

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - BOMACHOGE BORABU 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 - Bomachoge Borabu Constituency set out on pages 1 to 34, which comprise the statement of assets and liabilities as at 30 June, 2022, and the statement of receipts and payments, statement of cash flows and summary statement of appropriation for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations, which to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of National Government Constituencies Development Fund - Bomachoge Borabu Constituency as at 30 June, 2022, and of its financial

performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Cash Basis) and comply with the National Government Constituency Development Fund Act, 2015 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1. Inaccuracies in the Financial Statements

Review of the financial statements revealed the following anomalies and instances of non-compliance with the financial reporting template prescribed by the Public Sector Accounting Standards Board:

- i. Annex 5-PMC Bank balances as at 30 June, 2022 reflects no amounts in the “Bank Balance 2021/22 column. Instead, each of the cells in the column shows the word Kilgoris.
- ii. The statement of receipts and payments reflects Kshs.Nil proceeds from sale of assets, while Annex 4-summary of fixed asset register shows disposals during the year of Kshs.4,700,000, resulting in an unexplained variance of Kshs.4,700,000.
- iii. The statement of receipts and payments reflects acquisition of assets amount of Kshs.20,999 which differs with additions during the year of Kshs.8,023,902 reflected in the summary of fixed asset register, resulting in an unexplained variance of Kshs.8,002,903.

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

2. Unsupported Committee Allowances

The statement of receipts and payments and Note 5 to the financial statements reflects use of goods and services payments totalling Kshs.9,256,387 which includes committee allowances of Kshs.2,480,000. However, minutes and signed attendance schedules for committee meetings were not provided for audit review.

In the circumstances, the accuracy and regularity of the committee allowance payments of Kshs.2,480,000 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 - Bomachoge Borabu Constituency Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. There were no key audit matters to report in the year under review.

Other Matter

1. Budgetary Control and Performance

The summary statement of appropriation reflects final receipts budget and actual receipts on comparable basis totalling Kshs.194,302,737 and Kshs.183,797,737 respectively, resulting to a shortfall of revenue totalling Kshs.10,000,000 (or 5%) of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis totalling Kshs.194,302,737 and Kshs.183,797,654 respectively, resulting to under-expenditure of Kshs.10,505,083 (or 5%) of the budget.

The underfunding and under-expenditure constrained execution of planned activities and delivery of services to the constituents of Bomachoge Borabu Constituency.

2. Unresolved Prior Year Matters

The audit report for the financial year ended 30 June, 2021 highlighted several unsatisfactory issues relating to balances reflected in the financial statements presented for audit. The report on progress on following up on the Auditor's recommendations appended to the financial statements for the year under review indicates that the matters had not been resolved as at 30 June, 2022. No explanation has been provided by Management 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

1.0 Non-Compliance with the Provisions of the Procurement Act

The statement of receipts and payments and Note 7 to the financial statements reflects grants and transfers balance of Kshs.83,981,770 which includes bursary-tertiary institutions amount of Kshs.39,076,000 out of which, Kshs.3,500,000 was paid to a driving school, being the cost of training Boda Boda operators. In October, 2021, the Bursary Committee prepared a driving school bursary report aimed at training boda boda operators within Bomachoge Constituency. According to the report, a total of 174 individuals applied out of which 140 were successful. The Management in its sitting held on 7 November, 2021 approved the training at a total cost of Kshs.3,500,000. Review of the financial records revealed that the driving school was paid before delivery of services, contrary to Section 146 of the Public Procurement and Asset Disposal Act, 2015. Further, no evidence was provided to confirm whether the services of the driving school were procured competitively.

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

2. Procurement of Environmental Impact Assessment

The statement of receipts and payments and Note 7 to the financial statements reflects other grants and transfers balance of Kshs.83,981,770. Included in the balance is an expenditure on emergency projects of Kshs.5,221,770 out of which, Kshs.200,000 was paid to a firm to undertake environmental impact assessment. However, the firm was single sourced and there was no evidence that the service was delivered since no report was provided for audit verification to support the environmental impact assessment. Further, no evidence was provided to show that the exercise was an emergency.

In the circumstances, the regularity of the expenditure of Kshs.200,000 on environmental impact assessment could not be confirmed.

3. Construction of Classrooms through Use of Emergency Funds

The statement of receipts and payments and Note 7 to the financial statements reflects other grants and transfers balance of Kshs.83,981,770. Included in the balance, is an amount of Kshs.5,221,770 in respect of emergency projects out of which Kshs.601,770 was paid to a firm in respect of the construction of seven (7) iron sheets classrooms at Nyamecheo Boarding Primary School. However, review of the financial records revealed the following issues;

- i. The company was not competitively procured.
- ii. The authority to pay was granted on 26 January, 2022, whereas the cheques were presented for payment between 10 and 19 January, 2022 under unclear circumstances.
- iii. The Committee approved the emergency allocation to the School on 3 January, 2022, the Final certificate was issued on 11 November, 2021 while the invoice was raised on 16 November, 2021 clearly indicating that the invoice preceded the approval process.
- iv. The bill of quantities were not prepared and the basis of the estimates could not be ascertained.

In the circumstances, the regularity of expenditure of Kshs.601,770 could not be confirmed.

4.0 Partially Complete Projects

The statement of receipts and payments and Note 6 to the financial statements, reflects transfers to other government units balance of Kshs.85,034,253 and which included an amount of Kshs.81,334,253 that was transferred to primary schools. Review of financial records revealed the following issues:

- i. An amount of Kshs.21,200,000 was spent on completion of twelve (12) classrooms, centre of excellence; 2 storey blocks; columns, beams, roofing, ceilings; fitting doors and windows, plastering, branding at Metembe Primary School. The project had been completed. However, there were cracks on the floors, electrical works had not been

carried out and water harvesting gutters had not been fitted and the project was not in use.

ii. Further, an amount of Kshs.2,704,250 was incurred on construction of classrooms at Nyabongo Primary School. The project was complete. However, poor workmanship such as poorly done paintworks and cracked walls was noted, electrical works and branding had not been done. In addition, the classrooms were not in use since late 2022 when they were completed.

iii. Moreover, an amount of Kshs.1,800,000 was spent on construction of classrooms at Kiango Primary School. The contract was to cover construction of 3No. classrooms. However, audit verification revealed that the classrooms were complete and one classroom was not in use.

iv. An amount of Kshs.1,800,000 was incurred on construction of classrooms at Omosobwa Primary School. The classrooms had been completed. However, poor workmanship was noted; evidence of peeling paints, windows and doors had been fixed but without panes and the project had not been branded. Further, the project was not in use.

In the circumstances, value for money on the expenditure of Kshs.27,504,250 on construction of classrooms in four (4) schools could not be confirmed.

5. Failure to Constitute Project Management Committee

The statement of receipts and payments and Note 6 to the financial statements, reflects transfers to other government units balance of Kshs.85,034,253 which included Kshs.81,334,253 transferred to primary schools out of which an amount of Kshs.9,000,000 was disbursed to Nyakorere Primary School for the construction and completion of twelve (12) classrooms, centre of excellence; two (2) storey blocks; columns, beams, roofing, ceilings; fitting doors and windows, plastering, branding at a contract sum of Kshs.22,984,216. However, review of the records revealed that the project was implemented without involving the project management committees as required by Regulation 15(1) of the National Government Constituency Development Regulations, 2016.

In the circumstances, Management was breach of the law.

6. Budgeted Projects Not Implemented

The transfers to other government units balance of Kshs.85,034,253 includes Kshs.15,700,000 disbursed for implementation of three (3) primary schools and one (1) secondary school projects. However, review of the project implementation report revealed that the four projects had not been implemented as at the time of audit in March, 2023 as detailed below:

Name of School	Description of Project	Amount Disbursed (Kshs.)
Botoranda Primary School	1. Construction of 6 door pit latrine 2. Construction of 3 No. Classrooms including electrification, installation of gutters and 10,000 litre tank, painting and branding	1,300,000
Eberege Primary School	Completion of 12 classrooms, centre of excellence; 2 storey blocks; columns, beams, roofing, ceilings; fitting doors and windows, plastering, branding	5,900,000
Nyamesocho Primary School	Completion of 12 classrooms, centre of excellence; 2 storey blocks; columns, beams, roofing, ceilings; fitting doors and windows, plastering, branding	7,500,000
Mosensera Secondary School	Construction of Classrooms	1,000,000
Total		15,700,000

In the circumstances, the expected benefits from the projects may not be realized.

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 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 controls, 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 the 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 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 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

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 controls 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 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 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 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

13 July, 2023