

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - LAMU EAST 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 Fund 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 the 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 - Lamu East Constituency set out on pages 1 to 28, 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 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 - Lamu East 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 comply with the Public Finance Management Act, 2012 and the National Government Constituencies Development Fund Act, 2015.

Basis for Qualified Opinion

1. Other Grants and Transfers - Security Projects

The statement of receipts and payments reflects a balance of Kshs.90,152,209 for other grants and transfers as disclosed in Note 5 to the financial statements. Included in the balance is an expenditure of Kshs.28,600,000 on transfers to the Project Management Committees (PMCs) for implementation of security projects. Out of this balance, Kshs.3,000,000 was disbursed to Siyu Administration Police Post PMC for construction of an administration block. However, review of the records revealed that the project was not implemented during the year under review. It was also noted that the funds meant for the project was approved by National Government Constituencies Development Fund Board on 30 June, 2022 for re-allocation to Kiwayu Primary School for renovation of seven (7) class rooms. It was not explained why the transfer was not included in the unutilized funds but instead included in the security projects as a disbursement while the intended project was not implemented during the year under review.

In the circumstances, the accuracy and completeness of the transfer of Kshs.3,000,000 for security projects could not be confirmed.

2. Compensation of Employees

2.1 Unsupported Casuals' Wages

The statement of receipts and payments reflects a balance of Kshs.4,700,700 for compensation of employees as disclosed in Note 2 to the financial statements. Included in the balance is an expenditure of Kshs.1,544,670 for casuals' wages. However, Management did not provide muster rolls/attendance register to support the expenditure.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.1,544,670 for casual wages could not be confirmed.

2.2 Misclassification of Expenditure

The statement of receipts and payments reflects a balance of Kshs.4,700,700 for compensation of employees as disclosed in Note 2 to the financial statements. Included in the balance is an expenditure of Kshs.462,000 for office rent which ought to have been disclosed under rental of produced assets. The misclassification therefore led to overstatement of employee costs by Kshs.462,000.

In the circumstances, the employee costs of Kshs.4,700,700 reported in the financial statements is misstated by Kshs.462,000.

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

Other Matter

1. Budgetary Control and Performance

The summary statement of appropriation reflects both final receipts budget and actual amounts on comparable basis of Kshs.165,898,963, representing a 100% budget performance. Similarly, the Fund expended Kshs.165,848,455 against an approved budget of Kshs.165,898,963, resulting to an under-expenditure of Kshs.50,508.

The under-expenditure may have affected implementation of the Fund's planned activities and impacted negatively on service delivery to the people of Lamu East Constituency.

2. Unresolved Prior Year Matters

In the audit of the previous year, several issues were raised under the report of financial statements and report on Lawfulness and Effectiveness in Use of Public Resources and report on Effectiveness of Internal Controls, Risk Management and Governance. However, although Management has indicated as having resolved the prior year audit issues, no evidence was provided to support that status.

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. Other Grants and Transfers

1.1 Security Projects

The statement of receipts and payments reflects a balance of Kshs.90,152,209 for other grants and other payments. Included in the balance is an expenditure of Kshs.28,600,000 for transfers to the Project Management Committees (PMCs) for implementation of security projects in respect of construction of administration block, renovation of offices

and purchase of office furniture. Review of payment records revealed that transfers totaling to Kshs.23,600,000 were made in the year under review. However, project files for transfers totalling Kshs.20,600,000 provided for audit did not contain company profiles of the winning bidders to confirm whether they had satisfied the mandatory requirements set for preliminary evaluation of tender. In addition, there were no cost estimates prepared by the engineer to act as a guide to the evaluation committees on determining as to whether the bidders' quoted prices were reasonable.

In the circumstances, the regularity of transfers totalling Kshs.20,600,000 and whether the Fund got value for money could not be confirmed.

1.2 Emergency Projects

The statement of receipts and payments reflects a balance of Kshs.90,152,209 for other grants and transfers. Included in the balance is an expenditure of Kshs.7,192,209 for emergency expenses. Review of the payment documents revealed that four (4) projects amounting to Kshs.7,192,209 were not of emergency in nature as 'urgent, unforeseen need for expenditure for which it is in the opinion of the committee that it cannot be delayed until the next financial year without harming the public interest of the constituents', contrary to Section 8(3) of the National Government Constituencies Development Fund Act, 2015. Further, the utilization of the emergency reserve was not 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-Submission of National Hospital Insurance Fund Deductions

The statement of receipts and payments reflect compensation of employees' balance of Kshs.4,700,700. Review of the Fund's payroll revealed that statutory deductions for the months of May and June, 2022 amounting to Kshs.11,900 on National Hospital Insurance Fund were not remitted contrary to Section 16(1) of the National Hospital Insurance Fund Act, 2012 which requires that a person liable to pay a standard contribution under Section 15 shall pay such contribution through monthly deductions from his salary or other remuneration and the employer of such person shall be liable to deduct and to pay the contribution to the Board on behalf of and to the exclusion of that person.

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

3. Project Management Committee (PMC) Records

The financial statements under Annex 5 discloses Project Management Committee's unutilized bank balance of Kshs.117,801. Review of records of the various Project Management Committees revealed that bank statements for Project Management Committees' accounts were not maintained at the Constituency office contrary to Regulation 15(10)(a) of the National Government Constituencies Development Fund Regulations, 2016. Further, no explanation was given for failure to close the accounts of the Project Management Committee and transfer balances to the Fund's account contrary

to Section 12(8) of the National Government Constituencies Development Fund Act, 2015.

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

4. Unsupported Transfer to Other Government Units - Transfers to Primary Schools

The statement of receipts and payments for the year ended 30 June, 2022 reflects a balance of Kshs.62,900,000 for transfers to other government units. Included in the balance is an expenditure of Kshs.41,400,000 for transfers for implementation of projects in various primary schools. A review of payments, project files and other relevant records revealed that transfers totaling to Kshs.29,400,000 were made in the year under review. It was however noted that project files for grants amounting to Kshs.28,400,000 provided for audit did not contain the company profile of the winning bidders to confirm whether the winning bidders had satisfied the mandatory requirement set for preliminary evaluation of tender. It was further noted that there were no cost estimates prepared by the engineer to act as a guide to the evaluation committees on determining as to whether the bidders quoted prices were reasonable.

In the circumstances, the Fund may not have achieved value for money.

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

Unsupported Ownership, Valuation and Existence of Fixed Assets

As disclosed in Annex 4 of the financial statements, the Fund has assets totaling Kshs.20,841,953 as at 30 June, 2022. Included in the summary of assets register is the historical costs of the Fund's buildings amounting to Kshs.9,805,012. However, Management did not disclose the cost of the land where the Fund's offices are constructed and ownership documents like the title deed or allotment letter for the land. It was also noted that two (2) boats owned by the Fund were not functional and ownership

documents were not provided for audit review. In addition, the assets were not tagged and could not therefore be clearly identified.

In the circumstances, the ownership, valuation and existence of the Fund's assets could not be confirmed.

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 controls as Management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal control, risk management and overall governance.

In preparing the financial statements, Management is responsible for assessing the Fund's ability to continue to sustain its services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless Management is aware of the intention to terminate the Fund or to cease operations.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

In addition to the responsibility for the preparation and presentation of the financial statements described above, Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them, and that public resources are applied in an effective way.

Those charged with governance are responsible for overseeing the Fund's financial reporting process, reviewing the effectiveness of how Management monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibilities for the Audit

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect

a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

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

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal 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 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 Management.
- Conclude on the appropriateness of Management's use of the applicable basis of accounting and based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Fund's ability to continue to sustain its services. If I conclude that a material uncertainty exists,

I am required to draw attention in the auditor's report to the related disclosures in the financial statements or if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the Fund to cease to continue to sustain its services.

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the Fund to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with Management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal 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 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

22 May, 2023