

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - CHANGAMWE 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

Opinion

I have audited the accompanying financial statements of National Government Constituencies Development Fund – Changamwe Constituency as set out on pages 1 to 34, which comprise of the statement of assets and liabilities as at 30 June, 2022, and the statement of receipts and payments, statement of cash flows and statement of comparison of budget and actual amounts 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 the National Government Constituencies Development Fund - Changamwe Constituency as at 30 June, 2022, and its financial performance and 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 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 - Changamwe 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

1. Budgetary Control and Performance

The summary statement of appropriation reflects final receipts budget and actual on comparable basis of Kshs.235,203,556 and Kshs.224,041,737 respectively, resulting in an under-funding of Kshs.11,161,819 or 5% of the budget. Similarly, the Fund expended Kshs.177,631,687 against an approved budget of Kshs.235,203,557, resulting to an under-expenditure of Kshs.57,571,870 or 25% of the budget.

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

2. Unresolved Prior Year Matters

In the audit report of the previous year, several paragraphs were raised. 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.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(26) 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 Unexplained Non-Payment for the Construction of the Dining Hall

Review of the financial records revealed that the contract for construction of dining hall at St. Charles Lwanga Secondary School was awarded to a construction company at a contract sum of Kshs.12,745,120 on 11 June, 2022. A physical verification of the project in March, 2023 confirmed that the dining hall was complete and in use. However, the completion certificate was not provided for audit review. Further, the records indicated that the last certificate No.6 of Kshs.2,674,872 was issued on 23 June, 2022, but the contractor had not been paid outstanding amount of Kshs.3,927,384 by March, 2023, that includes total retention monies of Kshs.1,252,512. This was despite the fact that the total contract sum of Kshs.12,745,120 had been transferred to the Project Management Committee account on 2 July, 2020. No explanation was provided for the non-payment.

In the circumstances, Management was in breach of the terms of the contract agreement.

2.0 Failure to Deduct Retention Monies

The statement of receipts and payments and Note 6 to the financial statements reflects transfers to other Government units of Kshs.61,822,774. Included in the balance is an amount of Kshs.1,450,000 for the proposed kitchen works at St. Charles Lwanga Secondary School whose contract was awarded on 26 July, 2022 at a contract sum of Kshs.1,450,000. Review of the records revealed that the contractor issued an invoice on 1 September, 2022 for Kshs.1,450,000 and payment made on 7 September, 2022. However, the contractor did not issue a tax invoice nor did Management explain why retention money was not deducted before payment to the contractor. Further, during project inspection in March, 2023, it was observed that the project was complete and in use. However, one four-burner LPG commercial cooker and one chaste freezer all valued at Kshs.169,000 were not provided for verification.

In the circumstances, Management did not comply with the provisions of the contract agreement on retention monies.

3.0 Non-Payment of Taxes

The statement of receipts and payments and Note 6 to the financial statements reflects transfers to other Government units of Kshs.61,822,774. Included in the balance is an amount of Kshs.1,470,000 for the purchase of forty (40) double-decker metallic beds, fifty (50) medium density mattresses, four (4) white boards, installation of six (6) soft boards, fifty (50) lab stools and electricity connection to grid at Port Reitz Secondary School. However, the payment was not supported with a tax invoice.

In the circumstances, it was not possible to confirm that relevant taxes were remitted to Kenya Revenue Authority.

4.0 Abandoned Project

The statement of receipts and payments and Note 6 to the financial statements reflects transfers to other Government units of Kshs.61,822,774 out of which an amount of Kshs.33,094,967 was in respect of transfers to primary schools. Included in the balance of Kshs.10,000,240 that was transferred to Kwahola Primary School for the proposed construction of four classrooms and ramp upto the first floor. The tender was advertised in the public portal on 24 March, 2022, opened on 1 April, 2022 and awarded on 11 May, 2022. The project was to take eight (8) weeks from 11 May, 2022 to 30 June, 2022. However, as at 16 March, 2023, the project was not complete, the contractor was not on site and no evidence was provided to indicate that Management cautioned the contractor for delayed implementation of the project.

In the circumstances, value for money on the expenditure of Kshs.10,000,240 on the project could not be confirmed.

5.0 Unutilized Funds

The statement of receipts and payments and Note 3 to the financial statements reflects other receipts amounting to Kshs.18,903,182, which include an amount of Kshs.18,838,182 on returned unutilized funds from Project Management Committees (PMCs). Records provided for review indicated that Kshs.13,339,583 of the funds were from Airport Primary School PMC Account that were transferred in the financial years 2013/2014 and 2015/2016 of Kshs.10,339,583 and Kshs.3,000,000 respectively, all totalling Kshs.13,339,583. However, Management did not explain why the amounts remained idle in the PMC account for over five years before being returned to the main account. This was in contravention of Section 12(8) of the National Government Constituencies Development Fund Act, 2015 which requires that all unutilized funds of the Project Management Committee shall be returned to the constituency account.

In the circumstances, value for money was not achieved on the unutilized funds of Kshs.13,339,583 and 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, 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 such 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 ability of the Fund 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 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 describes 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 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 the 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 transaction 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 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 one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error of 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 controls, 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 or 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 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 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 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 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