

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - LANGATA 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

Opinion

I have audited the accompanying financial statements of National Government Constituencies Development Fund - Langata Constituency set out on pages 1 to 33, which comprise of the statement of assets and liabilities as at 30 June, 2022, 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 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, the financial statements present fairly, in all material respects, the financial position of National Government Constituencies Development Fund - Langata 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 Opinion

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the National Government Constituencies Development Fund - Langata 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 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

Borehole Rehabilitation at Kongoni Primary School

As previously reported, physical verification of projects revealed that Kshs.5,000,000 was transferred to PMC account for rehabilitation of an existing borehole at Kongoni Primary School which had been drilled and equipped within the School in 2003 (nineteen years ago) by Ministry of Water and Irrigation. However, it had never been commissioned or put to use since then. As a result some of the borehole's components had been vandalized.

Although the borehole rehabilitation subsequently took place, the water had not been consumed by the school children since the results for the water samples taken by Nairobi City Water and Sewerage Company in January, 2022 for testing had not been communicated to the School Management. Further, the certificate of completion and handover minutes of the borehole were not provided for audit. Physical verification carried out on 8 March, 2023 revealed that the borehole is still not in use.

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. Un approved variations of works at Kongoni Secondary School

The statement of receipts and payments reflects an amount of Kshs.99,169,059 in respect of transfers to other Government units as disclosed in Note 6 to the financial statements out of which an amount, of Kshs.84,300,000 was disbursed to Kongoni Secondary School for construction of two (2) storey building comprising of nine (9) classrooms block, administration block with twenty offices, secretarial pool, bathrooms, staff room and 24 No. door ablution block. The contract was competitively awarded to a contractor at a contract sum of Kshs.92,417,657.

Review of documents available in the project file revealed that a variation totaling to Kshs.18,795,480 was requested by the contractor and approved by an appointed variations committee and with the project architect from the Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works on 28 September, 2022 and 9 November, 2022 respectively. The varied Bill of Quantities were however not signed by the Architect. It was further noted that the Project Management Committee (PMC) approved down scaling of specific works valued at Kshs.18,795,480 to cater for the variation. This resulted to the contractor handing over completed works comprising of 9 classrooms and 18 door ablution block with the administration block including twenty offices, secretarial pool, bath rooms, staff room and 6 door ablution block not done. The completed works were handed over on 17 January, 2023 to the PMC and a certificate of practical completion of the scaled down issued on 20 December, 2022.

Physical verification carried out on 8 March, 2023 revealed that the scaled down works were indeed completed, and the contractor had left the site. However, the Fund Management did not provide details as to when the outstanding works as per the original contract, which include administration block with twenty offices, secretarial pool, bathrooms, staff room and 6 door ablution block for the project to be complete would be carried out.

In the circumstances, the full completion of the project so as to achieve its intended use is in doubt.

2. Unutilized Project Management Committee Funds

Note 17.4 to the financial statements reflects project management committees unutilized fund balances totaling to Kshs.47,095,496 as at 30 June, 2022 and as further analysed in Annex 5 to the financial statements. However, an amount of Kshs.2,027,190 in respect of completed projects had not been returned to the Constituency account contrary to Section 12(8) of the National Government Constituency Development Fund Act, 2015

which requires all unutilized funds of the Project Management Committee to be returned to the constituency account.

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

3. Bursary Funds

The statement of receipts and payments reflects other grants and other transfers amounting to Kshs.94,961,507 as disclosed in Note 7 to the financial statements. Included in this amount is Kshs.79,978,000 which was disbursed to tertiary and secondary school students as bursary. Review of the process of awarding the bursary revealed that the Fund had a sub-committee for bursary vetting and allocation. However, there was no specific bursary identification criteria for vetting bursary applicants to ensure equity, fairness and on need basis was achieved in award of bursaries. Further, it was noted that only less than 30% of the successful applicants acknowledged receipt of the bursaries.

In the circumstances, the fairness and equity in award bursaries could not be confirmed.

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

Inadequate Safeguarding of Constituency Assets

Examination of records revealed that the Fund maintained an asset register which included the historical cost of all the assets valued at Kshs.17,132,083 and their specific office location as at 30 June, 2022 as disclosed in Annex 4 to the financial statements.

Although the Assets were well maintained and tagged, they were not insured against fire, theft or any other risk.

In the circumstances, there is possible loss of the Fund 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 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 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 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 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

20 June, 2023