

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - MAKUENI 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 - Makueni Constituency set out on pages 1 to 39, 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

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respects, the financial position of National Government Constituencies Development Fund - Makueni 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, the National Government Constituencies Development Fund Act, 2015 and the National Government Constituencies Development Fund Regulations, 2016.

Basis for Qualified Opinion

1. Inaccuracies in the Financial Statements

1.1 Summary Statement of Appropriation

The summary statement of appropriation reflects actual on comparable basis of an amount of Kshs.193,886,453 in respect of transfers from National the National Government Constituencies Development (NGCDF) Board. However, the statement of receipts and payments reflects transfers from NGCDF Board of an amount of Kshs.178,277,758 resulting to an unexplained and unreconciled variance of Kshs.15,608,695. Further, the unexplained difference in respect of actual transfers from the NGCDF Board may result to the understatement of the nil amounts of budget utilisation difference in respect of transfers from NGCDF Board. In addition, review of statements reflects budget adjustments amounts of Kshs.15,608,695 and Kshs.41,188,879 in respect of opening balance (cashbook) and previous years outstanding disbursements totalling to Kshs.56,797,574 which is at variance with the comparative balances of Kshs.56,021,574 and as disclosed in Note 17.3 to the financial statements in respect of unutilized funds resulting to an unexplained and unreconciled variance of Kshs.776,000.

In the circumstance, accuracy and completeness of the amounts of Kshs.193,886,453 and Kshs.56,797,574 in respect of transfers from NGCDF Board and budget adjustments respectively could not be confirmed.

1.2 Budget Execution by Sectors and Projects Final Budget

Review of the budget execution by sectors and projects supporting the summary statement of appropriation reflects sub totals final budgets of Kshs.40,966,989, Kshs.37,196,898 and Kshs.9,400,000 in respect of transfers to other government units for primary and secondary schools and other grants and transfers to security projects respectively. However, casting the accuracy of the subtotals of the original budgets and adjustments revealed amounts of Kshs.42,266,896, Kshs.37,496,898 and Kshs.10,400,000 resulting to an unexplained and unreconciled variance of Kshs.1,299,909, Kshs.300,000, Kshs.1,000,000 respectively. Further, budget execution by sectors and projects reflects transfers to Athiani primary school which had zero original budget and an adjustment of an amount of Kshs.706,898 which is at variance with the final budget and actual on comparable basis amounts of Kshs.706,989 resulting to an explained variance of Kshs.91.

In the circumstance, accuracy and completeness of the amounts of Kshs.40,966,989, Kshs.37,196,898 and Kshs.9,400,000 in respect of transfers to other government units

for primary and secondary schools and other grants and transfers to security projects respectively could not be confirmed.

1.3 Cash and Cash Equivalents

The statement of financial assets and liabilities reflects cash and cash equivalents balance of Kshs.2,216,962 and as disclosed in Note 10A to the financial statements supported with bank reconciliation statement for the month of June, 2022, which includes unrepresented cheques of Kshs.8,191,371. However, review of the details of the unrepresented cheques of Kshs.8,191,371 revealed that cheques totalling Kshs.751,500 were cleared in June, 2022, and therefore did not qualify to be classified as unrepresented cheques. Further, the bank reconciliation statements were not signed by the preparer nor submitted to National Treasury for analysis and review.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.2, 216,962 could not be confirmed.

1.4 Failure by Project Management Committees (PMCs) to Deduct Retention Money from Contractors

The statement of financial assets and liabilities reflects accounts payable deposits of Nil balance in respect of retentions. However, review of statement of receipts and payments reflects transfers to other Government entities of Kshs.78,563,887 as disclosed in Note 6 to the financial statements which includes Kshs.20,200,000 disbursed to seventeen (17) projects for learning institutions. Review of the expenditure returns revealed that Project Management Committees of various institutions paid Kshs.18,846,482 to contractors for certified works implemented without deducting retention money amounting to Kshs.1,884,648.

In the circumstances, the accuracy and completeness of the nil balance in respect of retentions could not be confirmed and Management was in breach of the law.

2. Unconfirmed Project Management Committees (PMCs) Bank Balances

Annex 5 to the financial statements reflects PMC bank balances amounting to Kshs.37,450 held in eighteen (18) bank accounts in various commercial banks. However, the bank balance confirmation certificates as at 30 June, 2022 and bank statements were not provided for audit review. Further, the reported PMC bank balances of Kshs.37,450 excluded bank balances of fourteen (14) education projects that had received Kshs.14,800,000 whose project implementation had not commenced as at 30 June, 2022.

In the circumstances, the accuracy and completeness of PMC bank balance of Kshs.37,450 could not be confirmed.

3. Unsupported Transfers to Other Government Units

The statement of receipts and payments reflects transfers to other Government units of Kshs.78,563,887 as disclosed in Note 6 to the financial statements includes an amount of Kshs.15,100,000 disbursed to twelve (12) projects in various learning institutions. However, review of records revealed that supporting documents including professional opinion, opening and tender evaluation minutes, notification of unsuccessful bidders,

contract agreements and certificates of practical completion were not provided for audit review.

In the circumstances, the accuracy and completeness of transfers to other Government units of Kshs.15,100,000 could not be confirmed.

4. Lack of Motor Vehicle Logbook

Annex 4 to the financial statements on summary of fixed asset register reflects an amount of Kshs.11,602,833 in respect to historical cost of assets. Included is transport equipment balance of Kshs.8,345,250 which includes Kshs.4,842,600 for a motor vehicle purchase by the NGCDF in 2019/2020 financial year. However, as previously reported, the logbook for the motor vehicle has not been provided for audit review.

In the circumstances, the ownership of the motor vehicle costing Kshs.4,842,600 could not be confirmed.

5. Use of Goods and Services

5.1 Over Expenditure on Use of Goods and Services

Statements and summary statement of appropriation reflects final budget of an amount of Kshs.8,364,451. However, the actual expenditure on comparable basis reflects an amount of Kshs.11,765,616 in respect of use of goods and services against an approved budget of an amount of Kshs.8,364,451 resulting to an unexplained excess expenditure of Kshs.3,401,165 which is not supported by an approval.

In the circumstances, the regularity accuracy and completeness of expenditure in respect of use of goods and services of an amount of Kshs.11,765,616 could not be confirmed.

5.2 Unsupported Use of Goods and Services

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.11,765,616 which includes fuel, oil and lubricants and training expenses of amounts of Kshs.2,500,000 and Kshs.3,744,000 and as disclosed in Note 5 to the financial statements. The training expenses of Kshs.3,744,000 includes Kshs.900 in respect of capacity building not supported with documents including attendance register of participants and facilitators. Further, the expenditure in respect of fuel, oil and lubricants of an amounts of Kshs.2,500,000 was not supported with documents including fuel register, detail orders and work tickets.

In the circumstances, the accuracy and completeness of the expenditure of Kshs.2,500,000 and Kshs.900 in respect of fuel, oil and lubricants and capacity building could not be confirmed.

6. Lack of Criteria for Bursary Award

The statement of receipts and payments reflects other grants and transfers of Kshs.94,290,761 as disclosed in Note 7 to the financial statements which includes amounts of Kshs.41,222,531, Kshs.19,038,550 and Kshs.219,500 in respect of bursary disbursements to secondary schools, tertiary institutions and special schools

respectively, totalling to Kshs.60,480,581. However, the Fund Management did not provide an approved criterion for selection and awarding of bursaries.

In the circumstances, the completeness, accuracy, regularity and completeness of the bursary disbursements of Kshs.60,480,581 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 - Makeni 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. Failure to Report on Utilization of Emergency Reserve

The statement of receipts and payments reflects other grants and transfers of Kshs.94,290,761 as disclosed in Note 7 to the financial statements which includes emergency projects of an amount of Kshs.2,100,000 in respect of six (6) emergency projects from emergency reserves. However, there was no evidence indicating that the expenditure of Kshs.2,100,00 in respect to emergency projects was utilized in accordance with the provisions of Section 8(3) of the CDF Act, 2015 and a report that was made to the Board within thirty days of the occurrence of the emergency, in compliance with Regulations 20(1) of the National Government Constituencies Development Fund Regulations, 2016 which provides that the utilization of the emergency reserve shall be reported to the Board within thirty 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. Unaccounted for Emergency Funds

The statement of receipts and payments reflects other grants and transfers of Kshs.94,290,761 as disclosed in Note 7 to the financial statements which includes emergency projects of an amount of Kshs.2,100,000. The emergency project of an amount of Kshs.2,100,000 includes disbursement of Kshs.550,000 and Kshs.1,100,000 for two (2) projects in learning institutions. However, the Management did not provide expenditure returns for the two (2) projects implemented, contrary to Regulation 15(1)(d-e) of the National Government Constituencies Development Fund Regulation, 2016 which provides 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 prepare returns and file them with a Constituency Committee on a timely basis and account for funds to a Constituency Committee.

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

3. Failure to Submit Bank Reconciliation Statements to National Treasury and Office of the Auditor

Review of financial records revealed that bank reconciliations are not regularly done and checked by senior officers as required by the law. Further, no evidence was provided to confirm that bank reconciliation statements were submitted to the National Treasury and a copy to the Auditor -General as required by Regulation 90. (1) of the Public Finance Management (National Government) Regulations, 2015.

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

4. Poor Project Management

4.1 Implementation of Projects Without Signed Contracts and Completion Dates

The statement of receipts and payments reflects transfers to other Government units of Kshs.78,563,887 and as disclosed in Note 6 to the financial statements which includes an amount of Kshs.27,949,796 disbursed to nineteen (19) projects for learning institutions. However, review of expenditure returns revealed that five (5) Project Management Committees (PMCs) paid Contractors amounts of Kshs.4,974,600 for project implementation without signed contract agreements and fourteen (14) projects amounting to Kshs.22,975,196 had contracts without project completion dates. This is contrary to Regulation 27(1) of the National Government Constituencies Development Fund Regulation, 2016 which provides that the Public Procurement and Disposal laws shall apply with respect to any procurement by a Constituency Committee or Project Management Committee.

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

4.2 Poor Workmanship on Renovation of Three Classrooms at Mwaani Primary School

The statement of receipts and payments reflects transfers to other Government units of Kshs.78,563,887 and as disclosed in Note 6 to the financial statements which includes an amount of Kshs.2,100,000 in respect of emergency projects. The amounts of Kshs.2,100,000 in respect of emergency projects included Kshs.900,000 disbursed to Mwaani Primary school for renovation of three (3) classrooms. However, site and project

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visit in March, 2023 revealed that the floor of the three (3) classes had cracks and potholes indicating poor workmanship. Further, the project was not labelled, contrary to Regulations 15(1f) of the National Government Constituency Development Fund Regulation, 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 NGCDF Act, 2015 which shall undertake project closure, labelling and handover upon completion.

In the circumstances, the completeness and value for money spent on the projects could not be confirmed and 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, I confirm that, nothing has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

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

Responsibilities of Management and those Charged with Governance

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Cash Basis) and for maintaining effective internal 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 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 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 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 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 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 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 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 that may cast significant doubt on the Fund's ability to continue to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the Fund to cease to continue to sustain its services.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the Fund to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with the Management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal controls that are identified during the audit.

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



CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

17 July, 2023