

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - SUBA NORTH 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-Suba North Constituency set out on pages 1 to 30, which comprise of the statement of assets and liabilities as at 30 June, 2022, 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 Government Constituencies Development Fund-Suba North Constituency as at 30 June, 2022, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Cash Basis) and comply with the Public Finance Management Act, 2012 and the National Government Constituencies Development Fund Act, 2015.

Basis for Qualified Opinion

1.0 Unexplained Variance in Use of Goods and Services

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.8,903,839. However, the supporting ledger schedule provided for audit reflected a corresponding amount of Kshs.8,991,839, resulting in a variance of Kshs.88,000. The variance relates to bank charges which were excluded from the financial statements. No explanation was provided for the exclusion.

In the circumstances, the accuracy and completeness of the use of goods and services of Kshs.8,903,839 for the year ended 30 June, 2022 could not be confirmed.

2.0 Unsupported Expenditure on Bursaries

The statement of receipts and payments reflects other grants and transfers amounting to Kshs.128,672,344 which, as disclosed in Note 7 to the financial statements, includes an amount of Kshs.51,635,000 in respect of bursaries to students in secondary schools, tertiary institutions and special schools. However, the bursaries amount includes total disbursements of Kshs.11,239,000 whose supporting documents such as receipts and acknowledgement letters from the receiving schools and institutions were not provided for audit review.

In the circumstances, the accuracy, completeness and authenticity of the bursaries expenditure of Kshs.11,239,000 for the year ended 30 June, 2022 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 - Suba North 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

1.0 Transfer to Other Government Units

The statement of receipts and payments reflects transfers to other government units amounting to Kshs.70,469,082 as disclosed in Note 6 to the financial statements. Review of the expenditure revealed the following anomalies:

1.1 Irregular Funding of a Devolved Health Project

An amount of Kshs.26,200,000 was transferred to secondary schools out of which, Kshs.200,000 was disbursed to Usao Secondary School for the completion of a maternity wing. However, the project falls under health, which is a devolved function according to Part 2 of the Fourth Schedule of the Constitution of Kenya, 2010. The Management, therefore, violated Section 24(a) of the National Government Constituency Development Fund Act, 2015, which states that a project funded under the Act shall only be in respect of works and services falling within the functions of the National Government as per the Constitution. In addition, the Management used the code list for the financial year 2016/2017 to authorize the expenditure.

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

1.2 Poor Workmanship and Failure to Brand Road Projects

The Expenditure of Kshs.70,469,082 also includes transfers to primary schools amounting to Kshs.41,769,082 out of which, Kshs.11,000,000 was disbursed to the following road projects:

Activity	Amount (Kshs.)
Rusinga ring road to Agiro primary school access road formation, grading and gravelling 1km	2,000,000
Road formation grading, gravelling and 2 culverts Rusinga ring road to Kaswanga girls secondary school 1.5km	4,500,000
Rusinga ring road to Temo primary school access grading and gravelling 1km	1,700,000

Kiumba beach to Wanyama secondary school access road bush clearing, grading, graveling I culvert 1.5km	2,800,000
Total	11,000,000

Physical inspection of the road works on 16 March, 2023 revealed that drainage channels were not properly done, leading to surface runoff cutting across the roads and damaging them to a state of disrepair. In addition, there was no branding or signage indicating that the roads were done by the Fund.

In the circumstances, value for money of the expenditure of Kshs.11,000,000 could not be confirmed and the Management was in breach of the law.

1.3 Stalled Project - Administration and Tuition Block at Mbita MTC

Review of records revealed that the Project Management Committee (PMC) of Mbita Medical Training College entered into a contract with a local company for the construction to completion of Mbita Medical Training College administration and tuition block on 18 April, 2019 for a contract sum of Kshs.47,642,048, within 52 weeks from the date of the agreement. The total disbursements to the PMC for the project as at 30 June, 2022 were Kshs.50,000,000 out of which, Kshs.28,611,796 was paid to the contractor. However, audit site inspection carried out on 15 March, 2023 revealed that the project had stalled and the contractor had abandoned the site.

In addition, the percentage of completion could not be ascertained since a report on the same was not provided. Further, the project was not in the Fund's work plan for the year under review, casting serious doubts on whether it will be completed in the near future.

In the circumstances, value of the expenditure of Kshs.28,611,796 already incurred on the project could not be confirmed.

1.4 Purchase of Land for the Mbita Technical Training Institute

An amount of Kshs.2,500,000 was disbursed for the purchase of land for Mbita Technical Training Institute. However, review of the project records revealed that the Project Management Committee authorized payment of Kshs.2,479,000 to a law firm on 6 April, 2022 for unexplained purpose. In addition, review of the land purchase agreement and land registry search results revealed that the PMC entered into an agreement, on 8 August, 2019, for purchase of 1.2 Ha of land from vendors who were awaiting the outcome of a succession case in the High Court and therefore did not have a valid title to the land.

In addition, the land purchase agreement did not indicate the purchase value of the land. Further, the land valuation report from the Ministry of Lands and Physical Planning dated 29 January, 2021 indicated that the value of the land was Kshs.1,950,000. It's therefore not clear why the Fund disbursed Kshs.2,500,000 for the land, resulting to overpayment of Kshs.550,000.

In the circumstances, the validity and value for money of the expenditure on the purchase of land of Kshs.2,500,000 for the year ended 30 June, 2022 could not be confirmed.

1.5 Poor Workmanship in Implementation of Primary Schools Projects

Transfers to primary schools amounting to Kshs.41,769,082 included Kshs.4,000,000 disbursed to five (5) primary schools for various activities. However, audit inspection of these projects on 16 March, 2023 revealed signs of poor workmanship as shown in the table below:

Institution	Activity	Amount (Kshs.)	Finding
Kamasengre Primary School	Renovation of eight classrooms	1,200,000	The disability ramp was crumbling and the floor surfaces were chipping off and had developed potholes
Kirindo Primary School	Renovation of two classrooms	500,000	The floor surfaces were chipping off and had developed potholes
Chamakowa Primary School	Renovation of two classroom	500,000	The floor surfaces were chipping off and had developed potholes
Obambo Primary School	Completion of administration block	800,000	Window panes were falling off and there were cracks on the walls
Usare Primary School	Renovation of three classrooms to completion	1,000,000	There were cracks on the floors.
Total		4,000,000	

In the circumstances, value for money of the expenditure of Kshs.4,000,000 on primary school projects for the year ended 30 June, 2022 could not be confirmed.

2.0 Other Grants and Transfers

The statement of receipts and payments reflects other grants and transfers amounting to Kshs.128,672,344 as disclosed in Note 7 to the financial statements. However, the following audit issues were noted:

2.1 Purchase of Land for the Construction of Solar Mini Grid Plant on Ngodhe Island

The expenditure of Kshs.128,672,344 includes Kshs.58,050,000 incurred on security projects of out of which, Kshs.1,200,000 was disbursed for the purchase of land for construction of a solar mini grid plant on Ngodhe Island by Rural Electrification and Renewable Energy Corporation. Review of the project records revealed that the PMC authorized the payment of Kshs.1,170,000 to a law firm on 23 June, 2022 under unexplained circumstances.

In addition, the sale agreement, for the land earmarked for the project dated 8 February, 2022 did not indicate the sale price of the land. Further, although the approved

code list indicates that the land was to be 0.6Ha in size, the title deed revealed that the acquired parcel was 0.42Ha in size. Also, the land valuation report from the Ministry of Lands and Physical Planning dated 3 February, 2021 valued the whole parcel at Kshs.950,000.

In the circumstances, the basis for payment of Kshs.1,200,000 was not confirmed and may have occasioned loss of public funds.

2.2 Unutilized Project - Mbita Township Assistant Chief's Office

Expenditure on security projects amounting to Kshs.58,050,000 includes a disbursement of Kshs.400,000 for the completion of Mbita Township Assistant Chief Office. However, audit inspection of the project on 16 March, 2023 revealed that the office had been completed but was not being utilized.

In the circumstances, value for money of the security project expenditure of Kshs.400,000 for the year ended 30 June, 2022 could not be confirmed.

2.3 Irregular Use of Emergency Reserve

The expenditure of Kshs.128,672,344 includes expenditure on emergency projects of Kshs.12,350,000 out of which, Kshs.1,100,000 was utilized to acquire a school bus and Kshs.6,270,000 to gravel school access roads, both totaling to Kshs.7,370,000. However, no evidence was provided to indicate that the two activities met the criteria for funding from emergency reserves. Further, the utilization of the emergency reserve was not reported to the Board within thirty days of the occurrence of the emergency, in the format prescribed by the Board as required by Regulation 20(2) of the National Government Constituencies Development Fund Regulations, 2016.

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

3.0 Grounded Motor Vehicle

The summary of fixed assets register at Annex 4 to the financial statements reflects a balance of Kshs.4,057,402 in respect of transport equipment. The assets includes a motor vehicle which had been grounded since the year 2016. Management had not taken any action to repair or dispose off the vehicle to avoid further deterioration in value. Further, a report on the vehicle's current mechanical status was not provided for audit.

In the circumstances, the fairness of the valuation of the grounded vehicle at Kshs.4,057,402 could not be confirmed.

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 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 so as to obtain assurance as to whether effective processes and systems of internal controls, risk management and overall governance was maintained 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 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 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'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

Report of the Auditor-General on National Government Constituencies Development Fund – Suba North Constituency for the year ended 30 June, 2022

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 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 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 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 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

10 July, 2023