

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - EMBAKASI EAST 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 - Embakasi East Constituency set out on pages 1 to 30, 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 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 - Embakasi East 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 National Government Constituencies Development Fund Act, 2015.

Basis for Qualified Opinion

1. Unsupported Bursary Disbursement

The statement of receipts and payments and Note 7 to the financial statements reflect other grants and other payments amount of Kshs.91,809,957. Included in this amount is expenditure totalling to Kshs.77,142,000 which relates to bursaries to secondary schools and tertiary institutions. However, only a few acknowledgement receipts were provided and some application forms had no admission numbers. Further, it was observed that the total bursary amount of Kshs.77,142,000 represents 48% of the total transfers from NG-CDF Board, which is 13% above the allowable limit of 35%. The anomaly was not explained.

In addition, there was no evidence of formation of an Education Bursary Committee whose core mandate is vetting of applicants, contrary to guidelines in a circular issued in relation to vetting, as all the forms had no evidence of vetting by the Committee. Further, the amount awarded to the successful applicants was not indicated in the application form, and in the absence of such information it was not possible to confirm the amount awarded to the successful applicants.

In the circumstances, the accuracy, regularity and completeness of bursaries amounting to Kshs.77,142,000 could not be confirmed.

2. Cash and Cash Equivalents

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.12,497,023. However, there was no Board of survey report in support of the balance.

Further, examination of the April, 2022 bank reconciliation statement revealed a total amount of Kshs.11,564,352 being payment in cash book not yet recorded in the bank statement (unpresented cheques). Included in this amount were stale cheques some dating 28 August, 2019 totalling to Kshs.1,680,000. Details on when the long outstanding balances were cleared were not provided and the same was not reflected in the June, 2022 bank statement.

In addition, the June, 2022 bank reconciliation statement revealed analyses of payments in bank statement not yet recorded in the cash book, with payments totalling to Kshs.721,112 dating back to 2016, hence had been outstanding for over seven years. No explanation was provided for not adjusting the balances in the cash book. In addition, the reconciliation statement also revealed payments in cash book not recorded in bank statement (unpresented cheques) totalling to Kshs.3,290,042. The Management did not provide evidence and details on when the cheques were cleared.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.12,497,023 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 - Embakasi East 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 audit 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 on comparable basis totalling to Kshs.228,466,380 and Kshs.170,902,439 respectively, resulting to an underfunding amounting to Kshs.57,563,941 or 25% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis totalling to Kshs.228,466,379 and Kshs.158,405,417 respectively, resulting to an under expenditure of Kshs.70,060,962 or 31% of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

2. Unresolved Prior Year Matters

Various prior year audit issues remained unresolved as at 30 June, 2022, and Management did not provide reasons for the delay in resolving the prior year audit 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 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. Irregularities in Implementation of Primary and Secondary School Projects

The statement of receipts and payments reflects transfer to other Government entities amounting to Kshs.54,000,000 as disclosed in Note 6 to the financial statements, which includes transfers to secondary schools amounting to Kshs.42,000,000 and transfers to primary schools amounting to Kshs.12,000,000. Review of the project files provided for audit and physical verification of the projects revealed the following anomalies;

1.1 Construction of Three Classrooms at Maua Primary School

The Fund disbursed a total of Kshs.4,500,000 to the Project Management Committee (PMC) of Maua Primary School for construction of 3 classrooms. Physical verification carried out on 4 April, 2023 revealed that the project had been completed. However, it was observed that the entire floor had cracks, only one coat of painting had been done, the black boards were not complete, and the project was not branded.

1.2 Construction of Toilets at Embakasi Garrison Primary School

The Fund disbursed a total of Kshs.4,000,000 to the Project Management Committee (PMC) for Embakasi Garrison Primary School vide cheques number 15799 dated 16 March, 2022 for construction of toilets. Physical verification of the project carried out on 4 April, 2023 revealed that both the male and female toilets had malfunctioning water system connection making the effective use of the toilets minimal. The project was also not branded.

1.3 Donholm Secondary School - Construction of Tuition Block

The National Government Constituency Development Fund Embakasi East Constituency disbursed a total of Kshs.12,000,000 for completion of a new tuition block with 8 classrooms, 5 toilet doors, and 50 student capacity laboratory phase 2 of the first floor. In total, Kshs.42,713,620 had been disbursed to the Project Management Committee (PMC) as at 30 June 2022, for construction of tuition block for Donholm Secondary School.

The contract was awarded to a contractor for a contract sum of Kshs.40,249,703 on 15 June, 2021. Physical verification carried out on 4 April, 2023 revealed that the construction of the new tuition block phase 1 was still ongoing and the entire building was incomplete. The construction was completed only to the slab, with no finishing and the engineer's progress reports were not provided for audit.

In view of the gaps in project completion described above, it was not possible to confirm that value for money was realized in the project implementation. In addition, Management was in breach of the law.

2. Non-Compliance with Management of Emergency Reserves

The statement of receipts and payments reflects other grants and transfers amounting to Kshs.91,809,957 which includes emergency expenditure amounting to Kshs.8,267,933, as disclosed in Note 7 to the financial statements. However, no documentary evidence was provided indicating that NGCDF Embakasi East Constituency had reported any of the emergency expenditure to the Board using the prescribed format and within the stipulated period of 30 days of occurrence of the emergency as required by Section 20(2) of the National Government Constituencies Development Fund Regulations, 2016.

In the circumstances, Management was in breach of the law

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 controls, risk management and overall governance.

In preparing the financial statements, Management is responsible for assessing the Fund's ability to continue to sustain services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless Management is aware of 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 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 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 Constituency 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 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 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 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