

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - THIKA TOWN 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 - Thika Town Constituency set out on pages 1 to 38, which comprise of the statement of assets and liabilities as at 30 June, 2022, and the statement of receipts and payments, statement of cash flow 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 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 the National Government Constituencies Development Fund - Thika 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 Public Finance Management Act, 2012 and National Government Constituencies Development Fund Act, 2015.

Basis for Qualified Opinion

1. Unreconciled and Unsupported Cash and Cash Equivalents

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.60,423,754 as disclosed in Note 10A to the financial statements. Review of the bank reconciliation statement for the month of June, 2022 revealed payments in cash book not recorded in bank statement amounting to Kshs.5,949,411. Included in the balance are stale cheques amounting to Kshs.1,114,430 which had not been reversed in the cash book as at 30 June, 2022. Further, unrepresented cheques amounting to Kshs.228,875 relating to Value Added Tax (VAT) owing to Kenya Revenue Authority, had remained outstanding since 2016. No explanation was provided for failure to remit the tax which could attract penalties, In addition, an examination of the cheque dispatch registers revealed that some bursary beneficiaries had not collected their cheques and no reasons were given for the uncollected cheques.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.60,423,754 could not be confirmed.

2. Irregular Payment of Committee Allowances

The statement of receipts and payments and Note 5 to the financial statements reflect use of goods and services expenditure of Kshs.8,066,601 which includes an amount of Kshs.1,507,000 and Kshs.1,206,600 in respect of other committee expenses and committee expenses respectively. Review of documents provided in support of the expenditure revealed that there was no evidence that the committee approved the annual workplan detailing the activities to be undertaken during the year, through resolutions in a committee meeting.

In the circumstances, the regularity and completeness of the committee allowances amounting to Kshs.2,713,600 could not be confirmed.

3. Irregular Payment of Sports Expenditure

The statement of receipts and payments reflects other grants and transfers amounting to Kshs.50,321,837 which includes an amount of Kshs.4,489,131 incurred on various sports items and equipment. However, documentary evidence such as delivery notes to confirm delivery, a distribution schedule and criteria used for distribution of the items were not provided for audit.

In the circumstances, the accuracy and completeness of the sports expenditure of Kshs.4,489,131 could not be confirmed.

4. Irregular Payment for ICT Hub

The statement of receipts and payments reflects other payments amounting to Kshs.1,169,257 for implementation of ICT Hubs. Review of documents revealed that the Fund initiated the ICT Hub at a private commercial institution which uses the ICT equipment for teaching and training their students, Further, no documentary evidence was provided to confirm delivery of equipment to the institution.

In the circumstances, the accuracy and completeness of the other payments amounting to Kshs.1,169,257 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 - Thika 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 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 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

Budgetary Control and Performance

The summary statement of appropriation reflects final expenditure budget and actual on comparable basis totalling Kshs.217,850,286 and Kshs.157,426,531 respectively, resulting to an under expenditure of Kshs.60,423,754 or 28% of the budget.

The underperformance affected the planned activities and may have impacted negatively on service delivery to the people of Thika Town Constituency.

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. Failure to Return Unutilized Project Management Committee Balances

Annex 5 to the financial statements reflects Project Management Committee unutilized fund balances amounting to Kshs.47,803,187 as at 30 June, 2022 in respect of forty-five (45) bank accounts, which were not transferred to the Constituency Fund account. This was contrary to Section 12(8) of the National Government Constituency Development Fund Act, 2015 which requires that all unutilized funds of the Project Management Committees shall be returned to the Constituency Fund account. Further, bank statements, cashbook and certificates of bank balances relating to thirty-two (32) Project Management Committee accounts were not provided for audit.

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

2. Failure to Report on Use of Emergency Funds

The statement of receipts and payments and Note 7 to the financial statements reflect other grants and transfers amounting to Kshs.50,321,837 which includes emergency expenditure of Kshs.5,800,000. However, no evidence indicating that the emergency expenditure was reported to the Board in the prescribed format was provided for audit. This is contrary to Regulation 20(2) of the National Government Constituencies Development Fund Regulations, 2016 which provides that the utilization of emergency reserve shall be reported to the Board within 30 days of the occurrence of emergency in the format prescribed by the Board.

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

3. Irregularities in Transfers to Other Government Units

The statement of receipts and payments reflects transfer to other Government units amounting to Kshs.94,583,187 as disclosed in Note 6 to the financial statements, which includes transfers to primary and secondary schools amounting to Kshs.45,533,187 and Kshs.48,750,000 respectively. Review of the records provided and audit carried out in the month of March, 2023 revealed the following anomalies;

3.1 Delayed Construction of Dining Hall at Kenyatta Girls Secondary School

During the year the Fund Management disbursed a total of Kshs.4,000,000 to Kenyatta Girls Secondary School on 6 August, 2021 for the construction of a dining hall. Review of documents provided revealed that the contract was awarded to a local contractor at a contract sum of Kshs.3,998,670. Audit inspection carried out in the month of March, 2023 revealed that the project had just started and was at foundation level. No explanation was provided for the delays in the project implementation.

In the circumstances, stakeholder may not obtain value for money from the delayed implementation of the project.

3.2 Irregular Procurement of the Construction of 400 Metres Perimeter Wall at Kiganjo Primary School

Included in transfers to other Government units amounting to Kshs.94,583,187 is Kshs.3,000,000 disbursed Kiganjo Primary School for construction and completion of a 400 metres stone perimeter wall. The contract was awarded in two phases at contract sums of Kshs.2,998,930 and Kshs.3,500,000 both totalling Kshs.6,498,930. Review of procurement documents revealed that the works were procured through restricted tendering and the tenders for both phase one and two awarded to the same contractor. This indicates that the works were split and restricted tendering method used instead of using national open tender. This was contrary to Section 37 of the NG-CDF Act, 2015 which states that all works and services relating to projects under this Act shall be procured in accordance with the provisions of the Public Procurement and Asset Disposal Act, 2015.

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

3.3 Construction of Classrooms at Barracks Primary School

During the year an amount of Kshs.4,600,000 was disbursed to Barracks Primary School for construction of four (4) classrooms. Review of procurement documents revealed that the contract was awarded to a local contractor at a contract sum of Kshs.4,599,540. Physical verification carried out in the month of March, 2023 revealed poor workmanship since the floors of the classrooms had developed potholes and cracks. Further, the project was not labelled to show that it was funded by the NG-CDF Thika Town Constituency in the financial year 2021/2022.

In the circumstances, value for money was not obtained from the poorly constructed classroom project.

4. Delayed Implementation of Security Project

The statement of receipts and payments reflects other grants and other transfers amounting to Kshs.50,321,837 as disclosed in Note 7 to the financial statements, which includes an amount of Kshs.17,550,000 incurred on security projects. Review of documents provided for audit revealed that Githima police post was allocated an amount of Kshs.1,500,000 for construction of four (4) offices. However, the implementation of the project had not commenced and no reasons were provided for failure to implement the project.

In the circumstances, value for money was not realized from the unimplemented security project.

5. Non-Compliance with Bursary Application and Awarding Guidelines

The statement of receipts and payments and Note 7 to the financial statements reflect other grants and transfers amounting to Kshs. Kshs.50,321,837 which includes bursaries to secondary schools, tertiary and special institutions totalling Kshs.17,743,575. However, review of bursary records provided for audit revealed that the applications had not been vetted. In addition, the amounts awarded to the successful applicants were not indicated on the forms. This is contrary to circular CDFB/CEO/board circulars vol II (021) dated 16 June, 2020, which requires that applicants for bursary be vetted. Further, Management did not provide the bursary policy which sets the criteria for awarding the bursaries.

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

6. Failure to Maintain Project Management Committee Records and Reports

Review of five (5) sampled project returns for projects undertaken during the year under review revealed that there were no appointment letters for the project management committees. Further, records of project closure and handover reports to the constituency committee, were not provided for audit. This is contrary to Regulation 15(1) of the National Government Constituencies Development Fund Regulations, 2016 which states that there shall be appointed a project management committee for each project in a Constituency which shall undertake project closure, labelling and handover upon completion.

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, 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.

Basis for Conclusion

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 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 control, risk management and governance.

In preparing the financial statements, Management is responsible for assessing the Fund's ability to continue to sustain services, disclosing and as applicable matters related to sustainability of services and using the applicable basis of accounting unless Management is aware of the intention to abolish 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 financial reporting process, reviewing the effectiveness of how the entity 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 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 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

05 July, 2023