

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - MOLO 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 overall 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 - Molo 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 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- Molo 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 Project Management Committee (PMC) Account Balances

Note 17.4 to the financial statements on other important disclosures reflects Project Management Committee (PMC) account balances totaling to Kshs.41,880,186. However, cash books, bank balance confirmation certificates and bank reconciliation statements for PMC bank accounts were not provided for audit. Further, the balance does not include Project Management Committee (PMC) bank account balances for projects approved and funded since inception of the Fund. It was also not confirmed whether the bank balances for completed projects were surrendered to the main Constituency Fund bank account in compliance with Section 12(8) of the National Government Constituencies Development Fund Act, 2015 which requires all unutilized funds of the Project Management Committee to be returned to the Constituency account.

In the circumstances, the accuracy, completeness and existence of Project Management Committee (PMC) bank balances of Kshs.41,880,186 could not be confirmed.

2. Unsupported Summary of Fixed Assets Register

Annex 4 to the financial statements reflects summary of fixed assets register balance of Kshs.32,226,938. The balance includes buildings and structures, and transport equipment of Kshs.26,383,000 and Kshs.4,500,000 respectively. However, ownership records for buildings and structures, and transport equipment were not provided for audit review. Further, the value of land on which the buildings and structures are constructed has not been disclosed.

In addition, the assets have not been insured. This is contrary to Section 36(3) of the National Government Constituencies Development Fund Act, 2015 which states that all fixed and movable assets, including equipment bought under this Act for use by the Constituency Committee shall be the property of the Board and shall be insured in the name of the Board.

In the circumstances, the accuracy, completeness, ownership and valuation status of fixed assets balance of Kshs.32,226,938 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- Molo 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

Budgetary Control and Performance

The summary statement of appropriation reflects a final expenditure budget of Kshs.204,731,802 against actual on a comparable expenditure of Kshs.174,289,797 resulting to budget under expenditure of Kshs.30,442,005 or 15% of the budget.

The under expenditure affected the planned activities and impacted negatively on service delivery to the public.

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. Stalled Secondary Schools' Projects

The statement of receipts and payments reflects transfer to other Government units amount of Kshs.97,200,000 as disclosed in Note 6 to the financial statements. The amount includes transfers to secondary schools amounting to Kshs.37,100,000, which further includes construction works of Kshs.21,100,000. However, review of records and physical verification of the construction of a dining hall in Michinda Secondary School revealed that the project was approved in 2016/2017 financial year but had not been completed, five years after approval. This is contrary to Regulation 11(1)(j) of the National Government Constituencies Development Fund Regulations, 2016 which requires the National Government Constituency Development Fund Committee to ensure that projects are completed within three years. Further, the construction of a laboratory at St. James Secondary School incepted in 2019/2020 financial year had not been completed.

In the circumstances, the Management was in breach of the law and value for money on the delayed projects had not been achieved.

2. Irregular Emergency Projects Expenditure

The statement of receipts and payments reflects other grants and other transfers totaling to Kshs.62,936,828. The amount includes emergency projects expenditure of Kshs.11,700,000 as reflected in Note 7 to the financial statements. However, the expenditure had not been reported to the Board. This is contrary to Regulation 20(2) of the National Government Constituencies Development Regulations, 2016 which stipulates that the utilization of the emergency reserve shall be reported to the Board within thirty days of the occurrence of the emergency, in the format prescribed by the Board. Further, the expenditure is 8.5% of the total original approved budget of Kshs.137,088,879 for the year under review. This is contrary to Section 8(1) of the National Government Constituencies Development Fund Act ,2015 which provides that an equivalent to five per centum of the Fund shall remain unallocated and shall be available for emergencies that may occur within the Constituency.

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

3. Irregular Acquisition of Assets

The Statement of receipts and payments reflects acquisition of assets amounting to Kshs.1,375,000. The amount includes expenditure incurred on refurbishment of buildings and purchase of office furniture and general equipment for Kshs.625,000 and Kshs.750,000 respectively as disclosed in Note 8 to the financial statements. However, the expenditure was not budgeted for contrary to Regulation 25 (2) of the National Government Constituencies Development Regulations, 2016 which states that a Constituency Committee shall not incur expenditure unless such expenditure is supported by an approved work plan, a procurement plan and a budget. Further, the expenditure was not supported with procurement records such as user requisition and stores records.

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

4. Project Implementation Status Report

The statement of receipts and payments reflects transfers to other Government units of Kshs.97,200,000 and other grants and other transfers of Kshs.62,936,828 as disclosed under Notes 6 and 7 respectively to the financial statements. Review of the project's implementation status report revealed that twenty-one (21) projects with an allocation of Kshs.43,200,000 had been completed, five (5) projects with an allocation of Kshs.11,700,000 had not been started and ten (10) projects with an allocation of Kshs.38,800,001 were at different levels of completion.

In addition, project implementation status for all projects since inception of the Fund was not provided for audit.

In the circumstances, value for money for the ongoing and not started projects could not be confirmed.

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 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 sustain services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless the Management is aware of intention to terminate 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 entity 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 controls 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 controls 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 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

13 June, 2023