

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND – NAROK EAST 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 - Narok East 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 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 - Narok East 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

1. Other Grants and Other Payments

1.1 Unsupported for Bursary Payments

The statement of receipts and payments reflects other grants and other transfers of Kshs.63,243,978 as disclosed in Note 7 to the financial statements. Included in this amount is bursaries to r Secondary Schools of Kshs.34,814,200 and tertiary institutions of Kshs.17,939,178 totaling to Kshs.52,753,378. However, beneficiary listing detailing out students' names, admission numbers, amounts disbursed, and respective learning institutions were not provided for audit. Further, there was no evidence that bursary applications were vetted. This is contrary to Section (21)(3) of the National Government Constituencies Development Fund Regulations, 2016 which provides that the constituency committee must vet all person's proposed to receive support in accordance with the guidelines issued by the Board.

In addition, bursary application register, the approved/signed education bursary subcommittee meeting minutes stipulating the selection and award process and acknowledgement receipts for the amount disbursed was not for audit .

In the circumstances, the accuracy and completeness of bursary payments of Kshs.52,753,378 could not be confirmed.

1.2 Unsupported Projects Expenditure

The statement of receipts and payments reflects other grants and other transfers of Kshs.63,243,978 as disclosed in Note 7 to the financial statements. This amount includes sports projects of Kshs.1,540,600 and environment projects of Kshs.850,000 totaling Kshs.2,390,600. However, the projects were implemented without Projects Management Committee. Further, the expenditure returns, procurement records and detailed supporting schedules indicating uses to which the monies were put were not provided for audit.

In the circumstances, the accuracy and completeness of sports and environment expenditure of Kshs.2,390,600 could not be confirmed.

2. Inaccuracies in the Cash and Cash Equivalents Balance

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.8,598,266 as disclosed in Note 10A to the financial statements. However, the balance differed with the cashbook balance of Kshs.8,533,826 as reflected in the bank reconciliation statement resulting to an unexplained variance of Kshs.64,440.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.8,598,266 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 - Narok East 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

1.1 Budget Absorption

The summary statement of appropriation reflects actual receipts and payments on comparable basis of Kshs.205,955,245 and Kshs.197,357,015 respectively resulting to an overall under expenditure of Kshs.8,598,230 or 4% of the budget.

The under absorption of Kshs.8,598,230 could have affected the planned activities and may have impacted negatively on service delivery to the public.

1.2 Unauthorized Expenditure

Review of the statement of budget execution by sectors and programmes revealed that, the Fund Management incurred payments amounting to Kshs.104,641,583 on nine (9) expenditure items against an approved budget of Kshs.71,704,043 resulting into an over-expenditure of Kshs.32,937,540 or 46%.

The over expenditure of Kshs.32,937,540 required approval by the National Government Constituencies Development Fund Board. However, no evidence of approval was provided.

In the circumstances, the regularity of expenditure amounting to Kshs.32,937,540 could not be ascertained.

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. Unsupported Compensation of Employees

The statement of receipts and payments reflects compensation of employees of Kshs.3,476,218 as disclosed in Note 4 to the financial statements. However, the amount includes gratuity payments of Kshs.822,600 computed using employee's gross earnings instead of basic salary in breach of SRC Circular 002/03/2013 of 1 March, 2013. Further the payroll provided revealed that Pay as You Earn (PAYE) tax was recovered from employees' salaries without being granted the applicable monthly personal relief in breach of Section 29(1) of Income Tax Act, 2010.

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

2. Irregular Expenditure on Emergency Projects

The statement of receipts and payments reflects other grants and transfers of Kshs.63,243,978 as disclosed in Note 7 to the financial statements. This amount includes Kshs.8,100,000 incurred on emergency projects. However, the transfers were not supported by documentary evidence indicating the nature of emergency, funding requests or proposals and Constituency Development Fund Committee minutes supporting payments from the constituency emergency reserve. This is contrary to Section 7(3) of the National Government Constituencies Development Fund Act, 2015. Further, the Management did not report the utilization of the emergency reserve to the National Government Constituencies Development Fund Board within thirty (30) days of the occurrence as required by Regulation 20(2) of the National Government Constituencies Development Fund Regulations, 2016.

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

3. Non-Closure of Project Management Committee Bank Accounts

Note 17.4 to the financial statements reflects Project Management Committee account balances of Kshs.7,952,783 held in eighteen (18) accounts as disclosed in Annex 5 to the financial statements. Included in the balance of Kshs.7,952,783 is Kshs.2,078,173 held in thirteen (13) bank accounts in respect of completed projects as at 30 June 2022 which had not been refunded to the main Fund Account. This is contrary to Section 12(8) of the

National Government Constituencies Development Fund Act, 2015 which states that, all unutilized funds of the Project Management Committee shall be returned to the constituency account.

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

4. Irregular Reallocation of Funds

Review of records revealed that the Fund Management reallocated Kshs.23,817,501 to four (4) projects which had not been approved by the Board. Further, nine (9) projects with a budget of Kshs.21,367,501 were also reallocated to other projects without prior approval of the Board. This is contrary to Section 6 (2) of the Fund's Act, 2015 which states that once funds are allocated for a particular project, they shall remain allocated for that project and may only be re-allocated for any other purpose during the financial year with the approval of the Board.

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

5. Lack of Constituency Development Fund Committee

The Fund had no Constituency Development Fund Committee for a period in excess of ten (10) months following the expiry of the term of office for the former members on 29 May, 2022 contrary to provisions of Section 43(1) of the National Government Constituencies Development Fund Act, 2015.

The Fund's governance structure was therefore not properly constituted.

6. Projects Implementation Status

Review of records revealed that, the Constituency Committee planned to implement a total of sixty-three (63) projects at a cost of Kshs.137,485,751. Review of the project implementation status report as of 30 June, 2022 indicated that thirty-two (32) projects valued at Kshs.76,150,000 were incomplete due to slow tendering and implementation processes.

In the circumstances, the constituents may not fully realize value for money from the thirty-two (32) projects valued at Kshs.76,150,000.

7. Unsatisfactorily Implemented Projects

Nine (9) projects with total allocation of Kshs.60,288,879 were sampled for verification during the month of April, 2023. However, unsatisfactory observations were made against each of the projects as detailed in **Appendix I**. No satisfactory explanations were rendered for the deficiencies in projects implementation.

In the circumstances, the constituents may not realize value for money from the projects valued at Kshs.60,288,879.

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, I confirm that, nothing has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

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 controls, 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 controls, risk management and overall 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 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 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 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 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 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 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

12 June, 2023

Appendix I: Unsatisfactorily Implemented Projects

Beneficiary	Project Details	Type	Cost (Kshs.)	Observation
1. Oleseneto Primary School	Purchase of 5 acres of land.	Transfers to Primary Schools	1,600,000	Project Management Committee records showing land valuation, sales agreement, search and ownership documents were not provided and therefore the acquired land could not be verified. Further, there was no evidence that the ownership documents had been authenticated with relevant government agencies including the Registrar of Lands contrary to Regulation 11 (k) of the NGCDF Regulations 2016.
2. Olorien Boys' Secondary School	Construction of Storeyed administration Block of 16 rooms with library and computer laboratory of capacity 100 students to completion.	Transfers to Secondary Schools	30,800,000	<p>The project was allocated Kshs.10,400,000 in previous financial year, out of which an amount of Kshs.8,600,000 was disbursed. During the year under audit, the project was allocated additional amount of Kshs.20,400,000. However, the Management disbursed a total of Kshs.30,800,000 instead of the approved allocation of Kshs.22,200,000 resulting to excess disbursements of Kshs.8,600,000 whose source was not explained.</p> <p>Further, the projects' initial cost varied upward by Kshs.8,600,000 from Kshs.30,800,000 to Kshs.39,400,000 without formal contract variation approval contrary to Section 139 of the Public Procurement and Asset Disposal Act, 2015.</p> <p>Physical verification revealed that the projects were complete but had not been put into use. Further, branding had not been done to show when</p>

Beneficiary	Project Details	Type	Cost (Kshs.)	Observation
				and whether the NGCDF funds were used for its implementation.
3. Olesharo Girls Secondary School	Construction of 100 capacity dining hall with kitchen to completion	Transfers to Secondary Schools	8,000,000	Physical verification revealed that the project was incomplete, but the project site had been abandoned without construction materials nor equipment and no activities were found to be on going. Pending works included installation of windows, external and internal finishes, painting and decorations, fittings and fixtures and electrical works.
4. Olorien Boys' Secondary School	Completion of dining hall with kitchen	Transfers to Secondary Schools	7,500,000	The project received funding of Kshs.8,000,000 in the previous year and an additional allocation of Kshs.7,500,000 in the year of audit totaling to accumulated disbursement of Kshs.15,500,000. However, the procurement documents including Bill of Quantities (BQ) and contract agreement in support of the disbursements were not provided for audit. Physical verification revealed that the project had stalled for two (2) years at the lintel phase and the contractor was not on site.
5. Olesharo Girls Secondary School	Construction of girl's dormitory of (96 capacity) to completion	Transfers to Secondary Schools	4,088,879	The project had not been approved by the NGCDF Board and its funding was reallocated from Suswa Girls Secondary School.

Beneficiary	Project Details	Type	Cost (Kshs.)	Observation
				Physical verification revealed that the project was incomplete, but the site had been abandoned by the contractor without evidence of ongoing works. Pending works included installation of windows and doors, external and internal finishes, painting and decoration, fitting and fixtures and electrical works.
6. Olesharo Girls Secondary School	Construction of 2 classrooms to completion	Transfers to Secondary Schools	2,300,000	Physical verification revealed that the project was incomplete, but the site had been abandoned after it stalled at the roofing phase. Pending works included installation of windowpanes, external and internal finishes, painting and decoration, fitting and fixtures and electrical works.
7. Olaimutiai Secondary School	Construction of 3 classrooms to completion	Transfers to Secondary Schools	2,000,000	The project had been completed and put in use. However, branding had not been done to show when and whether the NGCDF funds were used for its implementation contrary to Regulation 11 of the National Government Constituencies Development Regulations, 2016.
8. Olorien Boys' Secondary School	Construction of principal's house with 3 rooms and shower to completion	Transfers to Secondary Schools	2,000,000	<p>The Project Management Committee irregularly changed the project's activity and constructed two (2) single rooms instead of one staff house of three (3) rooms as approved by the NGCDF Board.</p> <p>Physical verification revealed that the project had not been completed. However, there were no activities on going and the site looked abandoned without the contractor nor construction materials.</p>

Beneficiary	Project Details	Type	Cost (Kshs.)	Observation
9. St. Anthony Secondary School	Construction of a kitchen to completion	Transfers to Secondary Schools	2,000,000	The project had been completed and put in use. However, branding had not been done to show when and whether the NGCDF funds were used for its implementation contrary to Regulation 11 of the National Government Constituencies Development Regulations, 2016.
Total			60,288,879	