

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - YATTA 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 intended the 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 - Yatta Constituency set out on pages 1 to 65, 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 - Yatta 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 financial Management Act, 2012 and National Government Constituencies Development Fund Act, 2015.

Basis for Qualified Opinion

1. Inaccuracies in the Financial statements

Note 17.3 for other unutilized funds reflects Kshs.20,109,458 under amounts due to other Government entities while Annex 3 for un-utilized funds reflects Kshs.15,527,321 resulting to unexplained and unreconciled variance of Kshs.4,582,137.

In the circumstances, the accuracy and completeness of the reported balances for amounts due to other Government entities and unutilized funds could not be confirmed.

2. Errors in the Summary Statement of Appropriation

The summary statement of appropriation reflects total actual receipts of Kshs.191,405,279 which comprise of transfers from the NGCDF Board of Kshs.182,177,758 and other receipts of Kshs.7,293,169. However, recasting of transfers from NGCDF Board revealed a total of Kshs.189,470,927 resulting to unexplained variance of Kshs.1,934,352.

In the circumstances, the accuracy and completeness of the total receipts amount could not be confirmed.

3. Unconfirmed Bursary Disbursements

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects Kshs.66,414,588 in respect of other grants and transfers, which includes Kshs.64,569,000 on bursary disbursements to Secondary schools and Tertiary institutions. However, the following anomalies were observed;

- i. Out of Kshs.64,569,000 payments via cheques amounting to Kshs.50,720,000 were supported with list of beneficiaries while disbursements to various institutions amounting to Kshs.13,849,000, were not supported with list of students.
- ii. Further, disbursement documents showed that thirteen thousand nine hundred sixty-four (13,964) students had applied for bursaries but a total of fourteen thousand two hundred thirty-five (14,235) applicants were awarded bursaries resulting to an unexplained excess of two hundred seventy-one (271) beneficiaries.

In the circumstances, the accuracy and completeness of other grants and transfers amount of Kshs.66,414,588 could not be confirmed.

4. Unsupported Emergency Projects

Note 7 to the financial statements reflects a balance of Kshs.66,414,588 in respect to other grants and transfers. However, included in this amount is a total of Kshs.1,395,588 and Kshs.450,000 transferred to Project Management Committees (PMC) for emergency and security projects. However, the following projects files were not provided for audit as detailed below:

Date	Payee	Description	Cheque No	Amount (Kshs)
9/27/2021	Kithito Primary School	Construction of 4 door toilet	4508	300,000
9/27/2021	Assistant Chiefs office Kwandolo	Renovations of 3no roomed office	4495	450,000
Total				750,000

In the circumstances, the accuracy and completeness of amount of Kshs.750,000 expended on the two (2) projects could not be confirmed.

5. Unsupported Receipts

Note 3 to the financial statements reflects Kshs.7,293,169 against other receipts which includes Kshs.4,424,250 described as other receipts not classified elsewhere. Further, the analysis in support of the amount was not provided for audit.

In the circumstances, the accuracy and completeness of the other receipts amount of Kshs.4,424,250 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 - Yatta 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 recurrent and development combined reflects a final budgeted receipt of Kshs.191,405,279 and actual receipts of Kshs.191,405,279 resulting in Nil budget shortfall. However, the statement reflects final budgeted payments of Kshs.191,405,279 and actual payments of Kshs.135,989,427 resulting in net under expenditure of Kshs.55,415,852 or 29% of the budget.

In the circumstances, the underperformance on expenditure may have impacted negatively on service delivery to the residents of Yatta.

2. Unresolved Prior Year's Audit issues

In the audit report for the previous financial year, several issues were raised in regard to the 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. However, the management has not resolved those issues or provided explanation of why the matters remained outstanding.

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 Irregularities in the Procurement Process:

1.1. Irregularities in Procurements

The statement of receipts and payments and Note 6 to the financial statements reflects Kshs.60,189,955 in respect of transfers to other Government units, comprising of Kshs.43,513,843, Kshs.9,564,000 and Kshs.7,112,112 transferred to Primary schools, Secondary schools and Tertiary institutions respectively for implementation of various projects across the Constituency. Further, an amount of Kshs.5,755,000 was transferred to various institutions for implementation of emergency projects.

Review of Project Management Committee files for fourteen (14) projects relating to either renovation of classrooms, construction of classrooms and construction of pit latrines to completion valued at Kshs.16,813,169 revealed that though evaluation of tenders was done, professional opinions were not issued by the supply chain management officer. In the circumstances, the Fund management was in breach of the law.

1.2 Lack of signed contract agreements

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects Kshs.60,189,655 in respect of transfers to other Government units, comprising of Kshs.43,513,843, Kshs.9,564,000 and Kshs.7,112,112 transferred to Primary schools, Secondary schools and Tertiary institutions respectively for implementation of various projects across the Constituency. Review of the project management committee (PMC) files revealed that six (6) projects worth Kshs.7,706,000

were implemented without signed contract agreements between the PMCs and the contractors

In the circumstances, the Fund management and PMC were in breach of the law.

2. Unsatisfactory Implementation of Projects

Note 6 reflects Transfers to Other Government Units amount of Kshs.60,189,955 being funds transferred to Secondary and Primary Schools, and Tertiary Institutions for implementation of various projects. The projects' scope of works included either construction of classroom to completion or renovations of classrooms, which entailed reroofing, plastering, flooring, fixing of windows and doors and extension of verandah. However, physical inspection conducted on March, 2023 on fifteen (15) projects valued at Kshs.19,999,711 revealed that three (3) projects worth Kshs.4,750,000 were not implemented satisfactorily or were not in use as at the time of inspection thereby casting doubt on whether the residents of the Constituency got value for money on the projects.

In the circumstances, the value for money could not be confirmed.

3. Irregularities in the Payments Process for Contractors

Review of Project Management Committee files for fourteen (14) projects relating to either renovation of classrooms or construction of classrooms to completion, valued at Kshs.15,764,000 revealed that though majority of projects were satisfactorily implemented, there was no evidence in the project files to confirm that payments to contractors were supported by payment certificates, invoices, certificates of practical completion and inspection and acceptance reports contrary to Public Finance Management Regulation, 99, (3) which states that every entry in the accounts shall be supported by a voucher or other approved document gazetted by the Cabinet Secretary containing the full details, clear narrations and particulars of the item or items to which it relates.. Further, there was no evidence of deduction of retention money in all payments to the contractors.

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

4. Failure to Report on Emergency Projects Expenditure within 30 days

Note 7 to the financial statements reflects an amount of Kshs.66,414,588 in respect to other grants and other transfers which includes Kshs.1,395,588 for emergency projects. However, there was no evidence to show that the Fund reported expenditure on emergency projects to the National Government Constituency Development Fund Board within 30 days following the occurrence of the emergency contrary to the National Government Constituencies Development Fund Regulations, 2016, Regulation 20 (1) and (2) which state that (1) a Constituency Committee shall ensure that the emergency reserve is utilized in accordance with the provisions of Sections 24, 25 and 48 of the Act; (2) the utilization of the emergency reserve shall be reported to the Board within thirty days of the occurrence of the emergency, in the format prescribed by the Board.

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

5. Failure to Implement Funded Projects

The Fund had budgeted to implement a total of seventy-five (75) projects worth Kshs.68,286,321 and unspecified emergency projects amounting to Kshs.7,192,207 both totaling Kshs.75,478,528. However, review of relevant records revealed that the Fund implemented only forty-two (42) projects worth Kshs.40,957,588. The balance of thirty-three (33) projects and emergency projects totaling Kshs.34,521,207 were not implemented.

In the circumstances, the value for money from the projects worth Kshs.34,521,207 could not be confirmed.

6. Irregular Award of Bursaries

The statement of receipts and payments and as disclosed in Note 7 to the financial statements, reflects Kshs.66,414,588 in respect of other grants and other transfers which includes Kshs.64,569,000 in respect of bursaries disbursements to Secondary schools and Tertiary institutions. Documents reviewed revealed that bursaries amounting to Kshs.6,667,500 were disbursed to Kenya Medical Training College (KMTC) and other tertiary institutions, Secondary schools and Universities without adhering to set criteria and guidelines as discussed in Minute 4/04/10/2021 dated 4 October, 2021.

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

7. Late Remittance of Statutory Deductions

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects Kshs.3,337,229 being compensation of employees. A review of schedules for remittances of statutory deductions showed deductions were remitted to the respective statutory authorities after the set deadlines. The Fund risks incurring penalties as a result of late remittance of statutory deductions.

In the circumstances, Fund 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 Risk Management Policy and Disaster Recovery Plan

Review of records on operations indicated that the Fund lacks a Risk Management policy. The Fund therefore lacks a tool for defining its risk appetite and setting the risk tolerance levels by identifying boundaries against unacceptable exposure to risk because the policy is yet to be developed. Further, the Fund did not have a disaster recovery plan or business continuity plan during the year under review. The Fund therefore lacked a blueprint for identifying, preventing and mitigating disasters and ensuring that its operations are not interrupted.

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 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 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 way.

Those charged with governance are responsible for overseeing the Fund's financial reporting process, reviewing the effectiveness of how the Management monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation

to governance and risk management and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibilities for the Audit

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal 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 controls 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 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 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

10 July, 2023