

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - KILOME 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 the National Government Constituencies Development Fund - Kilome Constituency set out on pages 1 to 41, 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 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 Constituencies Development Fund - Kilome 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 the National Government Constituencies Development Fund Act, 2015.

Basis for Qualified Opinion

Cash and Cash Equivalents

The statement of assets and liabilities and as disclosed in Note 10A to the financial statements reflects balance of Kshs.11,343,404. However, examination of the cash book reflects cash in hand balance of Kshs.7,959,000 as at 30 June, 2022, whereas the Board of Survey report reflects Nil balance resulting to unreconciled cash in hand balance of Kshs.7,959,000.

Further, the bank reconciliation statement for the month of June, 2022 included unpresented cheques amounting to Kshs.3,501,040 out of which cheques amounting to Kshs.402,290 were stale and had not been written back in the cashbook.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.11,343,404 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 - Kilome 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 are no other key audit matters to communicate in my report.

Other Matter

Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on 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 implement the recommendations.

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. Un-surrendered Project Management Committee (PMC) Balances

Annex 5 to the financial statements in respect of funds held by Project Management Committee reflects a balance of Kshs.17,013,967 out of which Kshs.883,828 relates to balances held by Project Management Committee accounts for completed projects which have not been surrendered to the Fund's main bank account. This is contrary to Section 12(8) of the National Government Constituencies Development Fund Act, 2015, which states that all unutilized funds of the Project Management Committee shall be returned to the constituency account.

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

2. Irregular Alterations of Tender Prices

The Management advertised a tender for proposed renovation of two (2) no. classrooms and veranda extension. During the tender opening, three firms responded with an amount of Kshs.794,700, Kshs.789,800 and Kshs.790,600 for bidder 1, 2 and 3 respectively. However, there were irregular alterations in both tender opening committee minutes and tender evaluation committee minutes. This led to awarding of firm 3 the tender at a sum of Kshs.789,600 which was originally quoted by firm 2. Further, the bills of quantities (BQ) presented by Firm 3 had alterations which were not countersigned and the final page of bills of quantities (BQ) was not stamped an indicator of irregular replacement of grand total.

In addition, emergency funds were used to top-up the approved budget from Kshs.500,000 to Kshs.789,700 a difference of Kshs.289,700 without Board's approval.

In the circumstances value for money for the above procurement could not be confirmed.

3. Irregularities in Acquisition of Land

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects an amount of Kshs.90,840,000 in respect of transfers to other Government units. Included is an amount of Kshs.3,000,000 under transfers to tertiary Institutions relating to purchase of five (5) acres of land for construction of Kilome Technical Training Institute, "A modern TVET Centre" at a total cost of Kshs. 3,000,000.

However, the land was for a deceased person and no evidence of grant from the court was provided to confirm the administrator of the deceased estate and valuation was not done to confirm the purchase price.

Further, the sale agreement indicated that consideration was to be deposited in a bank account operated by the two administrators. However, review of the cashbook reflects that the amount of Kshs.3,000,000 was paid into the account of an advocate who had not acted for the vendor in the sale transaction and a copy of registered transfer for the title was not availed for verification.

In addition, the land acquired was registered in the name of the Fund, although not disclosed in the financial statements, yet all the assets of NG-CDF are supposed to be registered in the name of the Board.

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

4. Failure to Report Emergency Projects to NGCDF Board

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects an amount of Kshs.114,360,810 in respect of other grants and transfers. Included in this amount is Kshs.7,887,260 being expenditure on emergency projects. However, there was no evidence to show the NG-CDF had reported any emergency project(s) to the NG-CDF Board within thirty (30) days of the occurrence of Emergency, as stipulated in Regulation 20(2) of the National Government Constituency Development Fund Regulations, 2016.

In addition, money from emergency reserves was used to fund project which had fully been funded but had stalled without seeking Board's approval for re- allocation of funds as required.

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

5. Irregular Issuance of Imprest to the Chairman

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects an amount of Kshs.9,655,455 in respect of use of goods and services which includes an amount of Kshs.250,000 paid to the chairman as allowances while distributing bursary beneficiary lists to schools vide payment voucher No. 0196. This is contrary to Regulation 8(2) of the National Government Constituencies Development Fund Regulations, 2016.

In 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, except for the matter described in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

Lack of Audit Committee and Internal Audit functions

Review of the Fund's records revealed that it had not established and operationalized an internal audit function. Thus, there was no independent assurance on the effectiveness of the Fund's risk management, governance and internal controls. In addition, the audit committee did not meet during the year under review contrary Section 179(1) of the Public Finance Management (National Government) Regulations, 2015 which requires the audit committee to meet at least once in every three months.

In the circumstances, Management did not get assurance on effectiveness of the operation and necessary policy direction from the Audit Committee.

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 controls, 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 the 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 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 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 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

23 April, 2024