

# REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - EMURUA DIKIRR CONSTITUENCY FOR THE YEAR ENDED 30 JUNE, 2022

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## 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

### **Adverse Opinion**

I have audited the accompanying financial statements of National Government Constituencies Development Fund - Emurua Dikirr Constituency set out on pages 1 to 48, which comprise the statement of financial 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 the 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 the National Government Constituencies Development Fund – Emurua Dikirr 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. Inaccuracies in Financial Statements**

Review of the financial statements presented for audit revealed the following inaccuracies;

- 1.1 The statement of receipts and payments reflects compensation of employees amount of Kshs.2,774,320 while the supporting documents including payment vouchers revealed Kshs.2,126,300 resulting to an unexplained and unreconciled variance of Kshs.648,020;
- 1.2 The statement of receipts and payments reflects comparative total receipts of Kshs.141,567,724 while casting revealed Kshs.153,567,724 resulting to an unexplained and unreconciled variance of Kshs.12,000,000;
- 1.3 The statement of receipts and payments reflects comparative other grants and transfers expenditure of Kshs.40,037,670 while the audited 2020/2021 financial statements reflect Kshs.44,704,697 resulting to an unexplained and unreconciled variance of Kshs.4,667,027.
- 1.4 The statement of financial position reflects comparative cash and cash equivalents balance of Kshs.18,154,358 while the audited 2020/2021 financial statements reflect Kshs.24,347,590 resulting to an unexplained and unreconciled variance of Kshs.6,193,232;
- 1.5 Annex 4 - summary of fixed assets register reflects opening balance of Kshs.8,311,266 instead of Kshs.6,724,766 resulting to an unexplained and unreconciled variance of Kshs.1,586,500 and omits closing balances.
- 1.6 Headers in pages 2 to 20 and pages 22 to 48 are missing.

In the circumstances, the validity, accuracy and completeness of the above balances included in the financial statements could not be confirmed.

### **2. Unsupported Committee Expenses**

The statement of receipts and payments reflects use of goods and services of Kshs.6,319,296 out of which Kshs.4,257,696 relates Committee expenses and allowances. However, the amount was not supported with details of payees, nature of services or goods provided, meetings attended and rates for used for payments.

In the circumstances, the validity, accuracy and fair statement of use of goods and services of Kshs.4,257,696 for the year ended 30 June, 2022 could not be confirmed.

### **3. Unsupported Training Expenses**

Note 5 reflects use of goods and services expenses of Kshs.6,319,296 out of which Kshs.1,034,800 was incurred on training expenses. However, the expenditure was not supported with proof of travels, attendance registers and training programmes. In addition, there was no evidence of training needs assessment having been done and selection criteria used to identify the trained staff.

In the circumstances, the accuracy and completeness of training expenses of Kshs.1,034,800 could not be confirmed.

### **4. Unsupported Project Management Committee Bank Accounts Balances**

Note 17.4 to the financial statements reflects Project Management Committee (PMC) account balances of Kshs.12,455 as detailed in Annex 5. However, there was no evidence of submitting PMC cash books, bank statements, bank reconciliations statements and quarterly report to the Constituency Committee. In addition, the movement of prior year PMC account balances of Kshs.2,663,603 was not supported.

In the circumstances, the accuracy and completeness of the Project Management Committee accounts bank balance of Kshs.12,455 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 - Emurua Dikirr 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 on in the year under review.

### **Other Matter**

### **Budgetary Control and Performance**

The summary statement of appropriation reflects a final receipts budget of Kshs.227,232,116 against an actual on comparable basis of Kshs.158,335,119 resulting to a shortfall of Kshs.68,896,997 or 30% of the budgeted. Similarly, the Fund spent Kshs.171,620,949 against an approved expenditure budget of Kshs.227,232,116 resulting to an overall under-expenditure of Kshs.55,611,167 or 25% of the budgeted amount.

The shortfall and under expenditure imply that some of the planned projects and programmes were not implemented and may have negatively impacted 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, because of the significance of the matters discussed in the Basis for Adverse Opinion and Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources sections of my report, based on the audit procedures performed, I confirm that public resources have not been applied lawfully and in an effective way.

## **Basis for Conclusion**

### **1. Irregular Road Projects**

Note 7 to the financial statement reflects other grants and transfers amount of Kshs.106,446,298 which includes transfers to roads projects of Kshs.43,626,871. However, details on the roads in terms of kilometers, their width, cost, classification and certificate of completion were not provided for audit. In addition, no bid opening minutes, evaluation matrix as well as acceptance letters from winning bidders and Inspection and Acceptance Committee reports were not provided for audit. Further, the function does not meet the criteria set for projects to be funded by Constituency Development Fund. This was contrary to Section 24 of the National Government Constituencies Development Fund Act, No.30 of 2015 which states that a project under this Act shall (a) only be in respect of works and services falling within the functions of the national government under the Constitution; and (b) be community based in order to ensure that the benefits are available to a widespread cross-section of the inhabitants of a particular area.

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

### **2. Failure to Report Emergency Expenditure**

Note 7 to the financial statement reflects other grants and transfers amount of Kshs.106,446,298 which includes emergency projects expenditure of Kshs.8,233,428 that was not reported to the Board. This was contrary to Regulation 20(2) of the National Government Constituencies Development Regulations, 2016 which states that the utilization of the emergency reserve shall be reported to the Board within thirty days of the occurrence of the emergency, in the format prescribed by the Board.

In addition, the expenditure was not supported with project records that included procurement records and expenditure returns.

In the circumstance, Management was in breach of the law

### **3. Project Management Committees Records and Reports**

Note 6 of the financial statement reflects transfers to other Government units of Kshs.55,401,034 in respect of primary schools, secondary schools and tertiary institutions. However, the Inspection and Acceptance Committee reports and interim/completion certificates and evidence that the projects were implemented in consultation with relevant Government departments was not provided for audit. In

addition, there was no evidence of opening of each project's bank account since Note 17.4 reflects only reflected two (2) primary and four (4) secondary schools bank accounts. In addition, there is no evidence of transfer of funds earmarked for Kenya Medical Training College campus

In the circumstances, value for money on transfers to other Government units of Kshs.55,401,034 could not be confirmed.

#### **4. Unsatisfactorily Implemented Projects**

During the year under review, fourteen (14) projects with a total allocation of Kshs.18,300,000 were verified in the month of March, 2022 and were found to have been implemented in an unsatisfactory manner when evaluated against the bill of quantities and contracts for the projects.

In the circumstances, value for money may not have been realised on the expenditure of Kshs 18,300,000.

#### **5. Non-Closure of Project Management Committee Bank Accounts**

Note 17.4 as well as Annex 5 to the financial statements reflects Project Management Committee bank balances totalling Kshs.12,455 for six (6) projects that had not been closed. Further, records provided for audit, indicated that twenty-nine (29) Project Management Committee bank accounts with a balance of Kshs.11,701,194.30 were active but the balances were not refunded to the main CDF Bank Account. This is contrary to Section 12(8) of the National Government Constituencies Development Fund Act, 2015 which states that, all unutilized funds of the Project Management Committee shall be returned to the constituency account.

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, because of the significance of the matters discussed in the Basis for Adverse Opinion and Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance sections of my report, based on the audit procedures performed, I confirm that internal controls, risk management and governance were not effective.

## **Basis for Conclusion**

### **1. Unapproved Staffing**

Review of personnel records revealed that the Fund had seventeen (17) staff members as at 30 June, 2022 some of whom had duplicating roles. In addition, there was no evidence of approval to have these members above the recommended four (4) staff members.

In the circumstances, the effectiveness of the human resource management controls could not be confirmed.

### **2. Lack of Risk Management Policy and Disaster Recovery Plan**

The Fund did not have Risk Management Policy and risk register and therefore, has no approved processes and guidelines on how to mitigate operational, legal and financial risks. Further, the Fund does not have a disaster recovery plan in place. Failure to have a disaster recovery plan implies that the Fund may be unable to continue operating smoothly in the event a disaster occurs.

In the circumstances, the effectiveness of risk management in place could not be confirmed.

### **3. Weak Controls in Cash Management**

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.4,868,528. However, examination of bank reconciliation statements revealed that bank reconciliations for the Months of December, 2021 to July, 2022 were not reviewed indicating that the reconciliations had not been done in a timely manner. Further, it was not possible to confirm the canceled and replaced cheques as they were not supported by relevant documentation indicating the audit trail and approvals.

In the circumstances, the effectiveness of the cash management internal controls 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 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 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 comply 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 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 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 applicable basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Fund's ability to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the Fund to cease to 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**