

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - KATHIANI 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 the National Government Constituencies Development Fund - Kathiani Constituency set out on pages 1 to 42, 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 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 - Kathiani Constituency as at 30 June, 2022, and of its financial performance and its cash flows for the year then ended, in accordance with the 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. Inaccuracies in Cash and Cash Equivalents

The statement of assets and liabilities and as disclosed in Note 10A to the financial statements reflects cash and cash equivalents balance of Kshs.36,797,834. However, the bank reconciliation statement for the month of June, 2022 shows unrepresented cheques totalling to Kshs.2,274,492. Further, the unrepresented cheques include stale cheques amounting to Kshs.1,241,911 which had not been written back to the cashbook. The stale cheques include bursary disbursements.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.36,797,834 could not be confirmed.

2. Unsupported Expenditure in Use of Goods and Services

The financial statements reflects Kshs.14,828,497 in respect to use of goods and services as disclosed in Note 5. Included in this expenditure is an amount of Kshs.5,716,700 paid as committee allowances. However, the audit revealed that payment vouchers amounting to Kshs.2,829,402 were not supported.

In the circumstances, the accuracy and validity of the Kshs.2,829,402 expenditure could not be confirmed.

The audit was conducted in accordance with the International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the National Government Constituencies Development Fund - Kathiani 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. Budget and Budgetary Performance

The summary statement of appropriation reflects a receipt and expenditure budget of Kshs.211,777,738 and Kshs.233,616,500 respectively. However, the Fund spent Kshs.196,818,665 against the approved budget resulting to an underperformance of Kshs.36,797,834,182 or 15% of the budget. Further, the Fund's budget was unbalanced contrary to Regulation 33(c) of the Public Finance Management (National Government) Regulations, 2015 which states that the budget shall be balanced

The under expenditure affected the implementation of the planned activities and programs and impacted negatively on service delivery to the public.

2. Unresolved Prior Year's Audit issues

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. The Management has however, not resolved the issues or given explanation for the failure to adhere to the provisions of the Public Sector Accounting Standards Board template.

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. Failure to Report Emergency Projects to NGCDF Board

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects other grants and transfers of Kshs.78,694,502. Included in this amount is Kshs.11,842,207 in respect of emergency projects. However, there was no evidence presented for audit review to show that the Fund had reported any emergency project to the NG-CDF Board within 30 days of the occurrence of Emergency, as stipulated in Regulation 20(2) of the National Government Constituency Development Fund Regulations, 2016.

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

2. Lack of Criteria for Bursary Disbursement

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects an amount of Kshs.78,694,502 relating to other grants and other transfers. Included in the expenditure is Kshs.19,076,500 expended on bursaries to tertiary institutions in support of various learners. However, the criteria for selection of beneficiaries was not outlined. Further, the audit review revealed that a driving school received a total of Kshs.8,922,400 as bursary for provision of driving lessons while the support schedules provided shows that the Fund sent Kshs.5,100,000 to the provider resulting to unexplained difference of Kshs.3,822,400. In addition, the driving school did not acknowledge receipt of payments nor provide proof that the beneficiaries attended the driving lessons.

In the circumstances, value for money on the expenditure of Kshs.78,694,502 may not have been realised.

3. Unsurrendered PMC Balances

The financial statements reflects a balance of Kshs.49,524,397 in respect of funds held by various Project Management Committees as disclosed in Annex 5. However, the amount includes Kshs.639,079 relating to balances held by various Project Management Committee accounts after the projects were completed but the same was not surrendered to the Fund main bank account contrary to Section 12(8) of the National Constituencies Development Fund Act, 2015 which requires all unutilized funds of the Project Management Committee to be returned to the Constituency account.

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

4. Failure to Submit Bank Reconciliation Statements

Review of the bank reconciliation statements for the financial year under review revealed that there was no evidence to confirm that bank reconciliations are submitted to The National Treasury and a copy circulated to Auditor-General as required under Section 90. (1) of Public Finance Management (National Government) Regulations 2015.

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

5. Lack of an Approved Annual Procurement Plan

The financial statements reflects Kshs.95,159,118 as transfer to other Government units as disclosed in Note 6 in respect of various projects to be executed during the year in primary and secondary schools. However, the Fund did not prepare and approve a procurement plan for the financial year 2021/2022. This was contrary to Section 45(3)(a) of the Public Procurement and Assets Disposal Act, 2015 which states that all procurement processes shall be within the approved budget of the procuring entity and shall be planned by the procuring entity concerned through an annual procurement plan

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

6. Delayed Projects Implementation

Review of project implementation status report and field visits during the month of March, 2023 revealed that the Fund had two (2) projects allocated Kshs.1,900,000 that had not started and forty-three (43) projects with an allocation of Kshs.76,541,777.58 which were on going with various stages of implementation. Further, ten (10) projects were marked as awaiting funds yet the same had been released to their respective Project Management Committees.

In the circumstances, the public may not have realized value for money from the projects.

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 of Conclusion

1. Lack of Controls on Maintenance of Bank Reconciliation Statements

Review of the Fund monthly bank reconciliations for the operational bank account revealed that they were prepared by the Sub County Accountant but were not reviewed by a responsible officer as an internal control.

In the circumstances, the effectiveness of the internal controls in cash management could not be confirmed.

2. Lack of an Information and Communications Technology (ICT) Officer

Review of the Fund's staff establishment revealed that there was no employee with knowledge on information and communications technology. In the absence of such an officer the entity's ICT and equipment's may not be properly utilized, maintained and regularly upgraded.

In the circumstances, the effective management of the ICT infrastructure 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 sustain its services, disclosing as applicable, matters related to sustainability of services and using the applicable basis of accounting unless the Management is aware of the intentions 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 manner.

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 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 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 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 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 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

03 August, 2023