

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - NYANDO 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 - Nyando Constituency set out on pages 1 to 35, 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 the National Government Constituencies Development Fund - Nyando 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. Other Grants and Transfers

The statement of receipts and payments reflects other grants and transfers balance of Kshs.65,761,161 as disclosed in Note 7 to the financial statements. However, audit of this expenditure revealed the following unsatisfactory matters:

1.1 Unsupported Bursaries

The balance of Kshs.65,761,161 includes bursaries to secondary schools and tertiary institutions of Kshs.33,731,605 and Kshs.13,748,750 respectively, totalling to Kshs.47,480,355. Included in the latter amount is an amount of Kshs.4,323,000 whose supporting details provided for audit did not have admission numbers and the Counties in which the learning institutions were located. Further, confirmations or acknowledgement receipts that the bursaries were indeed received by the respective Institutions were not provided for audit.

In addition, the bursaries amount of Kshs.47,480,355 includes payments totalling to Kshs.7,131,630 that were not actual bursaries, but expenses incurred in distribution of the bursaries, whose justification was not provided for audit.

In the circumstances, the authenticity of the bursaries amount of Kshs.11,454,630 could not be confirmed.

1.2 Variance in Bursary - Tertiary Institutions Amount Between the Financial Statement and Supporting Schedule

The balance of Kshs.65,761,161 includes bursaries to tertiary institutions of Kshs.13,748,750, while the supporting schedule provided shows a corresponding amount Kshs.13,476,800, resulting to an unreconciled variance of Kshs.271,950.

In the circumstances, the accuracy and completeness of the bursary - tertiary institutions amount Kshs.13,748,750 could not be confirmed.

1.3 Unsupported Emergency Projects

The balance of Kshs.65,761,161 includes expenditure on emergency projects of Kshs.7,552,686 which further includes an amount of Kshs.2,243,150 in respect of which there was no proof provided to confirm that the activities funded related to urgent,

unforeseen need for expenditure that could not be delayed. This was contrary to Section 8(3) of the National Government Constituencies Development Fund Act, 2015, which states that "emergency" shall be construed to mean an urgent, unforeseen need for expenditure for which it is in the opinion of the Committee that it cannot be delayed until the next financial year without harming the public interest of the constituents. Further, evidence showing that the expenditure of emergency projects was reported to the Board was not provided for audit, contrary to Regulation 20(2) of the National Government Constituencies Development Fund Regulations, 2016 which provides 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.

In the circumstances, the propriety of the expenditure on emergency projects of Kshs.2,243,150 could not be confirmed. Also, Management was in breach of law.

2. Unsupported Cash and Cash Equivalents

The statement of assets and liabilities reflects cash and cash equivalents balance of Kshs.33,377,817. However, the bank reconciliation statement as at 30 June, 2022 reflects payments in cash book not recorded in bank statement of Kshs.1,053,532 which includes stale cheques totalling to Kshs.17,838 that had not been reversed in the cash book.

In the circumstances, the accuracy and completeness of the bank balance of Kshs.33,377,817 could not be confirmed.

3. Unsupported PMC Bank Balance

Annex 5 reflects Project Management Committees (PMC) bank account balances totalling to Kshs.46,656. However, documents in support of the reported balances such as a complete listing of all PMCs in existence, PMCs bank accounts statements and certificates of bank balances were not provided for audit.

In the circumstances, the accuracy and completeness of the PMC bank account balances totalling to Kshs.46,656 could not be confirmed.

4. Transfer to Other Government Units - Unsupported Project Expenditure

The statement of receipts and payments reflects transfers to other Government units balance of Kshs.74,400,000. However, review of a sample of nineteen (19) project files for projects worth Kshs.32,800,000 revealed that the files lacked vital project documentation such as requisitions, approvals, requests for quotations, awarding committee minutes, inspection and acceptance minutes, tender quotations from the contractors, public works measurement sheets, Local Service Orders (LSOs) and completion certificates.

Further, the balance of Kshs.74,400,000 includes Kshs.310,150, being cash procurement in respect of the construction of NG-CDF store room. However, the supporting documents such as counter receipt voucher, counter issue voucher and inspection certificate were

not provided for audit. No explanation was provided for failure to competitively bid for the works.

In the circumstances, the propriety and value for money for the expenditure could not be confirmed.

5. Compensation of Employees - Wrong Classification of Expenses

The statement of receipts and payments reflects compensation of employees balance of Kshs.2,625,872 which includes Kshs.564,012 relating to security projects.

In the circumstances, the accuracy of employees' costs of Kshs.2,625,872 could not be confirmed.

6. Inconsistency Between the Budget and the Approved Code List

The summary statement of appropriation reflects a final budget amount of Kshs.196,875,88, while approved code list for the Fund shows an approved budget of Kshs.136,288,879, resulting to an explained variance of Kshs.60,587,001.

In the circumstances, the accuracy of the reported budget amount 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 - Nyando 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 total final receipts budget and actual on comparable basis amounts of Kshs.196,875,880 and Kshs.184,787,001 respectively, resulting to an underfunding of Kshs.12,088,880 (or 6% of the budget). Similarly, the Fund spent Kshs.151,409,184 against an approved budget of Kshs.196,875,880, resulting to an under expenditure of Kshs.45,466,696 (or 23% of the budget).

In the circumstances, the under-funding and the under-expenditure affected the planned activities and may have negatively impacted on service delivery to the public.

2. Unresolved Prior Year Audit Matters

In the audit report for the previous year, several issues were raised under Report on the Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, the Management had not resolved the issues or given explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board guidelines.

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. Projects Implementation

1.1 Unbranded Complete Projects

Projects totalling to Kshs.2,600,000 and Kshs.4,500,000 in respect to primary and secondary schools respectively for infrastructure development were not branded as specified by the National Government CDF Board Circular Ref: NGCDFB/CIRCULARS Vol.(121) which states that Constituencies are supposed to incorporate the cost of labelling/ branding of projects in the Bill of Quantities for each project. This will ensure constituencies do not face the need to allocate funds towards labelling of completed projects in subsequent years.

In the circumstances, Management was in breach of law.

1.2 Incomplete Projects

Physical verification in the month of March, 2023 revealed that four projects totalling to Kshs.7,700,000 in respect to construction and completion of three laboratories and one dormitory were incomplete. Although Management explained that the projects were to be funded for completion in 2022/2023 financial year, contract agreements to confirm the expected completion dates were not provided for audit review.

In the circumstances, value for money of the expenditure of Kshs.7,700,000 could not be confirmed.

1.3 Anomalies in Implemented Projects

Physical verification in the month of March, 2023 in respect to four projects totalling to Kshs.8,000,000 in three primary schools and one secondary school in respect to construction of three classrooms and one laboratory revealed that four projects were not

properly executed since there were visible cracks on the walls, poor finishing to external walls and poor paint works.

In the circumstances, full value for money may not be realized from these projects.

2. Non-Compliance with National Government Constituencies Development Fund Act, 2015

The statement of receipts and payments and Note 7 to the financial statements reflects other grants and transfers balance of Kshs.65,761,161 which is 38.6% of the total allocated funds, contrary to Section 48 of the National Government Constituencies Development Fund Act, 2015 on social security programmes, which provides that the funding of social security programmes, education bursary schemes, mock examinations and continuous assessment tests shall be considered as development projects for the purposes of the Act, provided that such projects shall not be allocated more than thirty-five per centum of the total funds allocated for the constituency in any financial year.

This amount includes Kshs.7,480,355 bursaries awarded to various needy students in secondary and tertiary institutions within the constituency. Out of this amount, Kshs.3,711,800 relates to bursary administration costs translating to 7.9% of the total bursaries' costs and not bursaries.

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 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 Internal Audit Review

Review of the Fund operations indicated that no internal audit reviews were performed on the Fund's internal processes and no risk assessment was carried out to identify and address key areas of concern and document specific controls in response to identified

risks, contrary to Regulation 160(1)(b) of the Public Financial Management (National Government) Regulations, 2015 which states that the internal audit function has a duty to give reasonable assurance through the audit committee on the state of risk management, control, and governance within the Organization.

In the absence of internal audit reviews, it was not possible to confirm the effectiveness of internal controls, risk management and governance for the Fund.

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 controls, 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 governance.

In preparing the financial statements, Management is responsible for assessing the Fund's ability 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 Fund's 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 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 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 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 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 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

05 July, 2023