

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - KASARANI 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 - Kasarani Constituency set out on pages 1 to 36, which comprise the statement of assets and liabilities as at 30 June, 2022, 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 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 the National Government Constituencies Development Fund - Kasarani 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. Irregular Payments under Compensation of Employees

The statement of receipts and payments and Note 4 to the financial statements reflect compensation of employees amount of Kshs.3,805,890. Examination of salary schedules provided revealed that out of this amount, Kshs.703,080 was paid to ten (10) former employees of the Fund. However, the related staff records were not provided for audit. In the absence of staff records it was not possible to confirm whether the beneficiaries were actually former employees. Similarly, their contracts provided for payment of gratuity which was not paid at the end of their service period. Additionally, in the absence of staff records referred to above, it was not possible to confirm the amount of entitlement and the reason for non-payment. Further, the payments to the former employees were not reflected in the Fund's bank statement for the year under review.

In the circumstances, the accuracy and completeness of the compensation of employees amount of Kshs.3,805,890 could not be confirmed.

2. Other Grants and Other Transfers

2.1 Unexplained Variances in Bursaries

Note 7 to the financial statements reflects bursary issued totaling to Kshs.74,276,363. Examination of payment vouchers revealed total bursaries issued in the year amounting to Kshs.75,422,862 resulting to unexplained variance of Kshs.1,146,498.

Additionally, the total bursary of Kshs.74,276,363 constitutes Kshs.57,342,653 to secondary schools and Kshs.16,933,711 to tertiary institutions. However, schedules provided reflected Kshs.58,554,217 for bursary to secondary schools and Kshs.13,967,572 for bursary to tertiary institutions. The resultant variances of Kshs.1,211,564 and Kshs.2,966,139 were not explained or reconciled.

Further, review of extracts of the cheques dispatch register revealed cheques drawn in the year under review but could not be traced to the bursary analysis schedules.

2.2 Unsupported Bursary

Examination of records provided revealed that one hundred and eight (108) students were awarded bursary of between Kshs.40,000 and Kshs.150,100 each, totalling Kshs.8,718,117 in the year under review. However, it was observed that the Board only approved a list of sixty-two (62) students and therefore the list of 108 students awarded exceeded the approved sixty-two (62) students. The approval for the extra forty-six (46) students was not provided.

In addition, a payment voucher number 73 for an amount Kshs.1,380,000 was supported with a listing of three hundred (300) students. However, details of bursary entitlement of the students were not provided.

2.3 Irregular Bursary to Driving Schools

Examination of records provided revealed that Kshs.4,122,122 was paid to two driving schools for training of boda boda riders. It was observed that the Request for Quotations (RFQ) method of procurement was used even though the amount involved exceeded the maximum limit of Kshs.3,000,000 provided for use of this method. Further, there was no contracts or terms of engagement between the Fund and the driving schools.

In the circumstances, the accuracy and completeness of other grants and other transfers amounting to Kshs.74,276,363 could not be confirmed.

3. Unsupported and Unutilized Project Management Committee Funds

Annex 5 to the financial statements reflects thirty-six (36) Project Management Committee (PMC) bank balances amounting to Kshs.84,274,602. However, it was established that, PMC account balance of Kshs.2,200,000 for Honourable John Njoroge Secondary School was omitted from the above balance.

Further, it was observed that the Project Management Committees unutilized fund balances amounting to Kshs.86,474,602 were not returned to the Constituency account, contrary to Section 12(8) of the National Government Constituencies Development Fund Act, 2015. In the circumstances, the cash and cash equivalents balance of Kshs.12,889,628 reflected in the financial statements may be understated by the amount of unutilized funds of Kshs.86,474,602, not returned to the Constituency fund account.

In the circumstance, the accuracy and completeness of the cash and cash equivalents balance of Kshs.12,889,628 could not be confirmed.

4. Lack of Ownership Documents

Annex 4 to the financial statements reflects the summary of fixed asset register balance of Kshs.8,712,172. Included in the register are buildings and structures valued at Kshs.5,785,540. However, the ownership documents for the land where the buildings are constructed were not provided for audit review.

In the circumstances, the accuracy and completeness of the fixed assets amounting to Kshs.8,712,172 could not be confirmed.

5. Unsupported Legal Fees

The statement of receipts and payments and Note 5 to the financial statements reflect use of goods and services expenditure amount of Kshs.13,850,875. The amount includes other operating expenses of Kshs.463,950, out of which an amount of Kshs.418,950 is for legal fees paid to a legal firm for legal services. However, the details of the legal suit, including the nature and financial impact to the Fund, were not disclosed as a contingent liability in the financial statements. Further, records provided revealed that the total fee to

defend the Fund in the legal suit was Kshs.700,000. However, details of the current status of the legal suit were not provided for audit review.

In the circumstances, the validity, accuracy and completeness of other operating expenses amounting to Kshs.418,950 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 - Kasarani 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 matters to report in the year under review.

Other Matter

Budgetary Control and Performance

The summary statement of appropriation reflects final expenditure budget and actual on comparable basis totaling Kshs.218,919,375 and Kshs.206,029,747 respectively, resulting in an under performance of Kshs.12,889,628 (or 6%) of the budget.

The under-performance may have had a negative impact on implementation of planned activities, and this may have negatively affected the provision of services to the people of Kasarani Constituency.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, based on the 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. Excess Allocation on Bursary

The statement of receipts and payments and Note 7 to the financial statements reflect other grants and other transfers of Kshs.94,304,704. Included in this amount is bursary to secondary schools and tertiary institutions of Kshs.57,342,653 and Kshs.16,933,711 respectively. The total bursary amount of Kshs.74,276,364 represents a 39% of the total

transfers from NG-CDF Board, which is 4% above the allowable limit of 35% as provided for Section 48 of the National Government Constituencies Development Fund Act, 2015.

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

2. Unutilized Project

The Tender No. KAS/NG-CDF/027/020/021 for works on construction of 16No. classrooms, administration block and ablution block at Ruai Primary School was awarded at a cost of Kshs.46,472,300. Examination of documents relating to the project revealed that the project was complete and certificate of practical completion issued by the Supervisor (Clerk of Works or Consultant) in 13 May, 2021.

Physical verification carried out on the project on March, 2023, revealed that, although the project was complete and the contractor not on site, the building had not been put into use. According to Management, the reason for not utilizing the building was that the furniture had not been acquired.

In the circumstances, it was not possible to confirm that value for money was obtained in the construction of the building.

3. Failure to Maintain a Retention Money Register

The Fund deducted 10% of the contract sum from the amount paid to the contractors as per the interim payment certificates, as retention amounts. Examination of sampled payment documents revealed that a total of Kshs.6,486,463 was deducted as retention amounts from payments made to various contractors. However, no retention register was provided for audit to confirm that all amounts deducted from contractors for payments made on interim certificates in the year under review were recorded. Further, Note 12A to the financial statements does not indicate any retentions withheld or paid during the year.

In the circumstances, the Project Management Committee's bank account balances reflected as Kshs.84,274,602 may be incorrect since the retentions deducted are liabilities refundable to the contractors.

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 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 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 control, risk management and overall 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 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 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 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 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 Management.
- Conclude on the appropriateness of 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