

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - KITUI CENTRAL 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- Kitui Central Constituency set out on pages 1 to 36 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 National Government Constituencies Development Fund- Kitui Central 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 Statement of Receipts and Payments

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects use of goods and services amounting to Kshs.10,250,586 which includes bank charges amount of Kshs.68,833. However, the total of payments made in the bank not yet recorded in the cash books (bank charges) for all the twelve (12) bank accounts as per bank reconciliation statements amounted to Kshs.304,087 resulting to an unexplained variance of Kshs.235,254. Further, the statement reflects committee expenses and allowances amounting to Kshs.6,818,060. However, the monthly expenditure returns and general ledger reflected an amount of Kshs.7,235,500 resulting to an unexplained variance of 417,440.

In the circumstances, the accuracy and completeness of the above balances could not be confirmed.

2. Inaccuracy in Retention Money

The statement of assets and liabilities and as disclosed in Note 12(A) to the financial statements reflects a nil closing retention balance as at 30 June, 2022. However, review of the Fund's disbursement of Kshs.2,000,000 to the project management committee (PMC) for Kavuta Primary School revealed that the first payment certificate dated 19 May, 2022 reflected Kshs.130,000 retention monies to be held for the 6-month period had not lapsed. Similarly, the second payment certificate dated 23 June, 2022 reflected Kshs.155,000 as retention monies.

In the circumstances, accuracy and completeness of the Nil balance on retention money could not be confirmed.

3. Inaccuracies in Bursary Disbursements

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects other grants and transfers amounting to Kshs.79,378,708 which includes an amount of Kshs.53,878,500 and Kshs.7,170,000 paid to secondary schools and tertiary institutions respectively. However, the bursary beneficiaries list reflected amount totalling to Kshs.47,737,000 and Kshs.119,000 for secondary schools and tertiary institutions respectively resulting to an unexplained variance of Kshs.6,141,500 and Kshs.7,051,000 respectively.

In the circumstances, the accuracy and completeness of other grants and transfers amounting to Kshs.79,378,708 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 - Kitui Central 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.

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. Irregular Procurement of Primary and Secondary School Projects

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects Kshs.87,000,000 under transfers to other government units. However, audit verification of documents in support of the expenditure revealed the following anomalies;

1.1 Kavuta Primary School

During the year under review, the Fund disbursed a total of Kshs.2,000,000 to the project management committee (PMC) of Kavuta Primary School that had engaged a contractor for the rehabilitation of eleven classrooms. However, the expenditure was not supported with evidence of the appointment process of tender opening and awarding committee members, appointment letters and PMC meeting minutes. Further, there was no communication or notification of results of the award process made to unsuccessful bidders. In addition, no professional opinion was issued by the Sub County supply chain management officer upon the results of the tender awarding process.

1.2 Patrick's Ithimani Secondary School

During the year under review, the Fund disbursed a total of Kshs.3,000,000 to the project management committee (PMC) of St. Patrick's Ithimani Secondary school who engaged a contractor for the construction of a science laboratory to completion. However, there were no PMC minutes and appointment letters showing evidence of the appointment

process of tender opening and tender awarding committee members. There was also no professional opinion issued by the Sub County supply chain management officer upon the results of the tender awarding process.

This is contrary to Regulation 15(1) of the National Government Constituencies Development Fund Regulations, 2016 which states that there shall be appointed a project management committee for each project in a Constituency in accordance with section 36 of the Act which shall implement projects in consultation with the relevant departments of government, maintain proper records of all minutes, accounting documents and other records in relation to projects being implemented , prepare returns and file them with a Constituency Committee on a timely basis and account for funds to a Constituency Committee.

In the circumstances, the Management was in breach of the law and the value for money spent on the projects could not be confirmed.

2. Lack of an Approved Annual Procurement Plan

During the year under review, the Fund Management did not prepare a procurement plan that contains a detailed breakdown of goods and services or works required by the Fund, including their estimated costs and deliverables for implementation and the appropriate procurement method for each item. This is contrary to Section 40(1) of the Public Procurement and Asset Disposal Regulations ,2020 which states that a procuring entity shall prepare a procurement plan for each financial year as part of the annual budget preparation process.

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

3. Irregular Expenditure on Committee Expenses

Note 5 to the financial statements reflects committee expenses amount of Kshs.6,818,060. However, review of accounts records and payment vouchers revealed that the constituency committee had a total of six sub committees. This is contrary to Regulation 7(6) of the National Government Constituencies Development Fund Regulations, 2016 that requires the constituency committee to establish two sub committees necessary for the proper performance of its functions in accordance with the guidelines issued by the Board. Further, the performance contract provided between the Board and constituency committee did not provide guidance on subcommittees of constituency committees, their formulation and their mandate. In addition, the performance contract was not signed by the constituency committee and was therefore not binding.

In the circumstances, the Management was in breach of the law and the value for money spent on committee expenses of Kshs.6,818,060 could not be confirmed.

4. Unsatisfactory Projects Implementation

4.1 Kitui Prisons Staff Houses

The Fund Management awarded a contract for completion of prison staff houses at a contract sum of Kshs.600,000. However, physical verification of the project done in March, 2023 revealed that four (4) incomplete houses constructed were not in use although Project Implementation Status (PIS) report shows the houses are complete. Bill of quantities specified a total of four size 10 windows but only three windows had been installed. Plastering, painting and flooring were yet to be done despite them having been budgeted for in the approved code list and wiring and finishing had also not been done.

4.2 Muslim Primary

The Fund Management awarded a contract for completion of four classrooms at a contract sum of 6,000,000. However, physical verification of the project done in March, 2023 revealed there were major cracks on the wall due to poor workmanship.

4.3 Tungutu Chief's Office

The Fund Management awarded a contract for construction of a pit latrine at a contract sum of Kshs.100,000. However, physical verification of the project done in March, 2023 revealed that the pit latrine constructed was incomplete with more funds required for plastering, painting and flooring.

In the circumstances, the value for money of Kshs.6,700,000 incurred on the above projects 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 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 continue to sustain its services, disclosing, as applicable, matters related to sustainability of services and using the appropriate of accounting unless the 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 entity 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 controls 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 continue 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

22 June, 2023