

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND- BOMET 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 overall 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

Adverse Opinion

I have audited the accompanying financial statements of National Government Constituencies Development Fund - Bomet East Constituency set out on pages 1 to 43, 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, because of significance of the matters discussed in the basis for adverse opinion section of my report, the financial statements do not present fairly, the financial position of National Government Constituencies Development Fund – Bomet 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 do not comply with the National Government Constituencies Development Fund Act, 2015 and the Public Finance Management Act, 2012.

Basis for Adverse Opinion

1. Unsupported Expenditure on Use of Goods and Services

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects use of goods and services expenditure amounting to Kshs.12,449,639. The following anomalies were noted;

- i. The balance includes committee expenses of Kshs.7,476,000 and other committee expenses of Kshs.1,008,000 whose supporting schedules did not disclose the payment voucher number, the payee and purpose of the activity funded and the expenditure was not approved by the Board.
- ii. Review of records revealed that other committee expenses of Kshs.1,008,000 relates to sitting allowance which was not supported with invitation letters, attendance list and committee meeting minutes.
- iii. The expenditure includes utilities, supplies and services expenses amounting to Kshs.1,012,676 which further include Kshs.996,000 paid to the Fund Account Manager. However, the amount was directly expensed instead of being issued in the form of imprest and the purpose of the payments was not disclosed.
- iv. The expenditure includes training expenses amounting to Kshs.815,000 which was not supported with training needs assessment, invitation letters or nomination letters and signed attendance list.

In the circumstances, the accuracy, completeness and propriety of expenditure on use of goods and services could not be confirmed.

2. Unsupported Expenditure on Transfers to Other Government Units

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects transfer to other government entities amounting to Kshs.84,550,000. The amount includes transfers to primary schools and secondary schools totaling to Kshs.60,450,000 and Kshs.24,100,000 respectively for construction works. However, the supporting schedules did not indicate the payment voucher numbers and the activity being funded. Further, the Project Management Committee (PMC) expenditure returns, cash books, bank balance confirmations certificates and evidence that the projects were implemented in consultation with relevant Government Departments were not provided for audit.

In addition, construction expenditure amounting to Kshs.8,431,130 was not supported with procurement records such as bills of quantities, list of prequalified suppliers, tender evaluation minutes, signed contract, inspection and acceptance committee reports, interim/completion certificates.

In the circumstances, the accuracy and propriety of transfers to other government units amounting to Kshs.84,550,000 could not be confirmed.

3. Unsupported Expenditure on Security Projects

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects other grants and transfers amounting to Kshs.55,042,061. The amount includes expenditure on security projects of Kshs.5,100,000 incurred on construction works. However, the expenditure was not supported with procurement records such as bills of quantity, list of prequalified suppliers, tender evaluation minutes, signed contract, inspection and acceptance committee reports, interim/completion certificates, Project Management Committee (PMC) expenditure returns and evidence that the projects were implemented in consultation with relevant Government Departments. Further, physical verification of the Construction of Chemaner Assistant County Commissioners Office constructed at a cost of Kshs.1,200,000 revealed that electrical and plumbing works including Septic tank and external drainage works of Kshs.380,000 had not been completed. The PMC bank statements were not provided to confirm if the money was still held in the bank account.

In the circumstances, the accuracy and propriety of expenditure on security projects could not be confirmed.

4. Unsupported Project Management Committee (PMC) Bank Balances

Note 17.4 to the financial statements reflects Project Management Committee (PMC) bank balances amounting to Kshs.17,245,137. However, cashbooks, bank statements and bank balance confirmation certificates were not provided for audit. Further, Project Management Committee (PMC) bank account balances since inception of the Fund have not been disclosed and confirmation on whether the bank balances for completed projects were surrendered to the main Constituency Fund bank account was not provided for audit. This is contrary to Section 12(8) of the National Government Constituencies Development Fund Act, 2015 which requires all unutilized funds of the Project Management Committee to be returned to the Constituency account.

In the circumstances, the accuracy and completeness of the PMC account balance of Kshs.17,245,137 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of NGCDF - Bomet 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 adverse 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 receipts budget and actual on comparable basis of Kshs.193,287,304 and Kshs.167,542,864 respectively resulting to an under-funding of Kshs.25,744,439 or 13% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.193,287,304 and Kshs.154,872,789 respectively resulting to an under-funding of Kshs.38,414,515 or 20% of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

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, because of the significance of the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources section of my report, I confirm that public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

1. Management of Bursary to Secondary Schools and Tertiary Institutions

The statement of receipts and payments reflects other grants and transfer balance of Kshs.55,042,061 which includes bursary to secondary schools and tertiary institutions amounting to Kshs.8,787,776 and Kshs.31,951,785 respectively. However, vetting criteria and minutes of the Bursary Sub Committee vetting of applicants were not provided for audit. Further, no documents were provided to confirm that the award of bursaries was carried out in consultation with relevant Government departments. This is contrary to Regulation 21 of the National Government Constituencies Development Fund Regulation, 2016 which states that a Constituency Committee may support social security programmes. The programmes shall support constituents living within a Constituency but the support shall not include personal cash awards. A Constituency Committee shall vet all persons proposed to receive support in accordance with guidelines issued by the Board. A Constituency Committee shall, in supporting social security programmes under this Regulation, consult with the relevant National Government Agencies.

In addition, recipient educational institutions did not remit financial return acknowledging receipt of the funds and confirming that the amount have been credited to the fees accounts of the targeted beneficiaries. This is contrary to Guidelines on effective and efficient management of bursaries of the Board Circular referenced NG-CDFB/CEO/BOARD CIRCULARS VOL II of 18 June, 2020.

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

2. Expenditure on Emergency Projects

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects other grants and transfers totaling to Kshs.55,042,061 which includes emergency projects expenditure of Kshs.6,500,000. However, the expenditure was not of emergency in nature and it was not reported to the National Government Constituencies Development Fund Board. This is contrary to Regulation 20(2) of the National Government Constituencies Development Regulations, 2016 stipulates that the utilization of the emergency reserve shall be reported to the Board within thirty days of the occurrence of the emergency. Further, the Fund had an emergency expenditure amounting to Kshs.1,900,000 for construction of pit latrines in three secondary schools. However during the audit the latrines had not been completed.

In the circumstances, the value for money from the expenditure on emergency projects could not be confirmed and the 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, because of the significance of the matter discussed in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance, I confirm that internal controls, risk management and governance were not effective.

Basis for Conclusion

Lack of an Updated Fixed Assets Register

Annex 4 to the financial statements on summary of fixed assets reflects a balance of Kshs.25,519,256 as total value of assets. However, the assets register of the Fund was not updated to reflect details relating to: date of purchase, supplier, cost, location, serial number, unique identification number, accumulated depreciation and net book value.

In the circumstances, the accuracy and completeness of Kshs.25,519,256 for the total assets balance could not be confirmed.

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standard requires 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 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 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 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 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

13 June, 2023