

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND – AINAMOI 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, 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

Opinion

I have audited the accompanying financial statements of National Government Constituencies Development Fund - Ainamoi Constituency set out on pages 23 to 70, 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 appropriations 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, the financial statements present fairly, in all material respects, the financial position of National Government Constituencies Development Fund – Ainamoi 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 Opinion

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the National Government Constituencies Development Fund - Ainamoi 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 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 final receipts budget and actual receipts on comparable basis amounts of Kshs.195,386,568 and Kshs.183,297,687 respectively, resulting to an underfunding of Kshs.12,088,880 or 6% of the budget. Further, the statement reflects final expenditure budget and actual expenditure on comparable basis amounts of Kshs.195,386,568 and Kshs.171,147,837 respectively, resulting to an overall budget underutilization of Kshs.24,238,731 or 12% of the budget.

The underfunding and under utilization affected the planned activities and may have impacted negatively on service delivery to the constituents of Ainamoi Constituency.

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

1.0 Transfers to Other Government Units

The statement of receipts and payments reflects transfers to other Government units expenditure of Kshs.100,888,100 as disclosed in Note 6 to the financial statements. However, audit of this expenditure revealed the following unsatisfactory matters:

1.1 Failure to Procure Land

The expenditure of Kshs.100,888,100 includes transfers to primary schools amount of Kshs.43,080,000 out of which, Kshs.2,000,000 was disbursed to Tabet Primary School for purchase of land. However, during audit in March, 2023, it was noted that no process of land acquisition had been initiated almost one year after the funds were released.

In the circumstances, value for money of the disbursements of Kshs.2,000,000 could not be confirmed.

1.2 Unutilized Projects at Torit Girls Secondary School

The expenditure of Kshs.100,888,100 includes transfers to secondary schools amount of Kshs.57,808,100 out of which, Kshs.4,000,000 was disbursed to Torit Girls Secondary School for the construction of phase one of a two-storey 240-capacity dormitory. The latter amount had been paid to the contractor as at 30 June, 2022. In the previous year, an expenditure of Kshs.1,326,450 had been incurred on construction of a six-door pit latrine and fencing of the school. However, audit inspection of these projects on 17 March, 2023 revealed that all works were substantially completed and handed over, but the projects remained unoccupied. It was claimed that the school lacked basic facilities like kitchen, electricity, students' lockers and chairs.

In addition, classrooms and the administration block at the school, which were being funded by the Ministry of Education, were incomplete and no works were ongoing. No evidence was provided, to support the response by Management that the school will start operations in January,2024, since there were no committal letters of continued funding by the Ministry.

In the circumstances, value for money of the expenditure of Kshs.5,326,450 could not be confirmed.

2.0 Other Grants and Transfers

The statement of receipts and payments reflects other grants and transfers expenditure of Kshs.56,264,636 as disclosed in Note 7 to the financial statements. However, audit of this expenditure revealed the following unsatisfactory matters:

2.1 Irregular Procurement of Sports Equipment

The expenditure of Kshs.56,264,636 includes an amount of Kshs.3,920,399 spent on sports projects. Review of procurement records revealed that a tender for the supply and delivery of football kits and footballs was floated on 15 November, 2021 and four bids were returned and opened on 22 November, 2021. The bidding firms were to provide proof of a valid tax compliance as a mandatory requirement during evaluation. However, the supplier was awarded the tender at a sum of Kshs.3,920,399 without meeting this criterion, even though two other bidders were responsive.

Additionally, no explanation has been provided on why the Evaluation Committee awarded this tender to this firm yet it was not responsive, contrary to the provision of Article 227(1) of the Constitution which requires that when a state organ or any other public entity contracts for goods or services, it shall do so in accordance with a system that is fair, equitable, transparent, competitive and cost effective.

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

2.2 Irregular Use of Emergency Funds

The expenditure of Kshs.56,264,636 also includes an amount of Kshs.3,866,287 spent on emergency projects. However, an application for emergency funding and report on urgent, unforeseen situation were not provided for audit. Therefore, the expenditure, which was in respect of construction of pit latrines in schools, appeared not emergency in nature, contrary to Section 8(3) of the National Government Constituencies Development Fund Act, 2015, which stipulates that expenditure on emergency should be for an urgent, unforeseen need for expenditure which, in the opinion of the constituency committee, cannot be delayed until the next financial year without harming the public interest of the constituents.

Further, a report on utilization of emergency funds to the Board was not provided for audit, contrary to Regulation 20(2) of the National Government Constituencies Development Fund Regulations, 2016, which requires utilization of the emergency reserve to be reported to the Board within thirty days of the occurrence of the emergency.

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

2.3 Unutilized Security Projects

The expenditure of Kshs.56,264,636 includes expenditure on security projects of Kshs.26,604,450 which further includes Kshs.700,000 and Kshs.720,050 disbursed for construction of Laliat chief's office and Kapsaos police station respectively. The Kshs.700,000 was an addition to the expenditure Kshs.498,050 incurred on Laliat chief's office in the previous year. However, audit inspection of these projects on 17 March, 2023 revealed that all works were substantially completed and handed over, but the projects remained unoccupied. It was claimed that the chief's office and the police station could not be occupied due to lack of sanitation facilities.

In the circumstances, value for money of the expenditure of Kshs.1,918,100 on the projects could not be confirmed.

3.0 Irregular Procurement and Issuance of Books to Private Schools

Review of procurement records revealed that the Fund contracted a firm to supply 5,000 KCPE Combined Encyclopedia books at a cost of Kshs.3,997,500 and paid on 31 January, 2022. However, review of procurement records revealed that the supplier had issued a tax receipt on 16 December, 2021 of the said amount, days before the tender was opened on 22 December, 2021.

In addition, issuance of the said books to some schools started on 7 January, 2022, days before the inspection and acceptance had been done. Subsequently, 1,041 books worth Kshs.832,279.50 were irregularly issued to private schools.

Further, in the prior year (2020/2021), a similar number of books had been issued to both public and private schools in the constituency. It has not been explained why these textbooks were not stored in the schools, but given to candidates to take home.

In the circumstances, value for money of the expenditure of Kshs.3,997,500 on books 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 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 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 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 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 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