

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - EMBAKASI NORTH 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 - Embakasi North Constituency set out on pages 1 to 41, which comprise the statement of assets and liabilities as at 30 June, 2022, and the statement of receipts and payments, statement of cash flows and summary statement of appropriation for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material

respects, the financial position of the National Government Constituencies Development Fund - Embakasi North 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

1.0. Presentation and Disclosure of the Financial Statements

Review of the annual report and financial statements revealed that the Chairlady's report does not include details of key achievement for the Fund, list of emerging issue related to the Fund and implementation challenges and a recommendation of the way forward as per the reporting format issued by the Public Sector Accounting Standards Board. In addition, Note 4 to the financial statements on compensation of employees does not disclose information on house and transport allowances as required in the reporting format. These omissions are contrary to Section 81(3) of the Public Finance Management Act, 2012, which requires accounting officer of a National Government entity to prepare financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time.

Further, Note 17.2 reflects pending staff payables amount of Kshs.347,200, which was owed to one (1) staff member as gratuity. However, audit review revealed that there were additional four (4) staff members owed amounts totalling to Kshs.1,306,030 in gratuity.

In the circumstances, Management was in breach of the law. Also, the accuracy and completeness of the pending staff payables amount of Kshs.347,200 could not be confirmed.

2.0. Inaccuracies in the Financial Statements

The statement of receipts and payments reflects compensation of employees amount of Kshs.3,572,830, while analysis of the payment vouchers revealed a total amount of Kshs.3,230,460, resulting in an unexplained variance of Kshs.342,370.

Similarly, the statement of receipts and payments reflects other grants and transfers amount of Kshs.62,911,548 which, as disclosed in Note 7 to the financial statements, includes expenditure on sports projects of Kshs.3,486,548. However, analysis of payment vouchers relating to sports projects revealed total amount of Kshs.3,700,000, resulting to an unexplained variance of Kshs.213,452.

In the circumstances, the accuracy of the Fund's financial statements could not be confirmed.

3.0. Irregular Allowances

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.11,940,687 which, as disclosed in Note 5 to the financial statements, includes committee allowance amount of Kshs.1,631,952 out of which, allowances totalling to Kshs.1,328,000 were paid to Committee members, bursary clerks and training officers.

However, the relevant payment documents in support of the allowances were not provided for audit.

In the circumstances, the accuracy, completeness and validity of the expenditure of Kshs.1,328,000 could not be confirmed.

4.0. Other Grants and Transfers

The statement of receipts and payments reflects other grants and transfers balance of Kshs.62,911,548 as disclosed in Note 7 to the financial statements. However, audit of this expenditure revealed the following unsatisfactory matters:

4.1. Anomalies in the Bursary Disbursements

The balance of Kshs.62,911,548 includes an amount of Kshs.46,465,000 transferred to secondary schools and Kshs.12,960,000 transferred to tertiary institutions as bursaries for needy students, totalling to Kshs.59,425,000. However, examination of payment vouchers provided for audit revealed bursary awards amounting to Kshs.58,820,000, resulting in an unexplained variance of Kshs.605,000.

Further, included in the amount of Kshs.46,465,000 disbursed to secondary schools is a payment of Kshs.34,000,000 whose supporting schedule of the schools and beneficiaries were not provided for audit.

In addition, review of records provided for audit revealed that none of the bursary beneficiaries could be traced to an application form submitted for funding.

Finally, the bursaries amount of Kshs.59,425,000 represents 53% of the total transfers from the NG-CDF Board, which is 18% above the allowable limit of 35%. The anomaly was not explained.

In the circumstances, the accuracy, completeness and authenticity of the bursary disbursements of Kshs.59,425,000 could not be confirmed.

4.2. Irregular Expenditure on Sports

The balance of Kshs.62,911,548 includes an amount of Kshs.3,486,548 in respect of sports projects. However, Management transferred the amount to an undisclosed Project Management Committee (PMC) account. Further, it was observed that the Constituency Development Fund Committee (CDFC) converted itself into a PMC as evidenced by the minutes of the meeting held on 27 July, 2020, contrary to the provisions of Regulation 15(6) of the National Government Constituencies Development Fund Regulation, 2016. In addition, there was no evidence of appointment of the members to the PMC, and minutes indicating signatories of the bank accounts were not presented for audit.

Also, the payment voucher through which the funds were transferred was not supported by the supplier details, inspection and acceptance certificate, counter receipt voucher (S13), delivery notes or the invoices and the distribution schedules for the uniforms, balls and the games kits. The project file was also not provided for audit.

In the circumstances, the accuracy, completeness and validity of the sports projects expenditure of Kshs.3,486,548 could not be confirmed. Also, Management was in breach of the law.

5.0. Stale Cheques

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.103,563,772 as at 30 June, 2022. Examination of the bank reconciliation statement in support of the balance revealed unpresented cheques totalling to Kshs.17,494,555 which includes stale cheques amounting to Kshs.723,000. However, Management did not provide evidence and details of when the unpresented cheques were cleared and reason for failure to reverse the stale cheques in the cash book.

In the circumstances, the accuracy of the cash and cash equivalents balance of Kshs.103,563,772 could not be confirmed.

6.0. Failure to Provide Project Files

The statement of receipts and payments reflects transfers to other Government entities balance of Kshs.24,290,300. However, field verification carried out in March, 2023 revealed that the cost of construction of the wall of Ushirika Secondary School project was Kshs.1,44,000. Further, the Dandora 1 Primary School project relating to the construction of two classrooms had stalled and the reason for the stalling was not provided. In addition, the project files for the two projects were not provided for audit.

In the circumstances, it was not possible to confirm that there was proper use of funds on the stalled project. In addition, Management was in breach of the law.

7.0. Undisclosed Project Management Committee Bank Account Balance

Annex 5 to the financial statements reflects Project Management Committees bank balances totaling to Kshs.41,673,181. However, a balance of Kshs.5,000,000 belonging to PMC of Kariobangi North Girls Secondary School was not included in Annex 5 and the certificate of account balance as at 30 June, 2022 was not provided for audit.

In the circumstance, the accuracy of the Project Management Committee bank balances of Kshs.41,673,181 could not be confirmed.

8.0. Unsupported transfer to other Government Entities

The statement of receipts and payments reflects transfers to other Government units balance of Kshs.24,290,300. Review of records relating to the balance revealed that the funds were disbursed to Project Management Committee on the respective dates, as analysed below:

PMC	Date issued	Amount
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		Kshs.
Dandora Secondary School	28.10.2021	8,000,000
James Gichuru Secondary School	28.10.2021	8,500,000
Tom Mboya Primary School	8.09.2021	1,290,000
Ushirika primary school	8.09.2021	1,500,000
Kariobangi North Girls Secondary	11.02.2022	5,000,000
Total		24,290,000

However, with the exception of Tom Mboya Primary School, where funds were used for completion of a wall, no projects had been implemented in the other schools by the end of the year and no explanation was provided for channeling the funds to the Project Management Committees of those other schools. Further, field verification carried out in March, 2023 in Ushirika Primary School and Kariobangi North Girls Secondary Schools confirmed that no projects were implemented despite funds having been sent to the schools. In addition, minutes from PMCs of these projects were not provided for audit.

In the circumstances, the accuracy and completeness of transfers to other Government units amount of Kshs.24,290,300 and the existence of the projects funded could not be confirmed.

9.0. Unsupported Expenditure on Public Participation

Review of the records provided for audit revealed that payments totalling to Kshs.415,000 were made to residents who attended public participation events in various wards of the Constituency. However, audit review of the documents revealed that all the names listed as residents belonged to underage bursary applicants, and the telephone contacts listed were their parents'/guardians'. Further, there were no invitations, agenda or reports of the outcome of the events or any other evidence that the events actually took place as alleged.

In the circumstances, the accuracy, completeness and propriety of the public participation expenditure of Kshs.415,000 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 - Embakasi North 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

1.0. Budgetary Control and Performance

The summary statement of appropriation reflects final expenditure budget and actual on comparable basis amounts of Kshs.302,868,015 and Kshs.102,715,365 respectively, resulting in an under expenditure of Kshs.200,152,650 (or 66% of the budget).

The under expenditure affected planned activities and may have had negative impact on service delivery to the residents of Embakasi North Constituency.

2.0. Un-Utilized Funds

Annex 3 to the financial statements reflects unutilized funds amount of Kshs.200,152,650. No explanation was provided on the increase of unutilized funds and the recurring situation over the years.

In the circumstances, it was not possible to ascertain whether the Fund's budget was realistic and whether the Fund has the capacity to implement the overlapping projects.

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

1.0. Unimplemented Project

The National Government Constituencies Development Fund Board approved fifteen (15) projects with a total budget of Kshs.23,741,778, through an approved code list for the year under review. However, physical verifications revealed that no project was undertaken in the year under review. No explanation was provided for failure to implement the projects and where the unutilized funds were.

Failure to implement approved projects had a negative impact on delivery of services to the people of Embakasi North Constituency.

2.0. Unutilized Social Security Project Allocation

Review of the approved projects for implementation for the year under review revealed that the Board approved social security project valued at Kshs.5,010,000 in respect of payment of NHIF for the elderly and vulnerable citizens within the Constituency. However, as at 30 June, 2022, the Management had not commenced implementation of the project.

In the absence of timely implementation of the project, the elderly and vulnerable people in the Constituency may not receive the critical social security benefits.

3.0. Irregular Alteration of the Tender Amount

The statement of receipts and payments for the year under review indicates that the Fund did not spend any amounts towards implementation of security projects, although an amount of Kshs.18,023,259 was allocated for the project. However, evidence- provided that there was an undertaking to construct Assistant County Commissioner's (ACC) office in Dandora Phase 3. The project, which was initiated in the 2019/2020 financial year and contracted at a cost of Kshs.9,746,270, was not complete by the time of the audit. By 21 February, 2022, the contractor had been paid a total of Kshs.8,289,885 with only Kshs.486,528 unpaid yet the building was only 50% complete. Further, the project was not included in the code list for the 2021/2022 financial year. In addition, audit inspection revealed that the project was abandoned with incomplete building structure, and there was no contractor on site.

In addition, review of records provided revealed that the proposed construction of a1-storey administration block to host ACC's office, Chief's Office, OCS and Deputy's Office, boardroom with other 5 Line Ministry Department Offices at Dandora Phase 3 had a contract quoted amount of Kshs.9,746,270. However, this varied with the amount awarded of Kshs.9,751,570, reflected in the minutes of the meeting in which the decision of the award was made, Further, the latest amendment of the contract price to Kshs.11,311,821 was done on 1 March, 2023, through a letter from the Fund Account Manager to the contractor. However, the complete project file containing bid documents and the contract was not provided for audit.

In the circumstances, the contract award may have been irregular, and the Fund may have lost funds.

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 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 control as Management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal 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 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 control in order to give an assurance on the effectiveness of internal controls, risk management and overall governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal control 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 control 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 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