

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - MAARA 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 the National Government Constituencies Development Fund - Maara Constituency set out on pages 1 to 51, 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 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 National Government Constituencies Development Fund - Maara 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. Accuracy and Presentation of Financial Statements

Note 17.3 to the financial statements reflects Kshs.90,992,705 in respect to comparative balance for unutilized funds as at 30 June, 2021. The amount includes Kshs.3,901,779 and Kshs.400,000 for use of goods and services and acquisition of assets respectively. However, the previous year's audited financial statements had a balance of Kshs.4,301,779 in respect to use of goods and services and a nil balance under acquisition of assets resulting to unexplained and unreconciled variance of Kshs.400,000.

In the circumstances, the accuracy and presentation of the financial statements could not be confirmed.

2. Unsupported Bursary Grants

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects an amount of Kshs.101,262,185 in respect to other grants and transfers which includes Kshs.47,933,650 and Kshs.25,034,980 both totalling to Kshs.72,968,630 in respect to bursaries disbursed to secondary schools and tertiary institutions respectively during the year. However, bursary payments totalling Kshs.9,119,500 or 14% of the total bursaries disbursed were not acknowledged through issuance of receipts by the beneficiary schools and institutions.

Further, two hundred eighty three (283) students were awarded bursary grants totalling to Kshs.2,334,200 without admission numbers, casting doubt on their authenticity. In absence of admission numbers, it was difficult to determine whether the beneficiaries were bonafide students in the respective institutions since admission numbers serve as unique identifiers of learners.

In the circumstances, the accuracy and value for money for the expenditure amount of Kshs.11,453,700 could not be confirmed.

3. Sports Projects

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects other grants and transfers amount of Kshs.101,262,185 which includes Kshs.5,483,555 in respect to sports projects which was used in procurement of sports equipment for distribution to various teams in the Constituency. However, records including minutes of appointment of Project Management Committee, advertisement, opening and evaluation of tender, letter of award and contract agreement for the supply of sports equipment were not provided for audit verification contrary to Regulation 104(1) of the Public Finance Management (National Government) Regulations, 2015 which stipulates that all receipts and payment vouchers of public monies shall be properly

supported by pre-numbered receipt and payment vouchers and shall be supported by appropriate authority and documentation.

In the circumstances, the accuracy and value for money for the expenditure amount of Kshs.5,483,555 could not be confirmed.

4. Cash and Bank Balances

4.1 Stale Cheques

The statement of assets and liabilities and as disclosed in Note 10A to the financial statements reflects a balance of Kshs.7,831,353 in respect to cash and cash equivalents. However, the bank reconciliation statement reflects unrepresented cheques totalling to Kshs.7,711,923 which includes stale cheques totalling to Kshs.41,500 which had not been replaced or reversed in the cashbook thereby understating the cash and cash equivalents by the same amount.

In addition, although the Management prepared bank reconciliations on a monthly basis, these were not submitted to the Auditor-General on a monthly basis contrary to Section 90(1) of the Public Finance Management (National Governments) Regulations, 2015.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.7,831,353 as at 30 June, 2022 could not be confirmed.

4.2 Unconfirmed Project Management Committee (PMC) Bank Balances

Note 17.4 and Annex 5 to the financial statements reflects an amount of Kshs.21,231,686 in respect to PMC bank balances held in various bank accounts as at 30 June, 2022. However, the Management did not provide respective cashbooks, bank reconciliation statements and certificates of bank balances as at the end of the financial year for audit review contrary to Section 90 (1) of the Public Finance Management (National Government) Regulations, 2015 which states that accounting officer 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 addition, records provided revealed that seven projects had been completed and had bank balances totalling to Kshs.534,395 remaining in the PMC bank accounts. It was not clear why the amount was not transferred back to the Constituency bank account contrary to Section 12(8) of the National Government Constituencies Development Fund Act, 2015 which states that unutilized funds of the Project Management Committee shall be returned to the constituency account.

In the circumstances, the accuracy and completeness of the PMC bank balance of Kshs.21,231,686 could not be confirmed. In addition, the Management was in breach of the law.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of National Government Constituencies Development Fund - Maara 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 for the year ended 30 June, 2022 reflects an approved receipts budget of Kshs.228,081,586 and actual receipts of Kshs.215,392,707 resulting to a budget shortfall of Kshs.12,688,879 or 6% of the budget.

Similarly, the Fund expended Kshs.207,561,355 against a final approved expenditure budget of Kshs.228,081,586 resulting to a net under expenditure of Kshs.20,520,232 or 9% of the budget.

The underperformance is an indication that some programmes and activities that had been planned were not implemented and may have impacted negatively on service delivery to the public.

2. Project Implementation

2.1 Delay in Implementation of Projects

The summary statement of appropriation for the year ended 30 June, 2022 reflects total expenditure of Kshs.207,561,355 which includes Kshs.90,864,678, Kshs.101,262,185 and Kshs.598,000 for transfer to other government units, other grants and transfers and acquisition of assets respectively all totalling to Kshs.192,724,863 which was disbursed to various institutions for implementation of projects. However, the project implementation status report provided for audit revealed that ninety-two (92) projects amounting to Kshs.146,066,055 were complete, thirty-four (34) projects with a cost of Kshs.42,958,808 were ongoing while four (4) projects valued at Kshs.3,700,000 were not started as summarized below:

Project	Total Allocation (Kshs.)	Disbursement (Kshs.)	No. of Projects	Implementation Status
Bursary	34,272,219	34,272,219	2	Completed
Primary Schools Projects	68,670,281	68,670,281	61	
Secondary Schools Projects	26,240,000	26,240,000	13	
Sports	5,483,555	5,483,554	2	
Security	11,400,000	11,400,000	14	
Sub-Total	146,066,055	146,066,055	92	
Emergency	15,019,579	8,319,579	2	Ongoing
Primary Schools Projects	20,602,901	20,602,901	18	
Secondary Schools Projects	21,766,860	12,836,328	11	
Security	1,200,000	1,200,000	3	

Project	Total Allocation (Kshs.)	Disbursement (Kshs.)	No. of Projects	Implementation Status
Sub-Total	58,589,340	42,958,808	34	Not Started
Primary Schools Projects	1,500,000	1,500,000	2	
Secondary Schools Projects	4,500,000	2,000,000	1	
Security	200,000	200,000	1	
Sub-Total	6,200,000	3,700,000	4	
Total	210,855,395	192,724,863	130	

In view of the foregoing, the constituents did not get the expected services equivalent to the four (4) projects not started worth Kshs.3,700,000 and the thirty four (34) ongoing projects worth Kshs.42,958,808 both totalling to Kshs.46,658,808. This is an indication of inappropriate project implementation mechanism. There is need therefore for the Constituency Development Fund Management to review its project planning and implementation mechanism with a view to improve efficiency in project implementation resulting to higher impact to the residents of Maara Constituency.

2.2 Poor Workmanship in Construction Project

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects an amount of Kshs.90,864,678 in respect to transfer to other Government units which includes an amount of Kshs.39,500,000 in respect to transfer to secondary schools which further includes Kshs.6,000,000 transferred to Nturiri Secondary School for construction of a dormitory and an administration block. However, physical verification carried out in March, 2023 revealed that the buildings were complete but not in use. In addition, the floor and walls of the administration block had visible cracks and the paint was peeling off even before project handover for use. Further, some window panes of the dormitory had fallen off which is a pointer to poor workmanship.

In the circumstances, the value for money for the expenditure amount of Kshs.6,000,000 spent on the projects could not be confirmed.

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. Failure to Provide Expenditure Returns

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects other grants and transfers amount of Kshs.101,262,185 which includes Kshs.4,000,000 in respect to environment projects, which further includes Kshs.350,000 disbursed to Willies Primary School for construction of five doors pit latrine.

However, records including minutes of appointment of Project Management Committee, tender advertising, opening and tender evaluation minutes and expenditure returns were not provided for audit review contrary to Regulation 15(l) of the National Government Constituencies Development Fund Regulations, 2016 which states that there shall be appointed a Project Management Committee for each project in a Constituency in accordance with section 36 of the Act which shall implement projects in consultation with the relevant departments of government, maintain proper records of all minutes, accounting documents and other records in relation to projects being implemented, prepare returns and file them with a Constituency Committee on a timely basis and account for funds to a Constituency Committee.

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

2. Irregular Administration of Emergency Funds

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects an amount of Kshs.101,262,185 in respect to other grants and transfers which includes Kshs.8,010,000 in respect to emergency projects which further includes Kshs.100,000 and Kshs.800,000 transferred to Kauni Primary School and Muthambi DCC respectively both totalling to Kshs.900,000 which was not supported by expenditure returns from the respective Project Management Committees. This is contrary to Regulation 15(1) of the National Government Constituencies Development Fund Regulations, 2016.

Further, the Management did not provide evidence that independent bank accounts were opened for the projects contrary to Regulation 15(l)(c) of the National Government Constituencies Development Fund Regulations, 2016 which requires Project Management Committee to open an independent bank account for each project.

In addition, the Fund utilized a total of Kshs.8,010,000 in respect to emergency projects during the year. However, there was no evidence that this was reported to the Board within thirty days of the occurrence of the emergency in accordance to Regulation 20(2) of the National Government Constituencies Development Fund Regulations, 2016.

In the circumstances, the 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

Lack of Information Communication Technology (ICT) Policy

Review of the Fund's ICT environment revealed that there was no formal approved ICT Policy in place during the year under review. The policy would have included data security, disaster recovery plans, back up and retention strategy. Further, the Fund did not have policies and procedures in place to cover environmental controls risks like fire suppression systems. This is contrary to Section 149(2) (c) of the Public Finance Management Act, 2012 which provides that an accounting officer shall ensure that all financial and accounting records that the entity keeps in any form including in electronic form are adequately protected and backed up.

In the circumstances, there is a risk of critical data loss, manipulation and or mismanagement due to lack of security controls.

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 controls, risk management and overall 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 the 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 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 overall 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 policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional scepticism 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