

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - EMBAKASI WEST 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 West set out on pages 1 to 40, 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 statement of comparison of budget and actual amounts 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 matter 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 Constituency Development Fund - Embakasi West 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

Cash and Cash Equivalents

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.13,101,098 as disclosed in Note 10A to the financial statements. However, review of the bank reconciliation statement for balances as at 30 June, 2022 revealed un-presented cheques totalling Kshs.5,344,621 which dating back to 25 February, 2022. The Management did not provide details on when the cheques were cleared and the status of the stale cheques. Further, the statement reflects payment in the bank statement not in the cash book described as overpayment of Kshs.45,000 whose basis for the over payment was not provided. No explanation was provided for not recording the transactions in the cashbooks contrary to Regulation 90(3) of the Public Finance Management (National Government) 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.

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 West 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.

Other Matter

Budgetary Control and Performance

The summary statement of appropriation revealed the Fund budgeted to receive Kshs.297,530,768 from the CDF Board out of which the Board remitted Kshs.197,474,164 resulting in a deficit of Kshs.100,056,604 equivalent to 34% of the budget. Similarly, a final expenditure budget of Kshs.297,530,768 against actual expenditure of Kshs.184,373,066 resulting in budget under-utilization of Kshs.113,157,702 equivalent to 38% of the approved budget.

As a result, the Fund did not implement planned and approved projects in accordance with the approved programme thereby denying residents of Embakasi West Constituency services.

In addition, it was observed that out of a budget of Kshs.134,936,898 under other grants and transfers, only an amount of Kshs.100,706,200 was utilized resulting to an unutilized amount of Kshs.34,230,693 or 25% of the budgeted amount. Subsequently, out of a budget of Kshs.115,956,486 under transfers to other Government entities, only an amount of Kshs.70,056,486 was utilized resulting to an unutilized amount of Kshs.45,900,000 or 40% of the budgeted. No reason was provided for the significant amount of unutilized funds.

Further, the budget execution by sectors and projects reflects expenditure in excess of budgeted amounts of Kshs.733,574 and Kshs.704,934 in respect of committee allowances and use of goods and services. The authority for the over expenditure was not provided. This is an indication that the Constituency Management did not implement the budget as approved by the Board.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the residents of Embakasi West Constituency.

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. I have determined that there are no key audit matters to communicate in my report.

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. Irregular Issuance of Bursaries

The statement of receipts and payments and Note 7 to the financial statements indicates that a total payment of Kshs.100,706,200 in respect of other grants and transfers were made during the year under review. Included in this expenditure is Kshs.84,060,000 which related to bursaries in respect of secondary schools totalling to Kshs.44,650,000 and tertiary institutions totalling to Kshs.39,410,000. However, the following anomalies were observed: -

- i. The Management did not provide evidence of formation of the Education bursary, Mock examinations and Continuous assessment tests committee, whose mandate is to vet applicants.

- ii. An examination of a sample of the application forms revealed that all the forms had no evidence of vetting by Education bursary, Mock examinations and Continuous assessment tests Committee.
- iii. The chairman or the secretary of the vetting committee did not sign the application forms as proof of approval or rejection of the application.
- iv. It was not possible to confirm the amount of bursaries awarded to the successful applicants, since there was no indication on the application form.
- v. The minutes of the vetting committee and the details of the successful applicants were not provided for audit review.
- vi. Analysis of the total bursaries issued revealed that some students did not have admission or registration numbers.
- vii. The total bursaries of Kshs.84,060,000 and social security programmes expenditure of Kshs.1,500,000, all totalling to Kshs.85,560,000 formed 53% of the funds allocated. This is contrary to the law as it formed more than thirty-five per centum of the total funds allocated for the Constituency in the year under review.

In the circumstances, regularity and authenticity of bursaries of Kshs.84,060,000 could not be confirmed.

2. Failure to Implement Classrooms Project

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reveals that NG-CDF Embakasi West Constituency made transfers to other Government entities amounting to Kshs.70,056,486 and Kshs.58,056,486 to primary schools and Kshs.12,000,000 to secondary schools.

Audit inspection carried out on 14 March, 2023 revealed that the project worth Kshs.12,000,000 for construction of classrooms at Dr Mwenje Secondary School had not been implemented while the amount being transferred to the Project Management Committee (PMC) Account on 31 May, 2022.

In the circumstances, the value for money on the Project whose implementation was delayed could not be confirmed.

3. Failure to Submit Monthly Bank Reconciliation Statements for Audit

During the year, the Fund Management did not submit monthly bank reconciliation statements for audit, contrary to Section 90(1) of the Public Finance Management Act, 2012.

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

4. Unutilized Project Management Committee (PMC) Funds

The Fund Board approved projects in primary and secondary schools valued at Kshs.70,056,486, for implementation during the year under review. However, review of 16 PMC accounts in relation to prior years' projects revealed that a PMC balance of Kshs.14,628,732 for projects which were completed and in use.

No explanation was provided for not refunding back the Funds to the Constituency Account, despite the project implementation status provided indicating that the projects were complete and in use. This is contrary to Section 12(8) of the National Government Constituency Development Fund Act, 2015, which requires such funds to be refunded.

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

5. Irregular Branding of Projects

Inspection of projects implemented in the Constituency carried out on 14 March, 2023 revealed that the projects implemented at Umoja 1 Primary School, Mowlem Supa Loaf Primary School and Unity Primary School were branded with the name of the area Member of Parliament. Similarly, the desks and chairs supplied to Busara Primary School were branded with the name of the area Member of Parliament. This is contrary to Section 25(3) of the National Government Constituencies Development Fund Act, 2015, which require such branding to be in the name of the Constituency and not in the name of any individual.

Under 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 control, risk management and overall governance.

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 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 control in order to give an assurance on the effectiveness of internal controls, risk management and overall 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 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 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 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

27 June, 2023