the land for audit.

In the circumstances, the ownership of the Fund's land could not be confirmed.

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 the 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 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 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

30 May, 2023