

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - MACHAKOS TOWN CONSTITUENCY FOR THE YEAR ENDED 30 JUNE, 2022

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 the National Government Constituencies Development Fund - Machakos Town Constituency, set out on pages 1 to 53, 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 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 - Machakos Town 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 National Government Constituencies Development Fund Act, 2015 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

Unconfirmed Ownership of Motor Vehicle

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects transfers to other government units which include primary schools, secondary schools and tertiary institutions totalling to Kshs.114,326,565. This amount includes Kshs.29,486,750 relating to the procurement of four (4) fifty-one seater school buses. However, the logbook for Vota Secondary school bus valued at Kshs.7,162,250 was not provided for audit review.

In the circumstances, the ownership of the motor vehicle amounting to Kshs.7,162,250 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-Machakos Town 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 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 a final expenditure budget of Kshs.230,346,019 against actual expenditure of Kshs.205,092,707 resulting in an under-expenditure of Kshs.25,253,311 or 11% of the budget.

In the circumstances, the under-expenditure affected the implementation of the planned activities and programs and may have negatively impacted on service delivery to the public.

2. Unresolved Prior Year's Audit issues

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

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. Unsurrendered PMC Balances

Annex 5 to the financial statements reflects a balance of Kshs.39,412,770 in respect of funds held by various Project Management Committees. However, the amount includes Kshs.1,209,890 relating to balances held by various Project Management Committee accounts after the projects were completed but the same was not surrendered to the Fund main bank account contrary to Section 12(8) of the National Government Constituencies Development Fund Act, 2015 which requires all unutilized funds of the Project Management Committee to be returned to the Constituency account.

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

2. Irregularities in Emergency Expenditure

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects an amount of Kshs.76,148,761 relating to other grants and transfers. Included in this amount is Kshs.12,180,000 expended on emergency projects. However, audit review of the financial records revealed that the renovation of two classrooms at Kathianoni, construction of one classroom at Kyakitove and renovation of 3 classrooms at Mbuani Primary schools at Kshs.500,000 each were initiated without official correspondence from the beneficiary institutions on the nature of emergency projects involved. Further, there was no evidence to show that the emergency projects undertaken were reported to the Constituency Development Board as required.

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

3. Idle Security and Emergency Projects

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects transfers to other grants and other transfers amounting to Kshs.76,148,761. Included in the expenditure is Kshs.23,857,027 incurred on security and emergency projects. Audit inspection of a sample of projects carried out during the month of June, 2023 revealed that the emergency projects were completed but not put to use.

In the circumstances, the residents of the constituency did not obtain value for money on the Kshs.23,857,027 incurred on the projects.

4. Unsupported Procurements

The statement of receipts and payment and as disclosed in Note 6 to the financial statements reflect transfers to other Government units (primary schools, secondary schools and tertiary institutions) amounting to Kshs.114,326,565. Review of a selected sample of project files revealed that the Fund procured four (4) fifty-one seater buses for St Partrick's, Vota, Kiteini and Kyeni Secondary Schools at cost of Kshs.29,486,750. However, the procurements were not supported with the relevant documents including signed contracts, inspection and acceptance certificates and the professional opinions issued by head of supply chain management on the procurements.

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

5. Delay in Project Implementation

Review of the project implementation status report and field visits during the month of June, 2023 revealed that the Fund had two (2) projects for construction of 4 classrooms at Kyasila Secondary School and a project at Mumbuni Primary School for the construction of 3 classrooms amounting to Kshs.4,000,000 and Kshs.1,200,000 respectively. The projects which started between the months of July and December, 2021 were still ongoing at various stages of implementation.

In the circumstances, the residents of Machakos Town constituency have not obtained value for money on the expenditure of Kshs.5,200,000 allocated to the two projects.

6. Law on Ethnic Composition

Review of the staff establishment at Machakos Town NGCDF revealed that the Fund's seven (7) employees are all from the dominant ethnic community in the constituency. This is contrary to the provisions of Section 7(1) and (2) of the National Cohesion and Integration Act, 2008.

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

7. Lack of an Approved Procurement Plan

The statement of receipts and payments reflects total expenditure amounting to Kshs.205,092,707. However, the Fund did not prepare and approve a procurement plan for 2021/2022 that contains a detailed breakdown of goods and services or works required by the Fund together with their estimated costs, deliverables for implementation and the appropriate procurement method for each contrary to Regulation 40(1) of the Public Procurement and Assets Disposal Regulations, 2020, which states that a procuring entity shall prepare a procurement plan for each financial year as part of the annual budget preparation process. In the absence of an annual procurement plan, the procurement decisions may not have been made in a lawful, efficient, economical and transparent manner.

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

8. Lack of a Licensed Supplies Practitioner

The statement of receipts and payments reflects total expenditure amounting to Kshs.205,092,707 made up of procurements of various goods and services. However, audit review of the staff establishment revealed that the Fund did not have a Licensed Supplies Practitioner or alternatively engaged the services of licensed procurement agents.

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

9. Failure to Prepare Bank Reconciliation Statements

Review of financial records for the financial year under review revealed that bank reconciliations were not regularly done and checked by senior officers as required. Further, no evidence was provided to confirm that bank reconciliation statements were submitted to the National Treasury and a copy to the Auditor-General as required under Regulation 90(1) of the Public Finance Management (National Government) Regulations, 2015.

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 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

Lack of Audit Committee and Internal Audit Functions

Review of internal controls revealed that internal audit and audit committee functions were not exercised during the year under review. No reports or committee minutes relating to the matter were provided for audit review. Further, it was observed that the last internal audit reports were for the period 2017-2020.

In the circumstances, errors may be undetected and rectified in good time.

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 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 its 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 manner.

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 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 controls.
- 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 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 controls 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

03 August, 2023