

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - NYAKACH CONSTITUENCY FOR THE YEAR ENDED 30 JUNE, 2021

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 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 - Nyakach Constituency set out on page 15 to 48, which comprise of the statement of assets and liabilities as at 30 June, 2021, and the statement of receipts and payments, statement of cash flows and the summary statement of appropriation for the year then ended and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all

the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of National Government Constituencies Development Fund – Nyakach Constituency as at 30 June, 2021, 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. Unconfirmed Cash and Cash Equivalents Balance

The statement of financial assets and liabilities and as disclosed in Note 10A to the financial statements, reflect a balance of Kshs.21,735,492 in respect of cash and cash equivalents. However, review of the bank reconciliation statements for the month of June, 2021 revealed the following:

- (i) Un-presented cheques amounting to Kshs.12,205,564 which included unexplained cheques overstatement amounting to Kshs.1,054,000.
- (ii) Stale cheques totalling to Kshs.57,123 had not been written back to the cash book and some were more than two years old.
- (iii) Payments in bank statement but not recorded in cash book amount of Kshs.696,437 included Kshs.30,497 which related to bank charges since 2019 and Kshs.666,000 related to unexplained and unsupported understatements of cheques in the cash book.
- (iv) Receipts in the bank not in the cash book totalling to Kshs.166,000 for deposits purportedly done between 7 October, 2019 and 31 December, 2020 which had not been recorded in the cash books as the depositors' details were unknown; and
- (v) Receipts in the cash book totalling Kshs.52,000 that were over one month old which had not been credited in the bank statements.

In the circumstances, the accuracy of cash and cash equivalents balance of Kshs.21,735,492 could not be confirmed.

2. Unsupported Expenditure on Use of Goods and Services

The statement of receipts and payments reflects use of goods and services expenditure of Kshs.16,198,499 and as disclosed in Note 5 to the financial statements. However, an amount of Kshs.9,887,493 was supported leaving an amount of Kshs.6,311,006 as unsupported expenditure, all related to payments made to Fund officers.

In the circumstances, the completeness and accuracy of the use of goods and services expenditure could not be confirmed.

3. Other Grants and Transfers

3.1 Unsupported Bursary Disbursements -Tertiary Institutions

The statement of receipts and payment and as disclosed in Note 7 to the financial statement reflects other grants and transfer amount of Kshs.36,382,230 which includes an expenditure of Kshs.17,446,900 for bursary to tertiary institutions. However, bursary awards to six (6) tertiary institutions amounting to Kshs.3,799,000 did not have acknowledgement receipts from the learning institutions.

In the circumstances, the authenticity of bursary disbursements amounting to Kshs,3,799,000 could not be confirmed.

3.2 Unsupported Environment Project Payments

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects other grants and transfers amount of Kshs.36,382,230 which includes an amount of Kshs.5,745,000 in respect of environment projects. The environment projects included 450 units of 230 litres tanks for hand washing which were distributed to various schools within the constituency at a contract sum of Kshs.2,697,672. However, the payment was not supported by documents such as tender advertisement for the supply of tanks, tender evaluation score sheets done by the Tender Evaluation Committee, inspection and acceptance report for goods received and goods delivery notes.

3.3 Unsupported Sports Activities Payment

The statement of receipts and payments reflects Kshs.36,382,230 under other grants and transfers out of which an amount Kshs.2,747,330 related to sports projects. The sports project amount included payment in respect of a supply through framework agreement which was awarded to a supplier at a contract sum of Kshs.2,610,030 for supply of sports items such as foot balls, football jerseys, football boots and trophies to support sports games in the constituency. However, framework agreement and contract in support of the procurement process were not provided for audit. Further, no documents were provided to confirm that the referred sports items were received, inspected, accepted and issued to beneficiaries.

In the circumstances, the completeness and accuracy of the other grants and transfer of Kshs.36,382,230 could not be confirmed.

4.0 Unrecorded Emergency Payment

Documents availed for audit included a payment of Kshs.600,000 made to Kosovo Primary School via cheque on 19 February, 2021 to aid in refurbishment of classrooms destroyed by strong winds. However, the payment was not included in the Fund ledgers even though the cheque had already cleared on the bank statement. Management did not explain the accounting treatment for the payment. This indicated an understatement of emergency expenses by Kshs.600,000.

In the circumstances, the accuracy of the emergency expenditure could not be confirmed.

5.0 Unsupported PMC Balances

Note 17.4 to the financial statements and as detailed in Annex 5 reflects a balance of Kshs.22,254,687 for Project Management Committee bank accounts. However, the balance include an amount of Kshs.17,466,683 for thirty five (35) bank accounts which were not supported with certificate of bank balance as at 30 June, 2021.

As a result, the accuracy and existence of the Project Management Committee Bank Accounts of Kshs.22,254,687 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 - Nyakach 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

Budgetary Control and Performance

The summary statement of appropriation reflects final budgeted receipts of Kshs.222,905,679 and actual receipts of Kshs.171,154,730 resulting in budget shortfall of Kshs.51,750,948 or 23% of the approved budget. Similarly, the statement reflects final budgeted payments of Kshs.222,905,679 and actual payments of Kshs.149,419,237 resulting in net under expenditure of Kshs.73,486,442 or 33% of the budget.

In the circumstances, the underfunding and the underperformance 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, 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. Other Grants and Payments

1.1. Unjustified Expenditure on Non-Emergency Expenses

Included in other grants and transfers amount of Kshs.36,382,230 as disclosed in Note 7 to the financial statements is an expenditure on emergency projects of Kshs.8,173,200. However, the emergency projects expenditure includes a payment amounting to Kshs.450,000 for repair of motor vehicle, which did not meet the emergency expenses criteria set under Section 8(3) of the National Government Constituencies Development Fund Act, 2015 as they related to National Government activities and were not in the approved annual work plan.

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

1.2. Failure to Provide the Emergency Reserve Utilization Report

The Management did not report the funded emergencies to the Board as stipulated in Regulation 20(2) of the National Government Constituencies Development Fund Regulations, 2016 which requires utilization of the emergency reserve to be reported to the Board within thirty days of the occurrence of the emergency, in the format prescribed by the Board.

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

2. Emergency Expenditure Surpassed the 5% Allowable Ceiling

The statement of receipts and payments and as disclosed in Note 7 reflects an amount of Kshs.36,382,230 for other grants and transfers, which includes an amount of Kshs.8,173,200 for emergency projects. The amount is over and above the legally allowed emergency expenditure threshold of Kshs.6,854,444 (5%) of total allocation of Kshs.137,088,879 by Kshs.1,318,756. This is contrary to Section 8(1) of the National Government Constituencies Development Fund Act, 2015 which provides that a portion of the Fund, equivalent to five per centum (hereinafter referred to as the "Emergency Reserve") shall remain unallocated and shall be available for emergencies that may occur within the Constituency.

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

3. Poor Workmanship – Nyando Boys Boarding Primary School

Review of the implementation of the Fund projects revealed that the Fund transferred Kshs.900,000 to Nyando Boys Boarding Primary School for construction of 14 door pit latrines. However, audit verification of the project conducted on 7 April, 2022 revealed the following anomalies:

- (i) Doors worth Kshs.158,000 to all latrines had not been done as provided for under item 5 of the Bill of Quantities.
- (ii) Rain water collection gutters worth Kshs.41,970 had not been fixed as provided for under item 4 of the Bill of Quantities.

(iii) The contractor did 12 latrines instead of 14 and they were not proportionally built.

(iv) Floors were poorly done.

(v) Pit holes had no raised stands for ease and comfort during use by pupils.

In the circumstances, value for money may not have been received in respect of the project.

4. Project Implementation Status

The Project Implementation Status (PIS) report as at 30 June, 2021 provided, revealed that the Fund planned to implement eighty-four (84) projects at a budget of Kshs.133,088,879. Further the report indicates that thirteen (13) projects costing Kshs.24,600,000 under education and security had not started while one (1) project costing Kshs.16,947,051 was on going.

In the circumstances, it was not possible to confirm whether the public obtained value for money from the incomplete projects.

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

As required by Section 7(1)(a) of the Public Audit Act, 2015, based on the audit procedures performed, I confirm that, nothing has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether effective processes and systems of internal control, risk management and overall governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Responsibilities of Management and those Charged with Governance

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Cash Basis) and for maintaining effective internal control as Management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal control, risk management and governance.

In preparing the financial statements, Management is responsible for assessing the Fund's ability 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 Fund's 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 the Management monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibilities for the Audit

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal control in order to give an assurance on the effectiveness of internal controls, risk management and governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal control would not necessarily disclose all matters in the internal control that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal control components does not

reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Because of its inherent limitations, internal 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'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 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 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 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

30 September, 2022