

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - ALDAI 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 - Aldai Constituency set out on pages 17 to 55, which comprise of the statement of assets and liabilities as at 30 June, 2022, and 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 the National Government Constituencies Development Fund - Aldai 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 the National Government Constituencies Development Fund Act, 2015.

Basis for Qualified Opinion

1. Unsupported and Unconfirmed Ownership of Fixed Assets

The statement of receipts and payments reflects transfer to other government units amount of Kshs.104,415,000 which include Kshs.9,400,000 disbursed to six (6) Project Management Committees for purchase of school land. The payment vouchers, valid rates clearance certificate in respect of the property and legal ownership document were however, not provided for audit to confirm the vendors own the said pieces of land. Further, the county surveyor report and registration documents of the property in favor of the schools were not provided for audit.

In addition, the transfer to other government units amount of Kshs.104,415,000 includes Kshs.14,630,000 disbursed to two (2) Projects Management Committees for purchase of 51-seater school buses. The log books for the acquired bus were however, not provided for verification and ownership of the bus could not be confirmed.

In the circumstances, the value and ownership of assets reported at Kshs.24,030,000 could not be confirmed.

2. Understated Cash and Cash Equivalents Balance

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.7,439,442 as disclosed in Note 10A to the financial statements. Review of the June, 2022 bank reconciliation statement, cash book, cash analysis, bank statements, certificate of bank balance and the supporting schedules revealed receipts in bank statement of Kshs.34,000 not yet recorded in cash book, being Appropriations – in - Aid (AIA) deposits. No explanation was provided for not recording AIA deposit in the cash book and as other income in the statement of receipts and payments.

In the circumstances, the cash and cash equivalents balance of Kshs.7,439,442 and nil balance of other income are understated.

3. Variance Between the Summary of Fixed Assets Register and the Fixed Assets Register

The summary of fixed assets register at Annex 4 to the financial statements reflects total assets balance of Kshs.21,340,928 for the financial year 2021/22 comprising of buildings & structures, transport equipment and office equipment, furniture and fitting and ICT equipment, software and other ICT assets.

The fixed assets register however, reflects assets with historical costs totaling Kshs.12,584,753 leading to unexplained difference of Kshs.8,755,769 as detailed below;

| Asset | Historical Cost as per Annex 4 (Kshs.) | Historical Cost as per Fixed Assets Register (Kshs.) | Differences (Kshs.) |
|----------------------------------------------|-----------------------------------------------|-------------------------------------------------------------|----------------------------|
| Buildings and Structure | 9,305,203 | 7,995,659 | 1,309,544 |
| Transport Equipment | 10,265,299 | 2,781,024 | 7,484,275 |
| Office Equipment, Furniture and Fittings | 978,570 | 534,250 | 444,320 |
| ICT Equipment, Software and Other ICT Assets | 791,450 | 1,273,820 | (482,370) |
| Total | 21,340,522 | 12,584,753 | 8,755,769 |

Further, the register does not indicate the size of the parcel of land where the NGDCF's Office is situated and the terms in which it is held by the Fund as required by Regulation 143(2) of the Public Finance Management (National Government) Regulations, 2015 which states that the register of land and buildings shall record each parcel of land and each building and the terms on which it is held, with reference to the conveyance, address, area, dates of acquisition, disposal or major change in use, capital expenditure, lease hold terms, maintenance contracts and other pertinent management details.

In the circumstances, the accuracy and completeness of the assets balance of Kshs.21,340,928 as reflected in the summary of fixed assets register at Annex 4 could not be confirmed.

4. Unsupported Project Management Committee Bank Balances

Annex 5 to the financial statements reflects bank balances of Kshs.14,305,519 which are in respect of forty-two (42) project management Committee bank accounts as at 30 June, 2022. The cashbooks and bank reconciliation statements were however, not provided for audit review.

In the circumstance, the accuracy, completeness and existence of project management committee bank balances of Kshs.14,305,519 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of National Government Constituencies Development Fund-Aldai 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 statements of appropriation reflects receipts budget and actual amounts on comparable basis of Kshs.179,556,025 and Kshs.179,556,025 and therefore, the Fund received total budgeted funds. Further, the Fund expended Kshs.172,116,583 against an approved budget of 179,556,025 resulting in an under expenditure of Kshs.7,439,442 or 4 % of the budget.

The under-expenditure affected the planned activities and programs and impacted negatively on service delivery to the public.

2. Project Implementation Status

Review of the Project Implementation Status (PIS) report revealed that the Fund had an approved budget of Kshs.161,099,721 to implement eighty-three (83) projects out of which an amount of Kshs.156,579,064 was disbursed for Eighty (80) projects which had a budget of Kshs.158,599,721. Out of the Eighty (80) projects, seventy-two (72) projects with disbursements totaling Kshs.84,550,248 were complete, eight (8) projects with disbursements of Kshs.72,028,816 were on going and at different stages of completion, while three (3) projects with a total budget of Kshs.2,500,000 were not funded. No satisfactory explanation was provided for failure to implement all the planned projects.

In the circumstances, failure to implement the planned projects denied people of Aldai Constituency the intended benefits.

3. Project Verification

During the year under review, twenty-two (22) projects costing Kshs.64,935,898 were verified during the audit in March, 2023. Thirteen (13) projects with a funding of Kshs.37,935,898 were completed and nine (9) projects with a funding of Kshs.27,000,000 were incomplete.

In the circumstances, non-implementation of approved projects denies residents of Aldai Constituency benefits accruing from the projects.

4. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised but, the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the standards contrary to requirement of Section 149(2)(l) of the Public Finance Management Act, 2012 which require accounting officers designated for national government entities to try and resolve any issues resulting from an audit that remain 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. Non-Compliance with Law on Ethnic Composition

Review of the personnel records revealed that the Fund had seven (7) employees all from the dominant ethnic community in the area. This is contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that, “all public offices shall seek to represent the diversity of the people of Kenya in the employment of staff and that no public institution shall have more than one-third of its staff establishment from the same ethnic community”.

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

2. Transfers to Other Government Units

The statement of receipts and payments reflects transfer to other government units amount of Kshs.104,415,000, which includes transfers to primary and secondary schools of Kshs.45,400,000 and Kshs.59,015,000, respectively as disclosed in Note 6 to the financial statements. The transfers of Kshs.104,415,000 includes total disbursements of Kshs.70,230,000 to 22 Project Management Committees for construction of classrooms, dining halls, kitchens, dormitory, laboratories and equipping a borehole and solar power installation and purchase of land. The tenders for construction of the works and equipping of borehole and solar power installation were advertised in conspicuous places in months between May 2021 to March 2022. The tender documents were opened between 2 June, 2021 to 25 May, 2022. The evaluation was carried between 17 February, 2022 to 26 May, 2022 and the winning bidders notified from 2 June, 2021 to 4 April, 2022 and the resulting contracts agreement were signed between 14 June, 2021 to 6 June 2022.

Review of the payment vouchers and procurement documents for the works however, revealed the following unsatisfactory matters:

- i)** The opening minutes and tender evaluation reports were not signed by all members present as required by Section 78 (11) (a)(b) and section 80(7) of the Public Procurement and Assets Disposal Act, 2015. In addition, appointment letters to the adhoc tender opening committee and adhoc evaluation committee members were not provided for review as required by Section 80(1) of the Public Procurement and Assets Disposal Act, 2015.
- ii)** Included in the amount of Kshs.70,230,000 is Kshs.22,700,000 disbursed to nine (9) Project Management Committees for various contract works. However, the contracts, tender documents, appointment letters of tender opening, evaluation and inspection & acceptance committees, advertisement, tender opening register, minutes of the tender opening, evaluation reports, notification of award, acceptance letter, notification to

unsuccessful bidders, signed professional opinion, performance bond guarantee and certified payment certificate from the works officer were not provided for audit.

- iii) The letter of notification to the winning tenderers were dated as from 2 June, 2021 to 22 March, 2022 and the respective contracts agreement between the PMC and contractors were signed from 14 June, 2021 to 29 March, 2022. The contracts were thus, signed earlier than 14 days required waiting period, contrary to Section 135(3) of the Public Procurement and Asset Disposal Act, 2015 which states that a written contract shall be entered into within the period specified in the notification but not before fourteen days have elapsed following the giving of that notification provided that a contract shall be signed within the tender validity period.

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

3. Unsupported Project Expenditure.

Included in transfers to other government entities amount of Kshs.104,415,000 is Kshs.59,015,000 transferred to secondary schools out of which Kshs.10,000,000 was disbursed to the Aldai Boys High School project management committee in two (2) tranches for construction of a storey building of 400 students capacity dormitory. The appointment letters of tender opening and evaluation committees, tender opening register, minutes of the tender opening, evaluation reports, notification to unsuccessful bidders and signed professional opinion were however, not provided for audit review.

Further, the letter of notification of award Ref: No.ABHS/CDF/02/2021 dated 26 January, 2022 indicates that the contract was to be signed within 15 working days from the date of letter but the contract was signed on 17 February 2022, six (6) days after the period stated in the notification contrary to Section 135 (3) of the Public Procurement and Asset Disposal Act, 2015.

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

4. Emergency Projects

4.1 Un-authorized Expenditure on Emergency Projects

The statement of receipts and payment reflects other grants and transfers amount of Kshs.51,975,114 which includes emergency projects amount of Kshs.10,892,206 as disclosed in Note 7 to the financial statements. The Fund final budget was Kshs.179,556,025 and the required 5% emergency fund allocation should be Kshs.8,977,801. Thus, the emergency projects expenditure of Kshs.10,892,206 exceeded the threshold contrary to Section 8 (I) of the National Government Constituencies Development Fund Act, 2015 which states that, a portion of the Fund, equivalent to five per centum (hereinafter referred to as the "Emergency Reserve") shall remain unallocated and shall be available for emergencies that may occur within the Constituency.

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

4.2 Irregularities in the Payments for Emergency Projects

The statement of receipts and payments reflects other grants and transfers amount of Kshs.51,975,114. Examination of expenditure documents provided for audit revealed payments of Kshs.3,184,412 made to various schools for emergency projects. The tendering process was however, un-procedural as noted below.

- i) There was no evidence that the accounting officer appointed the tender opening committee and evaluation committee as required by Section 46(1) and Section 78(1) of Public Procurement and Assets Disposal Act, 2015.
- ii) Professional opinion was not provided for review.
- iii) The contract did not include a clause indicating the expected start date and the period to complete the works contrary to Section 129(2) of the Act and it was not possible to confirm the expected completion date.
- iv) Scrutiny of the bills of quantities revealed that a provisional amount of Kshs.50,000 was paid for four (4) projects totalling to Kshs.200,000 which was not accounted for.

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

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 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 governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal control would not necessarily disclose all matters in the internal 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 Fund's policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal controls.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.
- Conclude on the appropriateness of the Management's use of the applicable basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Fund's ability to 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 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

06 July, 2023