

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - MOGOTIO 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 control, risk management and overall 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 - Mogotio Constituency set out on pages 1 to 74, which comprise of the statement of assets and liabilities as at 30 June, 2022 and the statement of receipts and payments, statement of cash flows and the summary statement of appropriation for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material

respects, the financial position of National Government Constituencies Development Fund - Mogotio 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 National Government Constituencies Development Fund Act, 2015 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1. Inaccuracies in Financial Statements

The financial statements presented for audit had the following inaccuracies;

- 1.1 The summary statement of appropriation reflects receipt adjustments of opening balance of Kshs.54,529,218 and previous year outstanding disbursements of Kshs.46,838,879 all totalling to Kshs.101,368,097 while Note 17.3 reflects Kshs.101,068,097 resulting to unexplained and unreconciled variance of Kshs.300,000;
- 1.2 Annex 4 on the summary of fixed assets register reflects opening balance of Kshs.22,816,965 while the prior year audited balance was Kshs.22,526,985 resulting to an unexplained and unreconciled variance of Kshs.289,980;

In the circumstances, the accuracy, completeness, of the above balances reflected in these financial statements could not be confirmed.

2. Unaccounted for Tractors

Annex 4 on the summary of fixed assets register reflects transport equipment balance of Kshs.14,891,726. The amount includes Kshs.9,115,000 for purchase of three tractors whose ownership documents were not provided for audit verification. Further, the tractors were not in the custody of the Fund.

In the circumstances, the accuracy, completeness, existence and ownership of transport equipment balance of Kshs.9,115,000 could not be confirmed.

3. Unsupported Transfers to Primary Schools

Note 6 to the financial statements reflects transfers to primary schools amount of Kshs.49,250,000 out of which, Kshs.4,000,000 was for the drilling of a borehole. However, the hydrological survey report and ownership documents for the parcel of land purchased at Kshs.1,000,000 where the borehole was drilled were not provided for audit verification. In addition, the certified valuation reports, signed sales agreements and stamp duty payment receipts were not provided for audit.

In the circumstances, the validity, accuracy and ownership of the land and borehole drilling in the transfers to primary schools of Kshs.5,000,000 could not be confirmed.

4. Unsupported Transfer to Secondary Schools

Note 6 to the financial statements reflects transfers to secondary schools amount of Kshs.18,550,000 out of which Kshs.2,600,000 was the for purchase of two (2) school buses whose ownership documents were not provided for audit verification. In addition, Kshs.1,200,000 was disbursed to Mogotio Sub County Facility Enhancement and Improvement Committee for the purchase of desks, lockers, and chairs but the amount was not supported with distribution list and acknowledgement by the recipients.

In the circumstances, the accuracy, completeness and ownership of transfers to secondary schools of Kshs.3,800,000 could not be confirmed.

5. Unsupported Bursary

Note 7 to the financial statements reflects bursary payments of Kshs.70,130,018 and Kshs.33,597,500 made to secondary schools and tertiary institutions respectively all totalling Kshs.103,727,518. However, the bursary subcommittee minutes on vetting indicating the recommended beneficiaries were not provided for audit. In addition, only Kshs.103,234,000 bursary awards were supported resulting to an unexplained and unreconciled variance of Kshs.493,518. Further, the awards to tertiary institutions included Kshs.960,000 transferred to driving school for two hundred (200) students whose respective names were not provided for audit. The supporting schedule also included unexplained bursary awards of negative Kshs.399,436.

In the circumstances, the validity, accuracy and propriety of bursary expenditure of Kshs.103,727,518 could not be confirmed.

6. Unsupported Emergency Expenditure

The statement of receipts and payments reflects other grants and transfers expenditure of Kshs.120,045,417 as disclosed in Note 7 to the financial statements. The amount includes emergency projects expenditure of Kshs.8,040,000 out of which, Kshs.1,450,000 had supporting schedules that did not indicate the activity conducted. In addition, the schedule omitted expenditure of Kshs.600,000.

In the circumstances, the validity, accuracy and propriety of emergency expenditure of Kshs.8,040,000 could not be confirmed.

7. Unsupported Project Management Committee (PMC) Account Balances

Other Important Disclosures Note 17.4 reflects Project Management Committee (PMC) account balance of Kshs.9,074,104 for projects implemented during the year under review. However, the cash books, confirmation certificates and bank reconciliation statements were not provided for audit.

In the circumstances, the accuracy and completeness of Project Management Committee (PMC) account balance of Kshs.9,074,104 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 - Mogotio Constituency Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. There were no key audit matters to report in the year under review.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

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

Basis for Conclusion

1. Irregular Transfers

Note 6 to the financial statements reflects transfers to secondary schools amount of Kshs.18,550,000 out of which Kshs.1,200,000 was disbursed to Mogotio Sub County Facility Enhancement and Improvement Committee for the purchase of desks, lockers, and chairs, but does not meet the criteria set for projects to be funded by Constituency Development Fund. This was contrary to Section 24 of the National Government Constituencies Development Fund Act, No.30 of 2015 which states that a project under this Act shall (a) only be in respect of works and services falling within the functions of the national government under the Constitution; and (b) be community based in order to ensure that the benefits are available to a widespread cross-section of the inhabitants of a particular area.

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

2. Unapproved Expansion of Powerline Project

The statement of receipts and payments reflects other payments amounting to Kshs.14,000,000 as disclosed in Note 9 to the financial statements. The amount relates to an expenditure on expansion of powerline which was not supported by project bank account, evidence of identifying the contractor/ supplier, tender evaluation minutes, signed contract, inspection and acceptance committee reports, interim/completion certificates, expenditure returns and evidence that the projects were implemented in

consultation with relevant Government Departments. Further, the project had not been approved by the Board. This is contrary to 31(2) National Constituencies Development Fund Act, 2015 which require the Board to scrutinize and approve for funding those project proposals that are consistent with the Act. Resolution of the Project Management Committee was also not provided for audit review.

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

3. Irregular Emergency Projects Expenditure

The statement of receipts and payments reflects other grants and transfers totalling to Kshs.120,045,417 as disclosed in Note 7 to the financial statements out of which Kshs.8,040,000 is for emergency projects expenditure. However, the expenditure was not reported to the Board. This was contrary to Regulation 20(2) of the National Government Constituencies Development Regulations, 2016 which states 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 addition, this expenditure translated to 5.8% of approved budget amount of Kshs.137,088,879 and exceeded the required 5% amount of Kshs.6,854,444 by Kshs.1,185,556. This was contrary to Section 8(1) of the National Government Constituencies Development Fund Act, 2015 which provides that an equivalent to five per centum of the Fund shall remain unallocated and shall be available for emergencies that may occur within the Constituency.

In the circumstances, Management was in breach the law.

4. Project Implementation Status

Review of the project implementation status reports from 2013/2014 to 2021/2022 indicated one thousand one hundred and eighty-four (1184) have been funded since the inception of the Fund. Eight hundred and sixty-nine (869) of these projects worth Kshs.387,377,992 were completed while three hundred and fifteen (315) worth Kshs.218,108,752 were ongoing. The report did not indicate projects not started but had an unutilized fund balance of Kshs.24,143,899 as disclosed in Annexure 3 to the financial statements.

In the circumstances, value for money for the ongoing projects and those not started could not be confirmed.

5. Irregularities on Project Management Committee Bank Balances

Review of the project implementation status report indicated that one thousand one hundred and eighty-four (1184) projects have been funded since the inception of the Fund. However, only one hundred and forty-eight (148) projects were disclosed in the financial statements resulting to unexplained variance of one thousand and thirty-six (1036) undisclosed PMC bank account balances that have not been disclosed, with Management not explaining whether they were operational. In addition, there was no

evidence of surrendering unutilized bank balances for completed projects to the main Constituency Fund bank account. This was contrary to Section 12(8) of the National Government Constituencies Development Fund Act, 2015 which requires all unutilized funds of the Project Management Committee to be returned to the Constituency account. In the circumstance, 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 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 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 comply 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 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 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 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 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 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

13 June, 2023