

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - NANDI HILLS 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 - Nandi Hills Constituency set out on pages 19 to 61, 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 National Government Constituencies Development Fund - Nandi Hills 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 the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1. Unsupported Committee Expenses

The statement of receipts and payments reflects use of goods and services amount of Kshs.10,399,169 which, as disclosed in Note 5 to the financial statements includes an amount of Kshs.6,262,900 for committee expenses. However, Management did not provide support for the expenses, and its increase of 53% from the prior year amount of Kshs.4,104,400 to Kshs.6,262,900.

In the circumstances, the accuracy, completeness and propriety of the committee expenses of Kshs.6,262,900 could not be confirmed.

2. Irregular Training Expenses

The statement of receipts and payments reflects use of goods and services amount of Kshs.10,399,169 which, as disclosed in Note 5 to the financial statements includes an amount of Kshs.6,262,900 for committee expenses. Included in this expenditure is an amount of Kshs.1,076,900 being training expenses incurred between 19 December, 2021 and 23 December, 2021 through payment vouchers number 150, 151 and 152.

Examination of supporting documentation revealed the following anomalies:

- i. Ten (10) committee members were paid five (5) days allowance amounting to Kshs.250,000. However, the training lasted for only two (2) days from 21 December, 2021 to 22 December, 2021 as evidenced by the duly signed attendance register. Signed attendance register and minutes to support the remaining three (3) days were not provided for audit verification. The Committee members were therefore overpaid by an amount of Kshs.150,000.
- ii. Members of staff were paid five (5) days allowance amounting to Kshs.90,000. However, the training lasted for only two (2) days from 21 December, 2021 to 22 December, 2021 as evidenced by the duly signed attendance register. Signed attendance register and minutes to support the remaining three (3) days were not provided for audit verification. The staff were therefore overpaid by an amount of Kshs.54,000.
- iii. The vehicle work tickets or bus tickets to support the travel to the venue of the training and back to office were not provided for verification.
- iv. Three (3) facilitators were each paid Kshs.10,000 daily for four (4) days amounting to Kshs.120,000 despite the training lasting only two (2) days from 21 December, 2021

to 22 December, 2021. The particulars of the facilitators including their profession and qualification for the training were also not provided for audit review.

In the circumstances, the validity and completeness of the training expenditure amounting to Kshs.1,076,900 could not be confirmed.

3. Unaccounted for Fuel

The statement of receipts and payments and Note 5 to the financial statements reflects use of goods and services amount of Kshs.10,399,169 which further includes fuel, oil and lubricants amount of Kshs.1,239,124. Review of expenditure records established that the Management had engaged two (2) local service stations to supply fuel and lubricants. The service stations were paid a total of Kshs.1,235,724. However, procurement documents supporting the provision of the services by the two suppliers were not provided for audit. Further, the daily work tickets for the vehicles used by the Management during the year under review, indicating fuel purchased and drawn were not provided for audit. In addition, the list of prequalified suppliers, detailed orders, inspection and acceptance committee reports and suppliers' fuel statements showing how the fuel was utilized were not provided for audit review. Further, the Management did not maintain a fuel register during the year under review.

In the circumstances, the propriety of the fuel, oil and lubricants expenditure of Kshs.1,239,124 could not be confirmed.

4. Presentation and Accuracy of the Financial Statements

The passport size photo and name of the Fund chairman has not been inserted in the NG-CDFC Chairman's Report. In addition, the page numbering in the financial statements is inconsistent, and is not sequential. Further, the statement of assets and liabilities reflects bank balances of Kshs.30,215,895 (2021: Kshs.54,046,961) as disclosed in Note 10A to the financial statements. However, the previous year's confirmed/audited balance was Kshs.54,552,584, leading to an unreconciled variance of Kshs.505,622. Also, the Institute of Certified Public Accountants (ICPAK) membership number for the accountant who prepared and signed the financial statements is not indicated.

In the circumstances, the financial statements were not prepared in accordance with the financial reporting guidelines issued by the Public Sector Accounting Standards Board.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the National Government Constituencies Development Fund – Nandi Hills 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 Fund had a final receipts budget of Kshs.236,224,720 for the year under review comprising of the original budget for the year amounting to Kshs.137,088,879, an opening balance of Kshs.54,046,962 and unspent late disbursements balance of Kshs.45,088,879 for the 2020/2021 financial year. During the year under review, payments amounting to Kshs.206,008,825 or 87% of the budgeted funds were made resulting to an under absorption of Kshs.30,215,894 or 13% of the final budget.

Non-utilization of the budgeted funds indicates that the planned programs or activities may not have been implemented.

2. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised. 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 templates and The National Treasury and Planning Circular reference No. AG.4/16/3 Vol.II(66) dated 6 July, 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. Sports Projects

The statement of receipts and payments and Note 7 to the financial statements reflects other grants and transfers amount of Kshs.84,585,293. The amount includes Kshs.4,126,300 in respect of sports projects paid to two (2) local companies for supply and delivery of sports equipment, uniform and accessories. However, the advertisement for the tender, tender documents from respective bidders, tender opening committee minutes, tender evaluation committee minutes, opinion from tender committee and contract documents were all not provided for audit review.

Further, stores receipt notes to show how the items were received from the suppliers, inspection and acceptance committee reports and a distribution schedule for the sports equipment, uniforms and accessories were also not provided review. In addition, the sports expenditure amounting to Kshs.4,126,300 was not supported with a sports Project Management Committee (PMC) project file showing the titles of the various sports events,

the location of the events, the list of participants, advertisements and invitations to the sports events.

The stakeholders mapping report detailing how the stakeholders were identified and their respective correspondences from the committee, Monitoring and Evaluation Reports on the sports events detailing the impact the event made to the local community were also not provided for audit. This is in contravention to Section 68(1) of the Public Finance Management Act, 2012 which requires that an accounting officer for a Government entity, shall ensure that the resources of the respective entity for which he or she is the accounting officer are used in a way that is (a) lawful and authorized; and (b) effective, efficient, economical and transparent.

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

2. Irregular Procurement of Assets

The statement of receipts and payments and Note 8 to the financial statements reflects acquisition of assets amount of Kshs.1,656,725 which includes shelving of the NG-CDF archive room and kitchen amount of Kshs.999,415 and purchase of a motorcycle amount of Kshs.398,310. However, the service providers/suppliers were not prequalified, there were no letters of appointment for the ad hoc evaluation committees as required by Section 46(1) of the Public Procurement and Asset Disposal Act, 2015, there were no individual score sheets for each member of the evaluation committees as required by Regulation 31(1) and (2) of the Public Procurement and Asset Disposal Regulations, 2020 and there was no professional opinion as required by Regulation 91(4) of the Public Procurement and Asset Disposal Regulations, 2020. In addition, the log book of the motorcycle was not provided for audit verification.

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

3. Expenditure on Emergency Projects

The statement of receipts and payments and Note 7 to the financial statements reflects other grants and transfers amount of Kshs.84,585,293 which includes emergency projects amount of Kshs.8,964,346. However, there was no evidence to confirm that the emergency payments made during the year under review met the criteria for funding those projects from the emergency reserve. In addition, there was no evidence to indicate that the Constituency Committee reported to the National Government Constituencies Development Fund Board within thirty days of occurrence of the emergency in accordance with Regulation 20(2) of National Government Constituencies Development Fund Regulations, 2016 which requires the utilization of the emergency reserve to be reported to the Board within thirty days of the occurrence of the emergency, in the format prescribed by the Board. Further, the payment vouchers, expenditure returns and inspection reports of the emergency projects were not provided for audit review.

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

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 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. Acquisition of Assets – Computers

Included in Annex 4 to the financial statements is summary of the fixed assets register of the Fund . However, during physical verification of the assets, a Public Address (PA) HP EliteBook laptop valued at Kshs.105,000, was not provided for physical verification. Available information indicates the laptop had been issued to the immediate former fund account manager of the Fund who failed to return the laptop after he was transferred from the station. Efforts by the Management to repossess the laptop have not been successful.

2. Project Implementation Status

During the year under review, there were fourteen (14) projects with a total budget of Kshs.11,750,000 which were not funded. Lack of funding or delay in disbursement of funds to the projects implies that planned programs/activities were not implemented thus denying residents of Nandi Hills Constituency the benefits accruing from those projects and thus failing to achieve the intended objective of improving service delivery to the people of Nandi Hills Constituency. It is also in contravention to Section 16(a) of the National Government Constituencies Development Fund Act, 2015 which requires the Board to ensure timely and efficient disbursement of funds to every constituency.

3. Physical Project Verification

During the year under review, thirty-five (35) projects with disbursements amounting to Kshs.50,891,777.98 were physically verified. Twenty-one (21) projects with funding amounting to Kshs.33,690,367.58 were complete, ten (10) projects with funding amounting to Kshs.15,850,000 were delayed or stalled, and four (4) projects with funding amounting to Kshs.1,351,410 were diverted from their intended purpose. In addition, ownership of the land on which the developments were carried out and the registration status of the institutions with the Ministry of Education could not be confirmed as the Fund does not retain a copy of the certified documents. Further, ownership of the land purchased for AIC Chesirgan Primary School for Kshs.800,000, Cheptililik Primary School for Kshs.3,600,000 for expansion and Kaplelmet Chief's Office for Kshs.750,000 could not be ascertained as the land title deeds were not provided for audit verification. The funding of projects in institutions whose registration and land ownership status has not been ascertained could result in loss of public funds.

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

The 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 controls, risk management and governance.

In preparing the financial statements, Management is responsible for assessing the Fund's ability 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 intentions to terminate the Fund or to cease operations.

The 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 controls 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 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 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

19 May, 2023