

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - KIAMBU 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 - Kiambu Constituency set out on pages 1 to 41, which comprise of the statement of assets and liabilities as at 30 June, 2022, and the statement of receipts and payments, statement of cash flows and the 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 - Kiambu 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. Unsupported Cash and Cash Equivalents Balance

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.3,484,678 as disclosed in Note 10A to the financial statements. However, Management did not provide the board of survey report and a certificate of bank balance.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.3,484,678 could not be confirmed.

2. Inaccuracies in Use of Goods and Services

The statement of receipts and payments and Note 5 to the financial statements reflects use of goods and services totalling Kshs.12,717,483 which does not include payment for supply of laptops at a value of Kshs.300,000 leading to understatement of payments in the statement of receipts and payments

In the circumstances, the accuracy of the use of goods and services amount of Kshs.12,717,483 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 – Kiambu 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 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.

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 Procurement of Goods

Review of payment records revealed that a payment of Kshs.1,350,000 was made to a local firm for the procurement of several items. However, several anomalies were noted in the procurement as indicated below:

- i. Request for quotation was issued to three companies including the firm awarded the tender even though the winner was not in the prequalified list of suppliers.
- ii. Request for quotations attached did not indicate the date when the quotations were issued and the expected date of return/closure when they were to be submitted contrary to Section 106 subsection (1c) of the Public Procurement and Asset Disposal Act, 2015.
- iii. There was no evidence that a professional opinion or recommendation was issued to the Accounting Officer for approval in accordance with Section 84 of Public Procurement and Asset Disposal Act, 2015.
- iv. Tender opening minutes was not signed by each committee member and not all members initialized each page of the minutes as required under law.
- v. The successful bidder was notified on 14 December, 2021 and the contract was entered into on 23 December, 2021 which was before fourteen (14) days had elapsed after the notification of award.
- vi. No evidence was provided for audit verification to show that the unsuccessful bidders were notified about the outcome of their bids.
- vii. The members present in the tender opening committee were the same members that executed the tender evaluation functions thus contravening the law on segregation of duties.

In the circumstances, Management was in breach of the law

2. Irregular Payment of Training Expenses

During the year, Management made payments amounting to Kshs.1,501,000 relating to training expenses. However, the expenditure was not supported by an approved training plan for the year, needs assessment reports and invitation letters to the trainings attended. Further, a hotel at the coast and facilitators were paid Kshs.1,056,000 for training sessions for NGCDF Committee members for Kiambu constituency held in Mombasa. However, the payment was not supported by any evidence of documents supporting the procurement procedure followed to identify and contract the service providers contrary to Section 149(1) of the Public Finance Management Act, 2012 which states that an Accounting Officer is accountable to the county assembly for ensuring that the resources of the entity for which the officer is designated are used in a way that is lawful and authorized; and effective, efficient, economical and transparent.

In the circumstances, Management was in breach of the law

3. Non-Compliance with Board Committee Meetings Limit

Review of records including board minutes provided for audit revealed that Kiambu Constituency Development Committee held thirty (30) meetings in the financial year 2021/22 including sub-committee meetings contrary to Section 43(11) of the National Government Constituencies Development Fund Act, 2015 states that the Constituency Committee shall meet at least six times in a year but the committee shall not hold more than twenty-four meetings in the same financial year, including sub-committee meetings.

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

4. Irregular Payment of Committee Allowances

Review of documents revealed that Management paid committee allowances amounting to Kshs.8,049,000. However, payments totalling Kshs.3,086,040 related to payments for items other than payment to committee allowances including sound entertainment, caterers and events management, cabs, tents, chairs and decorations. In addition, payments totalling to Kshs.1,282,000 were made to non-committee members including payments made to fully sponsored students for attending meetings, representatives from the works and NGCDF Kiambu Constituency office contrary to requirements of Regulation 92(2) of the Public Finance Management (National Government) Regulations, 2015 that requires that an imprest shall be issued for a specific purpose, and any payments made from it, shall be for the purposes specified in the imprest warrant.

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

5. Irregular Procurement of Motorbikes

Review of documents revealed that Management awarded a tender for supply and delivery of three (3) motorbikes to a local firm at a contract sum of Kshs.1,200,000 on 20 December, 2021. However, the quotations issued did not give the specifications of motorbikes required thus casting doubt as to whether the quoted prices related to the same product by the various bidders hence competitive as required. Further, no professional opinion, tender opening, tender evaluation and certificate on inspection and acceptance have been attached or provided separately for audit verification.

In addition, the pre-delivery and post-delivery inspection reports, copies of logbooks on the motor bikes, and justification for use of emergency funds were not provided for audit.

In the circumstances, value for money on the expenditure of Kshs.1,200,000 incurred in the procurement of the motor bikes could not be confirmed.

6. Irregular Implementation of Emergency Projects

Review of documents revealed that emergency expenditure amounting to Kshs.12,272,207 was incurred during the year. However, no documentary evidence was provided to confirm that Management had reported any of the emergency expenditure to the Board using the prescribed format and within the stipulated period of 30 days. Further, no minutes were provided as evidence on whether the emergency projects related to

'urgent, unforeseen needs 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

7. Irregular Disbursement of Bursaries

Review of documents revealed that Management disbursed a total of Kshs.36,966,155 as bursaries to secondary schools. However, there was no evidence of vetting by education bursary, mock examinations and continuous assessment tests committee contrary to Regulation 21(2) of the National Government Constituencies Development Fund Regulations, 2016 which states that a Constituency Committee shall vet all applicants for bursary consideration in accordance with guidelines issued by the Board.

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

8. Poorly Constructed Administration Block at Kongo Primary School

Review of contract documents revealed that Management awarded a contract for construction of administration block at Kongo primary school at a contract sum of Kshs.3,998,898 on 17 June, 2021. Physical verification revealed that the base of the pillars on the building were wearing out, the windows were not properly aligned and could not close while the roof seems was leaking. Further, the iron roofing sheets appear old, repainted and of poor quality and the gutters discharged water in front of the administration block affecting the floor at the entrance.

In the circumstances, value for money on the expenditure of Kshs.3,998,898 incurred in the construction project could not be confirmed.

9. Non-Compliance to Branding of Projects

Inspection of projects implemented by Kiambu Constituency carried out in the month of March, 2023 revealed that various projects were not properly branded. The projects were branded with the name of the area member of parliament contrary to the provisions of Section 25(3) of the National Government Constituency Development Fund Act, 2015 which requires that 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.

10. Poorly Implemented Construction of Kiambu Constituency Office

Review of contract documents revealed that Management awarded a contract for construction of NGCDF Office Tower at Kiambu (Phase I) to a local firm at a contract sum of Kshs.39,732,100 on 21 January, 2019. On 21 August, 2021, Management awarded another contract to the same contractor for Phase 2 at a contract sum of Kshs.12,427,948. However, the bill of quantities for phase one (1) included items such as walling and internal portioning, windows, doors, finishes, electricals and mechanical works valued Kshs.17,071,480. However, review of bills of quantities for phase two reflects similar

items which include internal partitions, windows, doors, ceiling finishes, floor finishes, internal and external wall finishes, electrical and mechanical works all valued at Kshs.12,127,948 which appear to be similar hence possibility of double costing which may result to loss of public funds.

Physical verification of the project revealed that significant works remain unfinished even though payment certificates and actual payments stand at approximately 99%. The items still outstanding included internal partitions, doors, ceiling, floor finishes and electrical works costing Kshs.11,380,342 whose payment have been done.

In the circumstances, value for money on the expenditure of Kshs.11,380,342 incurred in the construction project could not be confirmed.

11. Failure to Submit Monthly Bank Reconciliation Statements for Audit

During the financial year 2021/2022, It was noted that the Management failed to submit a copy of monthly bank reconciliation statements to the Office of the Auditor-General contrary to Regulation 90(1) of the Public Finance Management (National Government) Regulations, 2015 which states that Accounting Officers shall ensure bank accounts reconciliations are completed for each bank account held by that Accounting Officer, every month and submit a bank reconciliation statement not later than the 10th of the subsequent month to the National Treasury with a copy to the Auditor-General.

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, based on the audit procedures performed, except for the matter described in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

Failure to Maintain a Fixed Assets Register

Review of documents and physical verification revealed that some of the existing assets held were not tagged exposing them to possible loss, the serial numbers column and the bar code number in the assets register for assets was not correctly captured making the identification process difficult and the fixed register was not updated regularly.

In the circumstances, the effectiveness of the fixed assets register in tracking and control of the assets could not be confirmed.

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that a 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 which 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 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 which 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 which 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 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 controls which 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 which 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 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 which 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 which 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 which 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 which may reasonably be thought to bear on my independence, and where applicable, related safeguards.



CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

18 July, 2023