

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - GARSEN CONSTITUENCY FOR THE YEAR ENDED 30 JUNE, 2021

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 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 - Garsen Constituency set out on pages 13 to 40, which comprise of the statement of assets and liabilities as at 30 June, 2021 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 - Garsen Constituency as at 30 June, 2021, 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 Public Finance Management Act, 2012 and the National Government Constituencies Development Fund Act, 2015.

Basis for Qualified Opinion

1. Stale Cheques - Cash and Cash Equivalents

The statement of assets and liabilities and as disclosed in Note 8A to the financial statements reflects cash and cash equivalents balance of Kshs.8,022,321. However, the bank reconciliation statement reflects stale cheques totalling Kshs.1,423,302 which had not been reversed in the cash book.

Further, a cheque dispatch register showing how cheques were issued and dispatched to various institutions was not provided for audit review.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.8,022,321 could not be confirmed.

2. Other Grants and Other Payments

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects other grants and payments amount of Kshs.52,350,054. However, the following anomalies were noted: -

2.1 Unaccounted for Bursary Funds

During the year under review, the Fund spent an amount of Kshs.40,748,510 on bursaries. However, it was noted that bursaries amounting to Kshs.15,977,460 disbursed to various institutions were not supported with bursary committee vetting minutes, acknowledgement receipts, bursary application register and the cheque disbursement register.

In the circumstances, the accuracy and completeness of bursaries disbursed amount of Kshs.15,977,460 could not be confirmed.

2.2 Unsupported Expenditure on Security Projects

During the year under review, the Fund spent an amount of Kshs.5,013,496 on security projects. Examination of records relating to the expenditure revealed that the Fund undertook construction of administration office at Garsen Police Station at a contract sum of Kshs.5,589,200 while the signed form of agreement reflected a contract sum of Kshs.2,495,000 resulting an unexplained variance of Kshs.3,094,200. In addition, part payment of Kshs.2,500,000 paid in the year under review was not supported with

documents such as tender advertisement, tender opening register, tender opening minutes, tender evaluation minutes, a professional opinion, approved project work plan, Project Management Committee bank statements, payment resolution minutes and certificate of partial completion.

Further, physical verification carried out in the month of April, 2022 revealed that the project was approximately 50% complete and the contractor had abandoned the site.

In the circumstances, the accuracy and validity of security projects expenditure amounting to Kshs.5,013,496 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 - Garsen 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 final receipts budget and actual on comparable basis of Kshs.188,694,598 and Kshs.143,605,719, respectively resulting to a budget shortfall of Kshs.45,088,879 or 24% of the budget. Similarly, the Fund expended Kshs.135,583,398 against an approved budget of Kshs.188,694,598 resulting to under expenditure of Kshs.53,111,201 or 28% of the budget.

The underfunding and under-expenditure affected the planned activities and may have impacted negatively on service delivery to the residents of Garsen 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. Transfer to Other Government Entities

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects transfer to other government entities amount of Kshs.72,534,960. The following anomalies were noted: -

1.1 Transfers to Primary Schools

During the financial year under review, the Fund spent Kshs.41,658,440 on transfer to primary schools. Included in the amount is an expenditure of Kshs.4,400,000 that was not supported with tender opening and evaluation minutes signed by all committee member on every page to acknowledge that the minutes were the true reflection of the proceedings contrary to Section 78(9) and 80(7) of the Public Procurement and Asset Disposal Act, 2015.

Further, physical verification carried out in the month of April, 2022 revealed that projects worth Kshs.2,500,000 were not labeled contrary to Regulations 11(1)(c) of the National Government Constituencies Development Fund Regulations, 2016 that requires the constituency development committee to ensure projects are labelled in accordance with the guidelines issued by the Board.

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

1.2 Transfer to Tertiary Institutions and Secondary Schools

During the year under review, the Fund spent Kshs.29,676,520 and Kshs.1,200,000 on projects for Secondary and Tertiary Institutions respectively. However, an amount of Kshs.14,800,000 and Kshs.1,200,000 relating to secondary school and tertiary institutions projects lacked supporting documents such as tax compliance certificate, National Construction Authority (NCA) certificate and a valid business permit for the winning bidders. In addition, project hand over reports from the Project Management Committee to the constituency committee were not provided for audit.

Further, physical verification carried out in the month of April, 2022 established that some completed projects were not labelled.

In the circumstances, value for money expended on secondary and tertiary institutions amounting to Kshs.16,000,000 could not be confirmed.

2. Irregular Use of Emergency Funds

During the year under review, the Fund spent Kshs.5,660,000 on emergency projects. Included in this amount is an expenditure of Kshs.2,200,000 relating to renovation of Twin Laboratory at Tarasaa Secondary School that was not emergency in nature. This is contrary to Section 8(3) of the National Constituency 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 next financial year without harming the public. In addition, utilization of these funds was

not reported to the board within thirty (30) days of the occurrence of the emergency contrary to Regulations 20(2) of the Constituency Development Fund Regulations, 2016.

In addition, bill of quantities for the winning bidder for roof works indicated a contract sum of Kshs.1,280,000. However, summation of individual items under roof work amounted to Kshs.699,900 resulting to an explained variance of Kshs.580,100.

Further, physical verification of the project carried out in the month of April, 2022 revealed that the project had stalled and the contractor was not on site. Examination of the bills of quantities revealed sub-standard work in that the contractor had not plastered the walls, replaced doors and windows as provided for in the bill of quantities.

In the circumstances, value for money expended on renovation of Twin Laboratory at Tarasaa Secondary School could not be confirmed.

Further, 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 matters 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

1. Lack of Updated Fixed Assets Register

Annex 2 to the financial statements on summary of fixed assets register reflects a balance of Kshs.21,531,943 in respect non-current assets. Although, the Fund maintained a fixed asset register, the same did not contain all information required under International Public Sector Accounting Standard Number 17 (IPSAS 17) as it omitted assets Identification or serial number, acquisition date, accumulated depreciation and net book value. In addition, the fixed assets register did not reflect land title deed or allotment number of the land where the office of the Fund was built.

In the circumstances, the effectiveness the of internal controls of the Fund could not be confirmed.

2. Non-Establishment of Constituency Oversight Committee

The Fund did not establish a constituency oversight committee contrary to Section 53(1) of the National Constituencies Development Act, 2015.

In the circumstances, the effectiveness of the governance structure in place 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 controls, 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 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 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 control 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 or 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

26 September, 2022