

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - 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 - Borabu Constituency set out on pages 1 to 32, 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, 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 the National Government Constituencies Development Fund - 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 Constituencies Development Fund Act, 2015 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1. Unsupported Expenditure

The statement of receipts and payments reflects use of goods and services amount of Kshs.9,108,297 as disclosed in Note 3 to the financial statement which includes payments amounting to Kshs.2,613,450 in respect of other committee expenses whose supporting payment vouchers were not provided for audit review.

In addition, the minutes authorizing the payments of expenditures totalling Kshs.406,000 and documents in support of fuel consumption of Kshs.200,000 were not provided for audit review.

In the circumstances, the accuracy, completeness and propriety of the use of goods and services expenditure of Kshs.3,219,450 in respect of other committee expenses for the year ended 30 June, 2022 could not be confirmed.

2. Unsupported Bursary Disbursements

The statement of receipts and payments reflects other grants and transfers amount of Kshs.79,878,997 which, as disclosed in Note 5 to the financial statements, includes bursary - tertiary institutions amount of Kshs.42,067,511, out of which, Kshs.30,185,394 is reflected in the ledger or expenditure returns as combined disbursements vide various payment vouchers to various universities.

However, the individual payment vouchers together with the related supporting documents were not provided for audit review.

In the circumstances, the accuracy, completeness and authenticity of the bursary - tertiary institutions amount of Kshs.30,185,394 for the year ended 30 June, 2022 could not be confirmed.

3. Unsupported Purchase of Land

The statement of receipts and payments reflects transfers to other Government units of Kshs.63,857,129 which includes transfers to primary schools of Kshs.30,260,662 as disclosed in Note 4 to the financial statements, and out of which an amount of Kshs.1,550,000 was disbursed towards the purchase of a parcel of land measuring approximately 1½ acres at a local primary school. Review of records revealed that the

project was co-funded by the Fund and a Seventh Day Adventist church. However, the expenditure was not supported by certificate of official search, valuation report by a Government or registered valuer, executed sale/purchase agreement, and the title deed for the parcel of land.

In the circumstances, the validity, accuracy and completeness of the expenditure of Kshs.1,550,000 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 - 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. Unresolved Prior Year Audit Matters

In the audit report of the previous year, issues were raised under Report on the Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management had not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates.

2. Budgetary Control and Performance

The summary statement of appropriation reflects budgeted expenditure and actual on comparable basis amounts of Kshs.188,255,833 and Kshs.175,456,168 respectively, resulting to under-expenditure of Kshs.12,799,665 (or 7%).

The under expenditure affected the planned activities and may have impacted negatively on service delivery to the Borabu Constituency residents.

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 the 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. Transfers to Other Government Units

The statement of receipts and payments reflects transfers to other Government units balance of Kshs.63,857,129 as disclosed in Note 4 to the financial statements. However, audit of this expenditure revealed the following unsatisfactory matters:

1.1 Unconfirmed Procurement and Incomplete Construction of an Administration Block

The transfers to primary schools amount of Kshs.30,260,662 includes Kshs.1,000,000 paid to a local primary school for the construction of an administration block to completion. However, the project file including the Bill of Quantities and procurement records were not provided for audit review. This is contrary to Section 68 of the Public Procurement and Asset Disposals Act, 2015 which requires the Accounting Officer to keep records for each procurement for at least six years after the resulting contract has been completed. In addition, field inspection conducted in March, 2023 revealed that the project was not complete as the building had been done only up to roofing. Plastering had not been done and window panes and internal doors had not been fixed.

In the circumstances, Management was in breach of the law and value for money of the expenditure of Kshs.1,000,000 could not be confirmed.

1.2 Irregular Purchase and Delayed Delivery of School Buses

The transfers to other Government units amount of Kshs.63,857,129 includes transfers to secondary schools amount of Kshs.16,229,519 out of which, Kshs.5,500,000 was disbursed to three secondary schools for purchase of school buses. However, Management did not provide for audit review the procurement documents, including tender advertisement, tender opening and evaluation report. This is contrary to Section 80.(1) of the Public Procurement and Asset Disposals Act,2015 which requires the evaluation committee to evaluate and compare the responsive tenders.

In addition, two buses for had not been delivered at the time of audit exercise in March, 2023 since payments for them had not been completed.

In the circumstances, Management was in breach of the law and value for money of the expenditure of Kshs.5,500,000 for the year ended 30 June, 2022 could not be confirmed.

1.3 Irregular Drilling and Casing of a Bore Hole

The transfers to other Government units amount of Kshs.63,857,129 includes transfers to tertiary institutions amount of Kshs.17,366,948 out of which, Kshs.3,691,995 was spent on drilling of a borehole at a local Teachers Training College. The Fund's code list for the

year ended 30 June, 2022 indicated that the project activities included: drilling and completion of installation of casing at a cost of Kshs.2,400,000; pump at a cost of Kshs.700,000; one 10,000-liter water tank of Kshs.100,000; and piping at a cost of Kshs.200,000. However, the following anomalies were noted:

The contractor started the project and received payment of Kshs.1,398,600 before obtaining letter of award for the contract. This was contrary to Section 146 of the Public Procurement and Asset Disposal Act, 2015 which stipulates that no works, goods or services contract shall be paid for before they are executed or delivered and accepted by the Accounting Officer of a procuring entity or an officer authorized by him or her in writing except where so specified in the tender documents and contract agreement. Such an advance payment shall not be paid before the contract is signed.

In addition, the expenditure of Kshs.3,691,995 was incurred against Kshs.3,450,000 approved by the Board, resulting in Kshs.241,995 spent without the Board's approval.

Further, field inspection of the project revealed that only the drilling and casing of bore hole had been done, while the pump, 10,000-litre tank and piping had not been installed.

In the circumstances, value for money of the expenditure of Kshs.3,691,995 could not be confirmed. Also, Management was in breach of the law.

1.4 Irregularities in Construction of Septic Tank

The transfers to other government units balance of Kshs.63,857,129 includes transfers to tertiary institutions amount of Kshs.17,366,948 out of which, Kshs.7,255,033 was paid to a company for the construction of a 625M3 septic tank to completion at a local teachers training institute. However, field inspection in March, 2023 revealed that the project had not been completed and that there was water seepage that had filled the septic tank. In addition, it was noted that the payment of Kshs.7,255,033 was above the quoted price by Kshs.353,250.

In the circumstances, the regularity of the over expenditure of Kshs.353,250 could not be confirmed. Also, the benefits expected from the projects may not be realized in a timely manner.

2. Unauthorized Administration Expenses Under Sports Projects

The statement of receipts and payments reflects other grants and transfers amount of Kshs.79,878,997 which, as disclosed in Note 5 to the financial statements, includes expenditure on sports projects of Kshs.2,674,600 which further includes Kshs.312,000 spent on administration expenses (Committee sitting allowances). However, the latter amount is 11% of the total allocation for sports projects of Kshs.2,728,649 reflected in the budget execution by sectors and projects, which is more than the 5% allowed by Section 9 of the National Government Constituencies Development Fund Act, 2015, which states that the project management committee shall set aside a sum not exceeding five per centum of the total allocation for the project to cater for the administration expenses of the project.

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

3. Unconfirmed Construction of Buildings

The statement of receipts and payments reflects acquisition of assets amount of Kshs.19,716,814 which, as disclosed in Note 6 to the financial statements, includes construction of buildings amount of Kshs.18,316,814. However, includes in the latter amount is Kshs.3,711,629 spent on construction of septic tank, whose supporting Bill of Quantities (BQ) was not provided for audit review.

In the circumstances, the validity and value for money of the expenditure of Kshs.3,711,629 could not be confirmed.

4. Unpresented Cheques in the Bank Reconciliation Statement

Review of bank reconciliation statements revealed unpresented cheques totalling to Kshs.800,818 as at 30 June, 2022. Most of the unpresented cheques relate to bursary payments. However, bank statements and reconciliation statements for July, 2022 and subsequent months were not provided for audit review and it was not possible to confirm whether the unpresented cheques were finally cleared or not by the banks. In addition, it is not clear why the cheques remained unpresented despite the fact that the beneficiaries were in need of the bursaries. This is contrary Section 90.(1) Public Finance Management Regulations, 2015 which states that Accounting Officers shall ensure any discrepancies noted during bank reconciliation exercise are investigated immediately and appropriate action taken including updating the relevant cash books.

In the circumstances, Management was in breach of the law and the cheques may have been replaced and the amount diverted to different activities.

5. Unimplemented Projects

Review of the approved code list (budget) and audit inspection of projects implemented during the year under review revealed that sixteen (16) projects with approved budget of Kshs.18,233,334, earmarked for implementation during the year under review, had not started by the time of audit verification in March, 2023.

In the circumstances, the expected services from the projects of Kshs.18,233,334 may not be realized by the residents of Borabu Constituency.

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 standard requires that I plan and perform the audit to obtain assurance about whether processes and systems of internal controls, 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 controls, risk management and overall governance.

In preparing the financial statements, Management is responsible for assessing the ability of the Fund 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

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 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 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 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 ability of the Fund 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

05 July, 2023