

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

PREAMBLE

I draw your attention to the contents of my report which is in three parts:

- A. Report on the Financial Statements that considers whether the financial statements are fairly presented in accordance with the applicable financial reporting framework, accounting standards and the relevant laws and regulations that have a direct effect on the financial statements.
- B. Report on Lawfulness and Effectiveness in Use of Public Resources which considers compliance with applicable laws, regulations, policies, gazette notices, circulars, guidelines and manuals and whether public resources are applied in a prudent, efficient, economic, transparent and accountable manner to ensure Government achieves value for money and that such funds are applied for the intended purpose.
- C. Report on Effectiveness of Internal Control, 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 control, 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 - Laikipia North Constituency, set out on pages 1 to 37, 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 effects of the matter described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of National Government Constituencies Development Fund - Laikipia North Constituency as at 30 June, 2022, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Cash Basis) and comply with the Public Finance Management Act, 2012 and the National Government Constituencies Development Fund Act, 2015.

Basis for Qualified Opinion

Unsupported Project Management Committee (PMC) Balances

Note 17.4 and Annex 5 to the financial statements reflects Kshs.31,693,001 in respect of one hundred and twenty-one (121) PMC bank account balances as at 30 June, 2022. However, the Management did not provide bank balance confirmation certificates in respect of eighty-six PMC bank accounts with total balance of Kshs.14,075,918 held in two commercial banks.

In the circumstance, the accuracy of the PMC Bank balances could not be confirmed.

The audit was conducted in accordance with the International Standards for Supreme Audit Institutions (ISSAIs). I am independent of the National Government Constituencies Development Fund - Laikipia North Constituency's Management in accordance with ISSAI 130 on the 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 judgement, are of most significance in the audit of the financial statements. There were no key audit matters to report in the year under review.

Other Matter

1.0 Budgetary Controls and Performance

The Fund's summary statement of appropriation reflects Kshs.190,030,886 and Kshs.163,955,131 in respect to budgeted and actual expenditure respectively, resulting to an under expenditure of Kshs.26,075,755 or approximately 14% of the budget.

The under-spending of the budget by Kshs.26,075,755 reflects equivalent services expected and not delivered to the residents of Laikipia North Constituency. There is therefore need for Management to re-look at its budgeting mechanism with a view of focusing on areas which will improve service delivery to the residents of Laikipia North Constituency.

2.0 Prior Year Unresolved Issues

In the audit report of the previous year, an issue was raised under Report on Financial Statements, two issues on other matters and one issue under Report on Lawfulness and Effectiveness in Use of Public Resources. However, although the Management has indicated that these have been resolved, the matters remained unresolved as the Public Accounts Committee is yet to deliberate on the Report for 2020/2021.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, based on the audit procedures performed, except for the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources section of my report, I confirm that, nothing else has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

1.0 Irregular Procurement of Furniture at Doldol Secondary School

The statement of receipts and payments and as disclosed in Note 6 to the financial statement reflects Kshs.76,549,311 in respect to transfers to other Government units, which includes Kshs.34,167,104 transferred to secondary schools. Included in this was Kshs.400,000 transferred to Doldol Secondary School for purchase of 80 lockers and 80 chairs. However, Quotation opening register, tender evaluation report and Local Purchase Order (L.P.O) were not provided for audit review contrary to Section 9(1) (e) of the Public Audit Act, 2015 which provides that the Auditor-General, or an officer authorized for the purpose of this Act, shall have powers of unrestricted access to all books, records, returns, reports, electronic or otherwise and other documents of entities listed under Article 229 (4) of the Constitution.

In the circumstances, the propriety and value for money for the expenditure could not be confirmed. In addition, the Fund was in breach of the law.

2.0 Irregular Tender Evaluation at Jikaze Primary School

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflect Kshs.76,549,311 in respect of transfer to other Government units which includes Kshs.42,382,207 transferred to primary schools which further includes an amount of Kshs.2,200,000 transferred to Jikaze Primary School for construction of two (2) classrooms. However, the company awarded to carry out the construction had not met the criteria set out in the tender document requiring attachment of a certified copy of directors (CR 12) at the preliminary evaluation and disclosure of interest form, dully filled form of tender, sanctity of tender, three (3) years audited financial accounts, list of personnel and a list of works of similar nature done at the technical evaluation contrary

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to Section 80 (2) of the Public Procurement and Asset Disposal Act, 2015 which provides that the evaluation and comparison shall be done using the procedures and criteria set out in the tender documents.

In the circumstance, the validity of the procurement process could not be ascertained. In addition, the Fund was in breach of the law.

3.0 Projects Verification Report

Note 6 and 7 to the financial statements reflects Kshs.34,167,104 and Kshs.20,100,000 in respect to transfer to secondary schools and security projects respectively all totalling to Kshs.54,267,104. Included in this is Kshs.1,500,000 transferred to Mukima Secondary School for construction of a two (2) roomed staff house to completion. However, physical verification revealed that an electricity meter box had not been installed as provided for in the bill of quantities. Although the houses were substantially complete, they had not been put to intended use.

Further, Kshs.1,500,000 was incurred in the construction of a two (2) roomed staff house to completion at Kimangandura Chiefs Office. However, despite the bill of quantities providing for installation of heavy density fiber boards; 23mm thick HDF ceiling board, the contractor used plain boards and did not prepare and apply three coats of first quality emulsion paint to the surfaces but only applied one coat without the approval of tender awarding authority contrary to Section 139 (1) a of the Public Procurement and Asset Disposal Act, 2015 which provides that an amendment or a variation to a contract resulting from a procurement proceeding is effective only if the variation or amendment has been approved in writing by the respective tender awarding authority within a procuring entity.

In the circumstance, Management was in breach of law.

The audit was conducted in accordance with the International Standards for Supreme Audit Institutions (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 comply, 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 CONTROL, 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 Control, Risk Management and Governance section of my

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report, I confirm that, nothing else has come to my attention to cause me to believe that internal control, risk management and overall governance were not effective.

Basis for Conclusion

Lack of an Internal Audit Function

The constituency fund did not have an internal audit section to carry out internal audit functions contrary to Section 73(1) (a) of the Public Finance Management Act, 2012 which stipulates that every National Government entity shall ensure that it has appropriate arrangements for conducting internal audit according to the guidelines issued by the Accounting Standards Board.

In addition, although the financial statements state that the National Government Constituencies Development Fund Board had constituted an Audit and Risk Management Committee to provide fiduciary oversight, no evidence was adduced to show that the committee met during the year under review to discuss audit reports and make recommendation on risk mitigation.

In the circumstances, the Fund was in breach of the law and the Constituency Fund's system of internal control has no proper checks and balances.

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether effective processes and systems of internal control, risk management and overall governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Responsibilities of Management and those Charged with Governance

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Cash Basis) and for maintaining effective internal control as Management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal control, risk management and governance.

In preparing the financial statements, Management is responsible for assessing the Fund's ability to continue to sustain 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 the Management monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibilities for the Audit

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal control in order to give an assurance on the effectiveness of internal control, 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 control would not necessarily disclose all matters in the internal control that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Because of its inherent limitations, internal control may not prevent or detect misstatements and instances of non-compliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that control may become inadequate because of changes in conditions, or that the degree of compliance with the policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.
- Conclude on the appropriateness of the Management's use of the applicable basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Fund's ability to continue to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the Fund to cease to 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

15 June, 2023