

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - TARBAJ CONSTITUENCY FOR THE YEAR ENDED 30 JUNE, 2019

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of National Government Constituencies Development Fund - Tarbaj Constituency set out on pages 1 to 34, which comprise the statement of assets and liabilities as at 30 June, 2019, and the statement of receipts and payments, statement of cash flows and the summary statement of appropriation - recurrent and development combined 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 effects 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 - Tarbaj Constituency as at 30 June, 2019 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. Variance between Financial Statements Balance and Notes to the Financial Statements

The summary statement of appropriation-recurrent and development combined reflects a budget under-utilization of Kshs.81,174,341 which differs with the unutilized funds balance of Kshs.75,407,463 by an unexplained difference of Kshs.5,766,878.

In the circumstances, the accuracy of the financial statements could not be confirmed.

2. Lack of Ownership Documents for Assets and Incomplete Assets Register

The summary of fixed assets register under Annex 4 to the financial statements, reflects a historical cost assets balance of Kshs.17,142,997 of which Kshs.13,700,000 was in respect of the Fund's buildings and structures. However, the ownership documents of the land where the building of the Fund's Office was constructed were not provided for audit. The ownership of the land could therefore, not be ascertained. Further, the fixed assets register did not include the nature, classification, codes or serial numbers and the cost of the assets disclosed.

In the circumstances, the validity, completeness and accuracy of the fixed assets balance of Kshs.17,142,997 as at 30 June, 2019, could not be confirmed.

3. Unsupported Transfers to Primary Schools

The statement of receipts and payments reflects transfers to other Government units balance of Kshs.43,709,676 which includes an amount of Kshs.33,610,320 transferred to various Project Management Committees (PMCs) of primary schools as disclosed under Note 6 to the financial statements. However, expenditure returns including cash books and bank statements from Project Management Committees (PMCs) for disbursements totaling to Kshs.8,900,000 were not provided for audit.

In addition, the list of prequalified suppliers maintained as required under Section 105 of the Public Procurement and Asset Disposal Act, 2015 and from which the contractors invited to submit quotations were identified, was not provided. The signed professional opinions on the procurement proceedings as required under Section 84 of the Public Procurement and Asset Disposal Act, 2015 and the approved work plans showing activities, duration, cost and responsibility for some of the projects were also not provided.

In the circumstances, the accuracy and probity of the expenditure of Kshs.8,900,000 on transfers to primary schools could not be ascertained.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the National Government Constituencies Development Fund - Tarbaj 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. Budget Control and Performance

The summary statement of appropriation-recurrent and development combined reflected budgeted receipts of Kshs.174,057,796 against actual receipts of Kshs.119,016,919 thereby resulting into under-collection of Kshs.55,040,876 or 32% of the budgeted receipts.

Further, the statement reflects budgeted total expenditure of Kshs.174,057,796 against actual total expenditure of Kshs.92,883,454 thus giving rise to an under-expenditure of Kshs.81,174,341 or 47% of the budgeted expenditure.

The Management attributed the underutilization of the funds to delays in disbursement of funds by the National Government Constituencies Development Fund Board. This may have hindered effective service delivery to the residents of Tarbaj Constituency.

2. Unresolved Prior Year Audit Matters

As disclosed under the progress on follow up of auditor recommendations section of the financial statements, some of the prior year audit issues remained unresolved as at 30 June, 2019. Management has not provided satisfactory reasons for the delay in resolving the issues.

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 sections 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. Projects Implementation

During the period under review, the Fund budgeted to implement a total of seventy-six (76) projects. However, twenty-nine (29) projects comprising 38% of the budgeted projects were not implemented. Non-implementation of projects negatively affects service delivery to the constituents of Tarbaj Constituency.

2. Procurement of Fencing Works at Elben Primary School

During the year under review, the Fund Committee disbursed Kshs.5,000,000 to Elben Primary School Project Management Committee (PMC) for the construction of chain-link fencing works. The PMC awarded the contract to a local firm at a contract price of Kshs.999,745. However, evidence of advertisement in the dedicated Government tenders' portals or a notice in at least two daily newspapers of nationwide circulation as required under Section 96(2) of the Public Procurement and Asset Disposal Act, 2015 and the professional opinion on the procurement proceedings as required by Section 84 of the Public Procurement and Asset Disposal Act, 2015 were not provided. In addition, Project Management Committees (PMCs) bank statement, approved work plan for the project as well as letter notifying the award of tender to the successful bidder were not made available for audit review.

In the circumstances, the probity of the expenditure of Kshs.5,000,000 on fencing works could not be ascertained.

3. Procurement Irregularities Regarding Projects in Secondary Schools

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Included in the transfers of Kshs.43,709,676 to other government units and as disclosed under Note 6 to the financial statements, is an amount of Kshs.10,099,356 transferred to various (PMCs) of secondary schools. However, a review of payment records and project files for grants totaling to Kshs.5,899,356 revealed the following anomalies:

- (i) Tender documents such as confidential business questionnaires, form of tender, tender questionnaires, handing over reports and certificates of practical completion were not provided.
- (ii) The contract for construction of eighty (80) bed - capacity dormitory block at Kutulo Girls Secondary School was awarded to a construction company at a contract sum of Kshs.4,799,470. However, evidence of advertisement in the dedicated Government tenders' portals or a notice in at least two daily newspapers of nationwide circulation as required under Section 96(2) of the Public Procurement and Asset Disposal Act, 2015 was not provided.
- (iii) The tender opening committee did not append their signatures or initials on one or more pages of the bill of quantities and tender documents as required by Section 78 (9) of the Public Procurement and Asset Disposal Act, 2015. Further, signed tender evaluation reports were not provided for audit review contrary to the requirements of Section 80(7) of the Public Procurement and Asset Disposal Act, 2015 that evaluation reports be signed by each member of the evaluation committee.
- (iv) Opinions of procurement professionals before award of the contracts as required under Section 162(1) of the Public Procurement and Asset Disposal Act, 2015 were not provided. Further, no evidence was provided that the projects were implemented in consultation with the relevant government departments as required under Regulation 15(1)(a) of the National Government Constituencies Development Fund Act, 2015.
- (v) The project work plans and tender opening registers were not maintained by the Project Management Committees.

In the circumstances, the probity of the transfers of Kshs.5,899,356 to secondary schools could not be ascertained.

4. Emergency Expenditure

Included in the other grants and other payments balance of Kshs.40,063,400 and as disclosed under Note 7 to the financial statements, is an amount of Kshs.6,500,000 incurred on emergency projects. However, tender documents such as confidential business questionnaires, form of tender, tender questionnaires, handing over report and certificate of practical completions for projects of which Kshs.1,700,000 had been paid were not provided. In addition, the tender evaluation minutes were not provided and where provided, they were not signed by the evaluation committee members as required under Section 80(7) of the Public Procurement and Asset Disposal Act, 2015 which

requires an evaluation report to be signed by each member of the evaluation committee. Further, some of the contracts were awarded to the contractors who did not satisfy the mandatory requirements for the award of the contracts such as Tax Compliance Certificate, NCA registration certificates, PIN or VAT and certificates of incorporation as required by the evaluation criteria.

Also, minutes of approval for utilization of emergency funds from National Government Constituencies Development Fund Committee and evidence that the utilization of the emergency funds was reported to the Board within thirty (30) days of the occurrence as required under Regulation 20(2) of the National Government Constituencies Development Fund Regulations, 2016 was not provided.

In the circumstances, the probity of the expenditure of Kshs.1,700,000 on emergency projects could not be ascertained.

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit so as 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 to obtain assurance about whether effective processes and systems of internal control, risk management and 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.

In preparing the financial statements, Management is responsible for assessing the Fund's ability to sustain services, disclosing, as applicable, matters related to

sustainability of services and using the going concern 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 manner.

Those charged with governance are responsible for overseeing the Fund's financial reporting process, reviewing the effectiveness of how the Fund 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 review is planned and performed to express a conclusion with limited assurance as to 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 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. The nature, timing and extent of the compliance work is limited compared to that designed to express an opinion with reasonable assurance on the financial statements.

Further, in planning and performing the audit of the financial statements and review 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 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 policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgment 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 going concern 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.



Nancy Gathungu
AUDITOR-GENERAL

Nairobi

16 November, 2021