

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - MWINGI NORTH 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 - Mwingi North Constituency set out on pages 1 to 50, 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 - Mwingi North 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 Public Finance Management Act, 2012.

Basis for Qualified Opinion

1. Unsupported Committee Allowances

The statement of receipts and payments reflects use of goods and services amount of Kshs.7,397,047 as disclosed in Note 5 to the financial statements. Included in this amount is Kshs.2,960,700 on committee allowances out of which Kshs.1,228,100 was not supported with committee attendance registers, work tickets/evidence of travel and proper monitoring and evaluation report documentations.

In the circumstances, the accuracy, completeness and regularity of committee allowances expenditure of Kshs.1,228,100 could not be confirmed.

2. Unsupported Training Expenses

The statement of receipts and payments reflects use of goods and services amount of Kshs.7,397,047 as disclosed in Note 5 to the financial statements. Included in the amount is training expenses of Kshs.1,499,950 out of which Kshs.427,000 was for Project Management Committee capacity building activities. However, the signed attendance lists and payment schedules for the trainees were not provided for audit.

In the circumstances, the accuracy completeness and regularity of committee allowances expenditure of Kshs.427,000 could not be confirmed.

3. Stale Cheques

The statement of assets and liabilities reflects bank balance of Kshs.7,721,280 as disclosed in Note 10A to the financial statements. Included in this balance are un-presented cheques amounting to Kshs.222,845 which were verified to be stale and not reversed in the cashbook.

In the circumstances, the accuracy and completeness of bank balance of Kshs.7,721,280 could not be confirmed.

4. Unsupported Deposits and Retentions

The statement of assets and liabilities reflects Nil balance on deposits and retentions while Note 16 to the financial statements reflects Kshs.813,930. Further, this balance of Kshs.813,930 was not supported by cash book, bank statements and bank confirmation certificate.

In the circumstances, the accuracy and completeness of deposits and retentions balance of Kshs.813,930 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 - Mwingi North 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

1. Budgetary Control and Performance

The summary statement of appropriation reflects Kshs.185,081,353 in respect to budgeted expenditure against Kshs.163,511,736 actual expenditure resulting to an under expenditure of Kshs.21,569,617 or 12% of the budget.

The under absorption of the budget may have negatively impacted on service delivery to the public.

2. Unresolved Prior Year's Matters

In the audit report of the previous year, several matters were raised under Report on Financial Statements, Other Matter, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management has not resolved and disclosed the status of all the prior year matters as prescribed in the reporting requirements set by the Public Sector Accounting Standards Board. Management has not provided satisfactory explanation for the delay in resolving the issues.

In the circumstances, the issues remain unresolved.

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 Payment of Special Duty Allowance

Review of the payroll revealed that five (5) employees were paid special duty allowance amounting to Kshs.576,000 for more than six (6) months. This was contrary to the provisions of Section C.15 (4) of the Human Resource Policies and Procedures Manual for the Public Service of 2016 which states that special duty allowance will not be payable to an officer for more than six (6) months.

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

2. Long Outstanding Imprest

The statement of assets and liabilities reflects outstanding imprest balance of Kshs.337,181 as disclosed in Note 11 to the financial statements. However, the balance has remained outstanding long after completion of activities and return to duty station. This was contrary to Regulation 93(5) of the Public Finance Management (National Government) Regulations, 2015 which states that a holder of a temporary imprest shall account or surrender the imprest within 7 working days after returning to duty station.

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

3. Failure to Remit Statutory Deductions

Review of bank reconciliation statement as at 30 June, 2022 revealed unrepresented cheques totaling Kshs.222,845 which were outstanding for more than six months. These cheques relate to unremitted statutory dues some dating back to June, 2017 and December 2021. Failure to remit statutory deductions expose the Fund to unnecessary penalties and contravenes Section 19(4) of the Employment Act, 2007 which states that an employer who deducts an amount from an employee's remuneration in accordance with subsection (1)(a), (f), (g) and (h) shall pay the amount so deducted in accordance with the time period and other requirements specified in the law, agreement court order or arbitration as the case may be.

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

4. Omissions in Project Implementation

Note 6 to the financial statements reflects transfers to Tertiary Institutions amount of Kshs.14,400,000 out of which Kshs.8,000,000 was disbursed to Kenya Water Institute (KEWI) Kyuso Campus for the construction of an administration block and four (4) classrooms. However, review of project files and site visit in the month of March, 2023 revealed that only two (2) classrooms and an administration block were constructed. In addition, there was no evidence of detailed measurements and valuations, interim

payment certificates and certificates of practical completion to support the payments. Further, ownership documents for the land where the project was being undertaken were not provided for audit.

In the circumstances, value for money on expenditure incurred on the construction of Kenya Water Institute (KEWI) Kyuso Campus could not be confirmed.

5. Irregularities in Procurement of Primary Schools' Projects

Note 6 to the financial statements reflects transfers to primary schools amount of Kshs.59,964,555 out of which Kshs.2,014,556 for three (3) primary schools' projects tenders were awarded and implemented without signing of the contract documents. In addition, contracts for six (6) primary schools valued at Kshs.7,100,000 were signed before expiry of fourteen (14) days after notification of award while some contracts were signed before the award. This was contrary to Section 135(3) of the Public Procurement and Asset Disposal Act, 2015 which provides that the written contract shall be entered into within the period specified in the notification but not before fourteen days have elapsed following the giving of that notification provided that a contract shall be signed within the tender validity period. Further, three contracts were awarded to bidders who had submitted invalid National Construction Authority licences and Tax Compliance certificates. Further, there was no evidence of detailed measurements and valuations, interim payment certificates and final payment certificates to support the payments.

In the circumstances, value for money on transfers to primary schools expenditure of Kshs.9,114,556 could not be confirmed and Management was in breach of the law.

6. Irregular Fuel Procurement

Included in use of goods and services expenditure is fuel, oil and lubricants expenditure of Kshs.1,050,000 paid to two (2) service stations. However, procurement documents and contractual agreements indicating how the tenders were awarded to the suppliers were not provided for audit review. This was contrary to Section 60(1) of the Public Procurement and Asset Disposal Act, 2015 which states that an accounting officer of a procuring entity shall prepare specific requirements relating to the goods, works or services being procured that are clear, that give a correct and complete description of what is to be procured and that allow for fair and open competition among those who may wish to participate in the procurement proceedings.

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

7. Gaps in Projects Implementation

Review of project files and physical verification of projects in the month of March, 2023 revealed that projects valued at Kshs.16,298,900 had a number of defects including, worn out floors, falling window panes, project completed but not branded, incomplete project with roofing and finishing not done, poor painting work and visible cracks on the floor.

In the circumstances, value for money on projects valued at Kshs.16,298,900 could not be confirmed.

8. Failure to Return Unutilized Funds

Annex 5 to the financial statements reflects Project Management Committee bank accounts balances of Kshs.27,674,603. The balance includes Kshs.8,284,808 for complete projects which was not returned to the constituency account. This was 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.

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, 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 Disaster Recovery and Business Continuity Plans

During the year under review, Management had not put in place disaster recovery and business continuity plans. In the absence of disaster recovery and business continuity Plans, the Fund lacks a blue print for identifying, preventing and mitigating against risks and disasters to ensure that its operations are not interrupted in case of unforeseen events.

In the circumstances, the effectiveness of risk management could not be confirmed.

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 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 comply 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 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 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 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 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 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

20 June, 2023