

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - EMBAKASI SOUTH 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 South Constituency set out on pages 1 to 40, 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

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respects, the financial position of the National Government Constituencies Development Fund - Embakasi South 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. Misstatement of Emergency Projects

The statement of receipts and payments and Note 7 to the financial statements reflect other grants and transfers amount of Kshs.89,644,672. Included in this expenditure is an amount of Kshs.6,035,859 on emergency projects, which in turn wrongly includes rent totalling to Kshs.862,500. In addition, there was a double payment of rent amounting to Kshs.172,500, whereby the related cheque was posted twice and therefore overstating the expenditure.

In the circumstances, the accuracy and completeness of the emergency projects balance of Kshs.6,035,859 could not be confirmed.

2. Unsupported Expenditures

2.1 Use of Goods and Services

The statement of receipts and payments reflects an expenditure of Kshs.7,082,703 for use of goods and services as disclosed under Note 5 to the financial statements. However, the payment vouchers submitted accounted for an amount of Kshs.6,355,211, resulting to unsupported payments of Kshs.727,492.

Further, examination of the cash book and the ledger revealed two payments amounting to Kshs.713,000 were recorded in the cash book but not captured in the ledger, resulting to understatement of the use of goods and services expenditure by a similar amount.

2.2 Transfers to Other Government Units

Note 6 to the financial statements reflects transfers to primary schools of Kshs.32,023,982 while the budget execution by sectors and projects for the year indicate total transfers of Kshs.35,593,982. Similarly, Note 6 to the financial statements reflect total transfers to secondary schools of Kshs.80,616,219 while the budget execution by sectors and projects reflect transfer total of Kshs.77,034,173. The resultant variances were not explained or reconciled.

In addition, analysis provided revealed that out of Kshs.32,023,982 transferred to primary schools, Kshs.6,995,000 was paid to a contractor while out of total amount of Kshs.80,616,219 transferred to secondary schools, Kshs.7,838,708 was paid to two (2) contractors. However, the details of the respective supplies were not provided for audit.

2.3 Other Grants and Transfers

The statement of receipts and payments and Note 7 to the financial statements reflect other grants and other transfers total amount of Kshs.89,644,672. Included in this amount

are bursaries to secondary and tertiary schools of Kshs.40,739,381 and Kshs.15,642,500 respectively. The total amount of Kshs.56,381,881 represents 38% of the total transfers from NG-CDF Board, which is 3% above the allowable limit of 35%. This was contrary to Section 48 of the National Government Constituencies Development Fund Act, 2015 which provide that the funding of social security programmes, education bursary schemes, shall be considered as development projects for the purposes of the Act, provided that such projects shall not be allocated more than thirty-five per centum of the total funds allocated for the Constituency in any financial year.

The analysis provided in support of the Kshs.15,642,500 for the bursary-tertiary institutions totalled to Kshs.14,970,000 resulting to a variance of Kshs.672,500, being a payment made on 18 May, 2022 that was not supported or explained.

In the circumstances, the accuracy and completeness of the financial statements balances on use of goods and services, transfers to primary and secondary schools and, other grants and other transfers of Kshs.727,492, Kshs.112,640,201 and Kshs.56,381,881 respectively could not be confirmed.

3. Cash and Cash Equivalents

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.15,847,490 as disclosed in Note 10A to the financial statements. The bank reconciliation statements in support of the cash and cash equivalents balance reflects a bank balance of Kshs.69,244,817 which was not supported with a board of survey report as at 30 June, 2022. Further, the June, 2022 reconciliation statement revealed payments in cash book not recorded in bank statement (unpresented cheques) totalling to Kshs.21,308,448 which date back to 19 January, 2021. Management did not provide evidence and details on when the cheques were cleared and the status of the stale cheques.

In addition, the cash book postings were done in pencil thereby making them temporary in nature and susceptible to unauthorized alterations. Further, there were numerous over-writings and cancelations that were not signed by the officer making the corrections or examining the cash book as required.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.15,847,490 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 South 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. Budgetary Control and Performance

The summary statement of appropriation reflects a final receipts budget and actual on comparable basis of Kshs.284,930,345 and Kshs.230,629,663 respectively, resulting to an underfunding of Kshs.54,300,682 (or 24%) of the budget. Similarly, the Fund expended Kshs.214,762,566 against an approved budget of Kshs.284,928,345 resulting to budget under absorption of Kshs.70,165,779 (or 33%) of the budget.

The underfunding and under absorption of budget may have negatively impacted service delivery to the people of Embakasi South Constituency.

2. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management did not resolve the issues or explain reasons for the delay in resolving the prior year audit issues.

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. Irregular Branding of Projects

Inspection of projects implemented by the Fund on 22 March, 2023 revealed instances of noncompliance with the law in branding of projects at Imara Daima ACC Office and Reuben Primary School by branding them with the name of the area Member of Parliament. This was contrary to Section 25(3) of the National Government Constituencies Development Fund Act, 2015 providing that the funds provided under this Act shall not be used for the purpose of supporting political bodies or political activities or for supporting religious bodies or religious activities.

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

2. Non-Compliance in Management of Emergency Reserves

The statement of receipts and payments reflects other grants and transfers amounting to Kshs.89,644,672 which includes emergency expenditure amounting to Kshs.6,035,859, as disclosed in Note 7 to the financial statements. However, no documentary evidence was provided indicating that the Fund reported the emergency expenditures to the Board

using the prescribed format and within the stipulated period of 30 days as required of Regulation 20(2) of the National Government Constituencies Development Fund Regulations, 2016.

Further, the Fund spent Kshs.4,497,840 on grading, levelling and compaction of a school play field. However, the request for funding from the school and the project details as evidence of the nature of the emergency were not provided and no minutes were provided as evidence that the project related to urgent and unforeseen need for expenditure that could not be delayed as per Section 8(3) of the National Government Constituencies Development Fund Act, 2015.

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

3. Bursary Disbursement

The statement of receipts and payments and Note 7 to the financial statements reflect total expenditure of Kshs.89,644,672 relating to other grants and other payments. Included in this expenditure is an amount of Kshs.56,381,881 on bursaries to secondary schools and tertiary institutions. However, review of bursary records provided revealed that some students did not have their admission or registration numbers indicated in the schedules. Also, the evidence of applications vetting by the Education Bursary Committee, receipts acknowledgement by the beneficiary schools and institutions and cheque dispatch register to confirm the dispatching of cheques were not provided.

In the circumstances, the regularity of the bursaries of Kshs.56,381,881 could not be confirmed.

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 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 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 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 Management.
- Conclude on the appropriateness of 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 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 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

18 July, 2023