

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

Adverse Opinion

I have audited the accompanying financial statements of the National Government Constituencies Development Fund - Kaiti Constituency set out on pages 1 to 44, 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 the significance of the matters described in the Basis for Adverse Opinion section of my report, the financial statements do not present fairly, in all material respects, the financial position of the National Government Constituencies Development Fund - Kaiti Constituency as at 30 June, 2022, and of its financial performance and its cash flows for the year then ended, in accordance with the 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 the Retention Balance

The statement of assets and liabilities and as disclosed in Note 12A to the financial statements reflects Nil retention balance. However, review of records reflects retention balance of Kshs.1,621,969 in respect of consultancy services resulting to an unexplained variance of Kshs.1,621,969.

In the circumstances, the accuracy and completeness of the Nil retention balance could not be confirmed.

2. Inaccuracies in the Compensation of Employees Expenditure

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects compensation of employees amounting to Kshs.4,553,567. However, monthly payrolls reflected employees total cost of Kshs.4,800,380, resulting to an unexplained variance of Kshs.246,813.

In the circumstances, the accuracy and completeness of compensation of employees amounting to Kshs.4,553,567 could not be confirmed.

3. Doubtful Purchase and Delivery of Desktop Computers and Laptops

3.1 Supply of Four Desktop Computers and Three Laptops

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects use of goods and services amount of Kshs.8,156,670. Included in the expenditure is an amount of Kshs.3,044,250 in respect of utilities, supplies and services. During the year under review, a Company was paid an amount of Kshs.545,000 for supply of four (4) desktop computers and three (3) laptops. However, the items procured were not included in the annual procurement plan, contrary to Section 45 (3)(a) of the of the Public Procurement and Asset Disposal Act, 2015. Although inspection and acceptance committee report showed that the assets were received and were of good quality, physical verification of the items revealed that they were not in store and could not be traced in any of the offices. Further, the items had not been recognized as additions in the asset register.

3.2 Purchase of Four Desktop Computers, Two Laptops and Four Uninterrupted Power Supply

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects other grants and transfers amount of Kshs.65,495,654 which includes an amount of Kshs.7,449,650 in respect of Emergency projects. Out of this amount, Kshs.660,000 was reallocated for purchase of four (4) desktop computers, two (2) laptops and four (4) uninterrupted power supply (UPS) without the Board approval contrary to Regulation 25 (2) of the National Government Constituencies Fund Regulations, 2016 which states that a Constituency Committee shall not incur expenditure unless such expenditure is supported by an approved work plan, a procurement plan and a budget. Further, a firm was awarded and paid an amount of Kshs.660,000 for supply of four (4) desktop computers, two (2) laptops and four (4) uninterrupted power supply (UPS). Physical verification of the items revealed that they were not in store and could not be traced in any of the offices. Further, the items had not been recognized as additions in the asset register.

In the circumstances, the regularity, accuracy, existence, completeness and ownership of the assets could not be confirmed.

4. Misallocation of Expenditure

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects an amount of Kshs.8,156,670 in respect of use of goods and services which includes Kshs.3,044,250 and Kshs.770,300 under utilities, supplies and services and training expenses respectively. However, an amount of Kshs.1,999,250 and Kshs.672,000 for purchase of three thousand six hundred and thirty-five (3,635) branded reflector jackets and committee allowances respectively were wrongly charged to utilities, supplies and services and training expenses respectively.

In the circumstances, the accuracy and completeness of the use of goods and services amounting to Kshs.3,814,550 could not be confirmed.

5. Irregular Payment of Allowances

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects other grants and transfers amount of Kshs.65,495,654. Included in the amount is Kshs.12,966,000 being payment for social security programmes (NHIF). However, examination of the payment vouchers provided for audit review revealed that out of the amount, Kshs.12,928,000 was irregularly paid to the National Government Constituency Development Fund Committee Chairman and Fund Manager as imprests for paying doubtful allowances for bursary verification within the wards, capacity building of Project Management Committees (PMCs) and allowances for distribution of cheques within the wards and did not relate to social security programmes.

Further, seven (7) security projects with a budget of Kshs.5,000,000 were irregularly reallocated and issued as imprests to the National Government Constituency Development Fund Committee Chairman and Fund Manager as per the support schedules provided for audit review amounting to Kshs.5,230,000. No explanation was provided for the anomaly.

In the circumstances, the regularity, accuracy and completeness of the other grants and transfers amounting to Kshs.18,158,000 could not be confirmed.

6. Irregular Payment of Imprests

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects an amount of Kshs.123,056,949 in respect of transfer to other Government units. However, analysis of the bank statements for the main account revealed that payments amounting to Kshs.81,341,700 were made out of the main account to three (3) officers namely; Fund Manager, National Government Constituency Development Fund Committee Chairman and District Treasury Cashier amounting to Kshs.34,844,700, Kshs.31,736,000 and Kshs.14,761,000, respectively resulting to 66% of the funds irregularly spent. Further, it was not clear why these payments were made to the individuals, and the basis for payment of District Treasury Cashier considering he was not a signatory to the main account.

In the circumstances, the regularity, accuracy and completeness of imprest issued during the year amounting to Kshs.81,341,700 could not be confirmed.

7. Irregular Issuance of Bursaries

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects other grants and transfers amount of Kshs.65,495,654. Included in the transfers is an amount of Kshs.23,998,450 and Kshs.10,339,990 in respect of bursary to secondary and tertiary institutions, respectively. However, verification of payment vouchers relating to bursary issuance reflects an amount of Kshs.43,526,050 disbursed to secondary and tertiary institutions resulting to an unexplained variance of Kshs.9,187,610. Further, the approved budget amounted to Kshs.34,272,220, resulting to unapproved over expenditure of Kshs.9,253,830.

In addition, a driving school received bursaries amounting to Kshs.8,922,400. However, supporting schedules reflects an amount of Kshs.5,100,000 resulting to an unexplained variance of Kshs.3,822,400. Further, it was not clear how the beneficiaries were selected since there was no criteria for selecting beneficiaries in the minutes of National Government Constituency Development Fund Committee (NGCDFC) attached on the payment voucher, there was no acknowledgement of receipt of the amount from the institution, and no evidence that the beneficiaries attended the driving lessons. In addition, allowances amounting to Kshs.8,240,000 were irregularly paid for distribution of bursary cheques and bursary verification and were not supported by reports.

In the circumstances, the accuracy, completeness and regularity of other grants and transfers amounting to Kshs.34,338,440 could not be confirmed. Further, the amount of Kshs.8,922,400 paid to the driving school could not be confirmed as a proper charge to public funds.

8. Inaccuracies in the Cash and Cash Equivalents Balance

The statement of assets and liabilities and as disclosed in Note 10 to the financial statements reflects cash and cash equivalents balance of Kshs.4,201,672. However, the bank reconciliation statement for the month of June, 2022 includes unrepresented cheques

amounting to Kshs.10,599,472 out of which cheques worth Kshs.1,250,439 had become stale and had not been written back in the cashbook. Most of the cheques were for bursary payments, and this may imply that needy students who were intended to benefit from the payments did not receive them.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.4,201,672 could not be confirmed.

9. Inaccuracies in the Summary of Fixed Assets

Annex 4 to the financial statements on summary of fixed assets reflects total assets balance of Kshs.28,716,020. However, the fixed assets register reflects a balance of Kshs.23,590,489 resulting to an unexplained variance of Kshs.5,125,531. Further, additions of new computers amounting to Kshs.545,000 had not been updated both in the fixed asset register and in the summary of fixed assets.

In the circumstances, the existence, accuracy and completeness the total assets balance of Kshs.28,716,020 could not be confirmed.

10. Unconfirmed and Unaccounted for PMC Account Balances

Review of the budget execution by sectors and projects reflects a budget of Kshs.205,464,512 out of which an amount of Kshs.134,082,063 was budgeted for ninety-nine (99) projects. However, Project Management Committees (PMCs) account balances for the ninety-eight (98) projects could not be confirmed as the PMC bank statements and the certificates of bank balances were not provided for verification.

In the circumstances, the accuracy, existence and accuracy of PMC account balances for ninety-nine (99) projects with a budget amount of Kshs.134,082,063 was could not be confirmed.

The audit was conducted in accordance with the International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the National Government Constituencies Development Fund - Kaiti 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

Unresolved Prior Year's Matters

In the audit report of the previous year, several matters were raised. However, Management has not resolved and disclosed the status of all the prior year matters as prescribed in the reporting requirements set by the Public Sector Accounting Standards Board. Management had not provided satisfactory explanation for the delay in resolving the issues.

In the circumstances, the issues remain unresolved.

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

Basis for Conclusion

1. Failure to Report Emergency Projects to the Board

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects other grants and transfers amounting to Kshs.65,495,654 which includes Kshs.7,449,650 for emergency projects. However, no evidence was provided to show that the Fund's Management had reported the execution of emergency projects to the Board within thirty (30) days of the occurrence of the emergency. This is contrary to Regulation 20(2) of the National Government Constituencies Development Fund Regulations, 2016 which provides that the utilization of the emergency reserve shall be reported to the Board within thirty (30) days of the occurrence of the emergency, in the format prescribed by the Board.

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

2. Non-Implementation of Budgeted for Projects

2.1. Transfers to Primary and Secondary Schools

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects transfers to primary schools' amount of Kshs.43,825,577 which includes twenty-three (23) Primary Schools projects with a budget of Kshs.18,398,677. However, analysis of cashbook revealed that funds for only six (6) primary schools' projects amounting to Kshs.8,198,677 were transferred to PMC projects accounts for projects implementation.

Further, Note 6 to the financial statements reflects transfers to secondary schools amounting to Kshs.27,500,000 which includes twelve (12) secondary schools' projects budget amount of Kshs.16,000,000. However, review of cashbook revealed that only an

amount of Kshs.1,800,000 in support of two (2) secondary schools' projects were transferred to PMC accounts for the projects' implementation.

2.2. Transfers to Tertiary Institutions

The approved project code list for tertiary institutions had a project for Kilala Education Office whose activities included renovation of 2-roomed office, re-roofing, flooring, installation of doors and windows and painting. However, the audit revealed that this project was not implemented during the year under review.

Further, the project for construction of Kenya Medical Training College, Kilungu Campus was approved. Activities to be carried out included construction of eight (8) classrooms amounting to Kshs.9,600,000 and 5-roomed administration block at Kshs.15,400,000 to completion. The tender evaluation report indicated that available budget was Kshs.65,000,000. However, the approved budget was an amount of Kshs.25,000,000. The Management awarded the tender at a contract price of Kshs.61,375,136 far beyond the project approved budget amount of Kshs.25,000,000. Further, the contract documents were not provided for audit.

In addition, the Management had engaged the services of a consultant at the rate of 5% of total contract price without a budget. This resulted to partial payment of Kshs.1,500,000 of the consultancy invoice amount of Kshs.2,491,830. The Management has not explained the source of the unbudgeted for funds. This is contrary to Regulation 25 (2) of the National Government Constituencies Development Regulations, 2016 which states that a Constituency Committee shall not incur expenditure unless such expenditure is supported by an approved work plan, a procurement plan and a budget.

Further, physical verification of the project during the month of March, 2023 revealed that the scope had changed, and six blocks had been constructed with complete foundation and outer walls were at windows level. The project had been abandoned and the contractor had left the site.

In the circumstances, the value for money invested in the projects could not be confirmed. Further, the Management was in breach of the law.

3. Failure to Submit Bank Reconciliation Statements to The National Treasury

Review of the bank reconciliation statements for the financial year under review revealed that bank reconciliations were not submitted to The National Treasury and a copy to the Auditor -General as required under Regulation 90(1) of Public Finance Management (National Government) Regulations, 2015.

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

4. Lack of Procurement Plan

During the year under review the Management did not have a procurement plan to support the projects that were undertaken, the ongoing and the completed ones. This is contrary to Regulation 40(1) of the Public Procurement and Asset Disposal Regulations, 2020 which states that a procuring entity shall prepare a procurement plan for each financial year as part of the annual budget preparation process.

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

5. Lack of Bursary Sub Committee

Review of bursary administration records revealed that there was no bursary sub-committee for effective and efficient administration of education bursary schemes, mock examination and continuous assessment tests. Further, the officer in charge of education in the Sub County was not involved in bursary issues. This is contrary to Constituencies Development Fund Board Circular reference VOL1/111 dated 13 September, 2010 which requires that Constituency Development Fund Committee bursary subcommittee be constituted and to co-opt two members, one who must be the area education officer or representative of the Ministry of Education.

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 described in the Basis for Adverse Opinion and Basis for Conclusion Lawfulness and Effectiveness in Use of Public Resources sections of my report, I confirm that, internal controls, risk management and overall 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 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 applicable basis of accounting unless Management is aware of 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 manner.

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 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 controls 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 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 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 controls that are identified during the audit.

I also provide Management with a statement that I have complied with relevant ethical requirements regarding independence and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence and where applicable, related safeguards.



CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

05 July, 2023