

REPORT OF THE AUDITOR-GENERAL ON NATIONAL CONSTITUENCIES DEVELOPMENT FUND - MUKURWE-INI 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 Constituency Development Fund - Mukurwe-Ini Constituency set out on pages 1 to 49, 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 the National Constituencies Development Fund - Mukurwe-Ini 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. Unsupported Adjustments in the Summary Statement of Appropriation

The summary statement of appropriation for the year ended 30 June, 2022 reflect final expenditure budget in respect of use of goods and services amounting to Kshs.24,766,824 comprising of Kshs.8,026,844 being the original budget for the year and Kshs.16,739,980 being adjustment for previous years' outstanding disbursements. However, review of the previous year audited financial statements revealed that outstanding disbursement in respect of use of goods and services was Kshs.48,449 resulting to an unexplained and unreconciled adjustment of Kshs.16,691,531.

In the circumstances, the accuracy of the amount of Kshs.24,766,824 in respect of use of goods and services could not be confirmed.

2. Unsupported Expenditure for Committee Allowances

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects an amount of Ksh.23,859,430 in respect to use of goods and services which includes an amount of Kshs.9,257,000 in respect of committee expenses and Kshs.12,663,000 as other committee expenses all totalling to Kshs.21,920,000. However, an amount of Kshs.8,546,000 was unsupported with payment vouchers. Further, review of payment vouchers in respect of other committee expenditure revealed that an expenditure totalling to Kshs.12,663,000 was incurred in respect of monitoring and evaluation of ongoing projects. However, there were no approved work plan/budget and reports for the monitoring and evaluation as the basis on which the activities were undertaken.

In the circumstances, the accuracy and propriety of expenditure of Kshs.9,257,000 and Kshs.12,663,000 in respect to committee expenses and other committee expenses respectively, could not be confirmed.

3. Unconfirmed Cash and Cash Equivalents Balance

The statement of assets and liabilities and as disclosed in Note 10A to the financial statements reflects an amount of Kshs.80,682,347 in respect of cash and cash equivalents balance. Review of the bank reconciliation statement for the year ended 30 June, 2022 revealed unpresented cheques totalling Kshs.10,608, 275 out of which

cheques totalling to Kshs.825,809 have been outstanding for a long period of time contrary to Regulations 90(3) of Public finance Management (National Government) Regulations, 2015 which require the that Accounting Officers shall ensure any discrepancies noted during bank reconciliation exercise are investigated immediately and appropriate action taken including updating the relevant cash books.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.80,682,347 as at 30 June, 2022 could not be confirmed.

4. Unsupported Expenditure on Bursary

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects an amount of Kshs.94,578,274 in respect to other grants and other transfers which includes Kshs.32,831,684 and Kshs.20,074,670 in respect to bursary for secondary schools and tertiary institutions, respectively. However, the bursary policy, bursary applications, evidence of vetting of the applicants and minutes of the bursary committee were not provided for audit verification. There is a risk that awards may not have benefited the deserving students and target groups of orphans and socially and economically disadvantaged members of the public including vulnerable students.

In the circumstances, propriety of the expenditure of the bursary awards of Kshs.52,906,354 was not confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the National Constituencies Development Fund - Mukurwe-Ini 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 a final receipts budget and actual on comparable basis totalling to Kshs.293,544,791 and Kshs.197,592,063, respectively resulting to an underfunding of Kshs.14,740,153 or 6%. However, the statement reflects a final expenditure budget and actual on comparable basis totalling to Kshs.293,544,791

and Kshs.197,592,063, respectively resulting to under expenditure totalling to Kshs.95,952,728 or 33% of the budget.

The under expenditure adversely affected the planned activities and services delivery to the public.

2. Unresolved Prior year Audit Issues

In the report of the previous year, several issues were raised under Report on Lawfulness and Effectiveness in Use of Public Resources. However, although Management has indicated that all the issues have been resolved, no information was provided indicating if the issues were resolved or not and the matters remain unresolved.

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 Reallocations of Funds

1.1 Kenya Medical Training College (KMTTC) Construction Funds

According to the approved code list/budget the phase II of the KMTTC was allocated an amount of Kshs.27,000,000 which was fully funded by the Board and AIE totaling to Kshs.26,999,999 allocated to the project in the financial year 2021/2022. However, the payment reports revealed that Kshs. 16,998,798 relating to the construction of the KMTTC was instead reallocated to other areas of expenditure and paid out to merchants, Fund Manager, bursaries and the construction of a laboratory.

1.2 Purchase of Furniture Funds

Review of the vote book revealed that an amount of Kshs.4,250, 000 was allocated for the purchase of furniture. However, the payment reports revealed that Kshs.3,950,000 relating to the purchase of furniture were reallocated to payment of committee expenses and imprest for the Fund Manager despite the fact that furniture had been delivered to the constituency offices and not paid for.

1.3 Laboratories Construction Funds

Review of the code list for the Fund revealed that the Board approved the construction to completion of forty capacity laboratories in seven secondary schools in the constituency at a cost of Kshs.24,500,000 (Kshs.3,500,000 per laboratory). However, the payment reports revealed that an amount of Kshs.13,965,850 allocated for the construction of four (4) laboratories was instead reallocated to payment of bursaries to secondary schools despite the Fund Management having entered in to contracts with various contractors as the projects expected to be completed by December, 2022. Further, audit verification carried out in the month of March, 2023 in respect of the laboratory projects revealed that two laboratory projects have stalled with only super structure and roofing done, one project has stalled at third course with contractor not on site and a further two projects had internal finishing and equipping not done as per the bill of quantities.

The reallocations are contrary to Section 6(2) of the National Government Development Fund Act, 2015 which states that once funds are allocated for a particular project, they shall remain allocated for that project and may only be reallocated for any other purposes during the financial year with the approval of the Board.

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

2. Irregularities in Procurement and Management of Projects

The statement of receipts and payment reflects transfer to other government units balance of Kshs.73,325,000 which, as disclosed in Note 6 to the financial statements includes an amount of Kshs.33,000,000 in respect to construction of phase II of the KMTC at the constituency. The contract for the project was signed with the contractor on 11 February, 2022 for a period of six months with the project expected to be completed in August, 2022. However, review of the procurement documents in respect to the project revealed that there was no evidence of individual score sheet by each member of the evaluation committee and that each member of the evaluation committee did an evaluation independently from the other members prior to sharing evaluation and rating with other members of the technical evaluation committee contrary to Regulation 31(1) of the Public Procurement and Asset Disposal Regulations, 2020 which requires that each member of the evaluation committee shall evaluate independently from the other members prior to sharing his or her analysis questions and evaluation including his or her rating with the other members of the technical evaluation committee.

Further, review of KMTC project bank account revealed that Kshs.5,127,928 was withdrawn in cash from the project account. However, minutes of the Project Management Committee authorizing these withdrawals and returns on how the amounts were utilized were not provided for audit verification contrary to Regulations 15 (1) of the National Government Constituency Development Fund Regulations, 2016 which require 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—(e) account for funds to a

Constituency Committee. Further, Regulation (5) provides that every payment out of the project management committee accounts shall be— on the basis of a resolution recorded in the minutes of a meeting of the project management committee; and accompanied by a cheque or a payment confirmation schedule issued in accordance with the guidelines issued by the Board.

In addition, a physical verification conducted on the site in the month of March, 2023 revealed that the phase II of the project was complete. However, it was noted that there were major cracks in the foundation and around the veranda, window locks were missing and fallen shutter plaster due to soaking of the slab from rain water.

In the circumstances, value for money in the procurement and construction of KMTC phase II could not be confirmed and Management was in breach of the law.

3. Failure to Utilize Complete Projects

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects a balance of Kshs.94,578,274 in respect to other grants and other transfers. The amount includes an amount of Kshs.27,737,630 in respect of security projects out of which an amount of Kshs.21,773,122 was spent for the construction of eight (8) assistant chief office blocks and an administrative police office blocks. However, physical verification carried out in the month of March, 2023 revealed that the office blocks were complete but remained un-commissioned and unutilized with visible cracks on the walls and the screed floor were noted on some of the projects. This is contrary to Section 68(1) of the Public Finance Management Act, 2015 which requires that an accounting officer for a National Government entity shall be accountable to the National Assembly for ensuring that the resources of the respective entity for which he or she is the accounting officer are used in a way that is-(a) lawful and authorized; and (b) effective, efficient, economical and transparent

In the circumstances, value for money in the implementation of projects totaling to Kshs.21,772,122 could not be confirmed. In addition, Management was in breach of the law.

4. Failure to Return Unutilized PMC Account Balances

The Fund's Management transferred an amount of Kshs.1,000,000 from the constituency account to the project management committee account for the construction of a Door abolition block with septic tank and soak pit at Igana Chief's office. The project did not commence since a similar project for the Assistant Chief's Office and abolition block was already completed in the same compound. However, the funds have not been returned to the constituency account contrary to Section 3 of the National Government Constituencies Development Fund Act, 2015 which states that if for any reason a particular project is cancelled or discontinued during the financial year, funds allocated for such a project shall be returned to the Fund and credited to the account of the constituency from which the funds were withdrawn.

In the circumstances, 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 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

Report of the Auditor-General on National Constituencies Development Fund - Mukurwe-Ini Constituency for the year ended 30 June, 2022

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 policies and procedures may deteriorate.

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

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

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

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



CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

20 June, 2023