

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - MWINGI CENTRAL 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

Adverse Opinion

I have audited the accompanying financial statements of Mwingi Central NGCDF set out on pages 1 to 68, which comprise of the statement of assets and liabilities as at 30 June, 2022, and the statement of receipts and payments, statement of cash flows and summary statement of appropriation for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, because of the significance of the matters discussed in the Basis for Adverse Opinion section of my report, the financial statements do not present fairly, the financial position of National Government Constituencies Development Fund - Mwingi Central 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 do not comply with the National Government Constituencies Development Fund Act, 2015 and the Public Finance Management Act, 2012.

Basis for Adverse Opinion

1. Failure to Maintain General Ledger and Trial Balance

The statement of receipts and payments reflects an expenditure amounting to Kshs.289,071,077. However, the management did not provide monthly or annual expenditure returns which usually serve as general ledgers in support of the financial statements. Further, the schedules provided omitted important details such as dates, payment voucher numbers, description, payee and Item charged.

In the circumstances, the accuracy, completeness and disclosures in the financial statements could not be confirmed.

2. Unsupported Emergency Expenditure

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects other grants and transfers amount of Kshs.101,162,440 which includes emergency projects amounting to Kshs.14,350,000. However, the payment vouchers in support of emergency expenditure totalling to Kshs.1,850,000 were not provided for audit.

In the circumstances, the accuracy and completeness of the emergency expenditure totalling to Kshs.14,350,000 could not be confirmed.

3. Unsupported Use of Goods and Services

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects use of goods and services totalling to Kshs.14,928,076 which includes Kshs.1,085,876 and Kshs.174,000 for repairs and supply of tyres for the Fund motor vehicle respectively. However, motor vehicle inspection reports, quotation evaluation reports, notification of award and contract agreement/LPO/LSO were not provided for audit. In addition, inspection and acceptance committee minutes and counter receipt vouchers showing that the goods were taken on charge were also not provided.

Further, Note 5 to the financial statements reflects Nil amount for office rent. However, records held at the Fund showed rent paid per month was Kshs.25,000.

In addition, surrender vouchers for office standing imprests totalling Kshs.402,000 were not supported by receipts and delivery notes/ counter receipt vouchers with details and quantities of goods purchased using the imprest.

Further, use of goods and services includes Kshs.5,134,700 in respect to utilities under which rental expenditure amounting to Kshs.300,000 was charged. However, verification of the lease agreement revealed that the Fund has been operating with an expired lease which was last signed on 1 May, 2013 and valid for five (5) years, for monthly rent of Kshs.10,000 payable quarterly. In addition, records reviewed reflected current monthly rent of Kshs.25,000 resulting to an unexplained variance of Kshs.15,000 per month, all totalling to Kshs.180,000 during the year under review.

In addition, the expenditure for rent amounting to Kshs.300,000 was charged to utilities sub-item instead of disclosing separately resulting in misclassification of expenditure.

In the circumstances, the accuracy and completeness of use of goods and services amounting to Kshs.14,928,076 could not be confirmed.

4. Inaccuracy in Fuel, Oil and Lubricants

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects use of goods and services totalling to Kshs.14,928,076 which includes fuel, oil and lubricants totalling to Kshs.1,500,000. However, review of documents and payment vouchers in support of the expenditure revealed that a total of Kshs.2,800,000 was incurred in supply of fuel resulting to an unexplained variance of Kshs.1,300,000. Further, the payment vouchers showed that expenditures on fuel totalling to Kshs.600,000 were wrongfully classified and charged under committee expenses.

In addition, payment vouchers for payments for fuel totalling to Kshs.400,000 were not supported by way of work tickets and detail orders. Further, the procurement documents and contractual agreements showing terms for the supply of fuel were not provided for audit.

In the circumstances, accuracy and completeness of fuel oil and lubricants expenditure amounting to Kshs.1,500,000 could not be confirmed.

5. Unsupported Committee Allowances

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects use of goods and services totalling to Kshs.14,928,076 which includes Kshs.3,992,800 and Kshs.1,292,400 for committee allowances and other committee expenses respectively. However, examination of payment vouchers in support of the expenditure reflected that monitoring and evaluation expenses totalling Kshs.2,150,000 were not supported by committee reports indicating the members present, projects/sites visited, dates the evaluations were undertaken and the findings of the evaluation committees.

Further examination of payment vouchers in support of committee allowances and committee training expenses reflected that committee allowances paid during trainings totalling to Kshs.473,200 were not supported by attendance registers, work tickets/evidence of travel, and back to office reports.

In the circumstances, the accuracy and completeness of committee allowances amount of Kshs.5,285,200 could not be confirmed.

6. Inaccuracy in Compensation of Employees

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects compensation of employees totalling to Kshs.4,395,523 which includes basic staff salaries amount of Kshs.2,974,013.20. However, the payroll provided for audit reflected basic wages paid to the staff amounting to Kshs.2,787,624 resulting to an unexplained variance of Kshs.186,389. In addition, the financial statements reflect a zero balance for employer compulsory contributions to National Social Security Schemes whereas analysis of the payroll confirmed a figure of Kshs.103,680 for employer contributions to NSSF.

Further, Note 4 to the financial statements reflects transport allowance and gratuity paid during the year of Kshs.200,000 and 1,221,510 respectively. However, detailed schedules showing the months paid, the period they relate to, the beneficiaries and amounts paid were not provided for audit.

In the circumstances, the accuracy, validity and completeness of compensation of employees amount of Kshs.4,395,523 could not be confirmed.

7. Unsupported Acquisition of Assets

The summary statement of appropriation indicates that the Fund budgeted for Kshs.1,535,788 under acquisition of assets. Examination of payment vouchers and the general ledger revealed that the Fund incurred the amount on renovation of the office currently occupied by the staff for which they are paying Kshs.25,000 per month. However, repairs of rental property do not qualify to be charged under acquisition of assets

In the circumstances, the accuracy and completeness of the acquisition of assets balance of Kshs.1,535,788 could not be confirmed.

8. Inaccuracy in Cash and Cash Equivalents

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.60,794,319 which agrees with the cashbook balance. However, the management did not provide a bank statement and certificate of bank balances to confirm the balance disclosed. Further, examination of the bank reconciliation statements for the Fund revealed that total unrepresented cheques amounted to Kshs.1,390,370 which included cheques totalling to Kshs.703,370 for statutory dues such as PAYE, NSSF, NHIF and Commissioner of VAT, with some dating back to between August, 2017 and December, 2021. The balance of Kshs.686,000 relate to bursary cheques. The unrepresented cheques were not written back in the cash book and cash balances restated accordingly.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.60,794,319 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-Mwingi Central 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 adverse 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 Matters

Budgetary Control and Performance

The summary statement of appropriation reflects approved final receipts budget and actual on comparable basis of Kshs.364,224,078 and Kshs.349,407,612 respectively resulting to an under-collection of Kshs.14,816,466 or 4% of the budget. Similarly, the Fund expended Kshs.289,071,077 against an approved budget of Kshs.364,224,078 resulting to an under-expenditure of Kshs.75,153,001 or 21% of the budget. The underperformance and under collection affected the planned activities and may have impacted negatively on service delivery to the public.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, because of the significance of the matters discussed in the Basis for Adverse Opinion and Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources section of my report, based on the audit procedures performed, I confirm that public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

1. Delays in Project Implementation

Review of expenditure records revealed that Kshs.65,409,250 and Kshs.101,640,000 were transferred to Secondary and Primary schools' projects respectively. However, the following unexplained delay in various projects were observed:

Sno.	Project Details	Contract sum (Kshs.)	Date Initiated	Remarks
1	Completion of a dining hall at Kivou Secondary school	4,156,330	2016/2017	Due to delays in completing the project, building started deteriorating necessitating an allocation of Kshs.400,000 from the emergency kitty in the year 2021/22. As at the date of the audit, the dining hall project was not yet complete.
2	Mutwangombe Secondary school- Proposed Dining Hall	4,000,000	2016/2017	The project was not allocated funds during the year under review and can be categorised as a stalled project
3	4 projects at Kyalamoko, Kivyuni, and Kalitini Primary Schools for construction of classrooms and Kitchen	1,700,370	2016-2017	Funded in the financial year under review. No explanation was provided as to why the projects took that long to implement

In the circumstances, value for money spent on the construction projects could not be confirmed.

2. Irregular Procurement and Implementation of Projects

Review of expenditure records revealed that Kshs.101,640,000 was transferred to primary schools' projects. However, expenditure on projects worth Kshs.3,600,000 had anomalies as shown below;

Sno.	Project Details	Contract sum (Kshs)	Remarks
1	Kivyuni Primary School and Kaombe Primary School plastering, flooring, painting and roofing works. -	1,350,000	Quotation evaluation reports/minutes showing the basis of the award and contract agreements/ Local Service orders were not provided for audit review
3	Mwania Primary School-plastering, flooring, painting and roofing works.	600,000	Only roofing and external painting works were done, flooring and internal painting works had not been done
4	Enziu Primary School-plastering, flooring, painting	450,000	Although the project was complete, the floors were poorly

Sno.	Project Details	Contract sum (Kshs)	Remarks
	fixing doors and windows and roofing works.		done, and doors and windows had not been fixed.
5	Kalisasi Primary School	1,200,000	Quotations for contractors involved evaluation reports and contract agreements were not provided thus the labour contractor that implemented the project could not be identified
	Total	3,600,000	

In the circumstances, the value for money invested in the projects could not be confirmed and the Management was in breach of the law.

3. Lack of Procurement Plan

The Fund did not have in place an approved annual procurement plan. This is contrary to Section 45 (3) of the public procurement and Assets Disposal Act, 2015 which provides that all procurements be within the approved budget of the entity and be planned by the entity concerned through an annual procurement plan. As a result, most of the procurements under use of goods and services such as office and general supplies and services and printing supplies were procured using office imprests some beyond the threshold for low value procurements.

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

4. Irregular issue of Bursaries

Expenditure records indicated that bursaries totaling Kshs.47,106,610 and Kshs.30,183,860 were disbursed to secondary schools and tertiary institutions respectively. However, documents to confirm whether applicants for the bursaries were vetted and identified as needy students by the bursary subcommittee were not provided for audit. Further, the criteria used to identify, vet and award the bursaries was not provided for review. This is contrary to CDF Board circular reference VOL1/111 dated 2015 which requires the bursary committee to vet, identify and categorize needy students using established criteria.

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

5. Failure to Maintain Updated Asset Register

The Fund management did not maintain an updated fixed asset register. The assets register presented for audit was last updated on 30 June, 2020. This is contrary to Regulation 143 (1) of the Public Financial Management (National Government) Regulations, 2015 which states that the Accounting Officer shall be responsible for

maintaining a register of assets under his or her control or possession as prescribed by the relevant laws

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, because of the significance of the matters discussed in the Basis for Adverse Opinion and Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance sections of my report, based on the audit procedures performed, I confirm that internal controls, risk management and governance were not effective.

Basis for Conclusion

1. Lack of Risk Management Policy

The Management had not put in place Risk Management Policy, strategies, and risk register to mitigate against risk. It was, therefore, not clear how the Management manages risk exposures. This is in contravention of Section 165 of the Public Finance Management (National Government) Regulations, 2015 which states that the Accounting Officer shall ensure that the National Government entity develops risk management strategies, which include fraud prevention mechanism and system of risk management and internal control that builds robust business operations.

In the circumstances, existence of effective risk management measures could not be confirmed.

2. Failure to Maintain Proper Record Keeping by PMC's

Review of records revealed that the Management did not maintain proper record as the project file for Kyumbe secondary school had minutes for Kyumbe primary school held on 2 August, 2022. In addition, the land sales agreement of 8 acres between an Individual and Kyumbe day Secondary school for the construction of the school was done in the absence of key government officials such as a land registrar/officer, valuer or a representative of the CDFC or a lawyer, except the area chief. The land sales agreement does not qualify as a legal instrument.

Further, the project file for Mboru girls secondary school did not contain the Bills of Quantities for the proposed renovation of classrooms at Kshs.600,000. The PMC entered a separate labour contract and separate materials contract for the renovation. There are no records to indicate how the materials were received.

In the circumstances, existence of effective internal controls on record keeping could not be confirmed.

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standard requires 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 International Public Sector Accounting Standards (Cash Basis) and for maintaining effective internal controls as Management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal control, risk management and 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 Funds' financial reporting process, reviewing the effectiveness of how the entity 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 controls 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 noncompliance. 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 Funds 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 Funds’ 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

16 June, 2023