

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - KITUI EAST 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 - Kitui East Constituency set out on pages 1 to 44, which comprise of the statement of assets and liabilities as at 30 June, 2022, 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 - Kitui East 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 the Statement of Receipts and Payments

The statement of receipts and payments reflects compensation of employees and use of goods and services amounts of Kshs.8,320,206 and Kshs.7,514,395 respectively. Included in Kshs.8,320,206 is Kshs.2,183,631 as disclosed in Note 4 to the financial statements for gratuity to contractual employees. However, the ledger reflects Kshs.1,913,716 for the same item resulting to an unexplained variance of Kshs.269,915.

Further, included in Kshs.7,514,395 is bank charges of Kshs.8,520 as disclosed in Note 5 to the financial statements. However, re-casting of schedules provided revealed an amount of Kshs.473,858 resulting to an unexplained variance of Kshs.465,338.

In the circumstances, the accuracy and completeness of the statement of receipts and payments could not be confirmed.

2. Unsupported Expenditure

2.1 Water and Sewerage Charges

The statement of receipts and payments reflects use of goods and services amount of Kshs.7,514,395 which includes water and sewerage charges of Kshs.1,082,530 as disclosed in Note 5 to the financial statements. However, the payments were not supported by payment vouchers, water bills, invoices and acknowledgement receipts.

2.2 Environment Projects

Statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects environment projects expenditure of Kshs.2,741,778 for supply of seedlings to twenty-seven (27) institutions. However, the project files lacked distribution lists to beneficiaries, counter receipt vouchers and S3 cards/bin cards. In addition, payment vouchers were not supported with delivery notes, invoices and acknowledgement receipts.

In the circumstances, the propriety, accuracy and completeness of water and sewerage charges and environment projects expenditure of Kshs.1,082,530 and Kshs.2,741,778 respectively could not be confirmed.

3. Unconfirmed Bank Balance

The statement of assets and liabilities reflects bank balance of Kshs.6,154,142 as disclosed in Note 10A to the financial statements. Included in this balance are un-presented cheques amounting to Kshs.16,834,836 out of which Kshs.2,994,160 were

stale cheques which have not been reversed in the cashbook. Further, Project Management Committee (PMC) bank balances of Kshs.529,799 were not supported by confirmation certificate of bank balances.

In the circumstances, the accuracy and completeness of bank balance of Kshs.6,154,142 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 East 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

Unresolved Prior Year's Audit Issues

The audit report for the previous financial year ended 30 June, 2021, raised several issues in regard to 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.

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. Un-Surrendered Closed PMC Account Balances

Annex 5 to the financial statements reflects Project Management Committees (PMC) balance of Kshs.529,799. The balance includes two (2) PMC accounts balances of Kshs.267,120 for projects indicated in the project implementation status report to be complete. However, the balances have not been surrendered to the main Constituency Fund bank account. This is contrary to Section 12(8) of the National Government

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.

2. Lack of Segregation of Duties

During the year under review, it was observed that the monthly bank reconciliations for the operational bank account were prepared and verified by the Sub-County Accountant. Further, bank reconciliation statements for November 2021, December 2021, January 2022, February 2022, March 2022, April 2022 & May 2022 are all dated later than 10 of the subsequent month which does not comply with Section 90(1) of the Public Finance Management regulations, 2015.

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

3. Lack of Annual Procurement Plan

During the year under review, Management did not prepare a procurement plan that gives a detailed breakdown of goods, services and works, indicates schedule of the planned delivery, implementation or completion dates for all goods, works, or services required, indicates the estimated costs the appropriate procurement method. This was contrary to Section 53(2) of the Public Procurement and Asset Disposal Act, 2015 which states that an accounting officer shall prepare an annual procurement plan which is realistic in a format set out in the Regulations within the approved budget prior to commencement of each financial year as part of the annual budget preparation process.

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

4. Failure to Report Emergency Projects

Note 7 to the financial statements reflects emergency expenditure of Kshs.7,750,000. However, there was no evidence that the utilization of emergency reserve was reported to the Board. This was contrary to Regulation 20(2) of the National Government Constituencies Development Fund Regulations, 2016 which states that the utilization of the emergency reserve shall be reported to the Board within thirty days of the occurrence of the emergency, in the format prescribed by the Board.

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

5. Irregularities in Projects Implementation

Statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects transfers to primary and secondary schools of Kshs.93,870,000. However, the following anomalies were noted;

- 5.1** The Kshs.93,870,000 includes Kshs.4,000,000 for purchase and fencing of four (4) acres of land for Kaliku Boys Secondary School and building works for expansion of the school. However, the School had not received the title deed. Further, expenditure

of Kshs.2,500,000 for demolition of classrooms, walling and plastering was not supported by public works valuation certificates and measurements.

- 5.2 Included in Kshs.93,870,000 is Kshs.1,500,000 for renovation of three (3) classrooms at Ndunga Primary School. However, the method of procurement was not indicated and there was no evidence of appointments to the tender opening and awarding committees. In addition, tender advertisement, evaluation scoresheets for each committee member, professional opinion and notification to unsuccessful bidders were not provided for audit.
- 5.3 Further, included in Kshs.93,870,000 is Kshs.1,500,000 disbursed to Kyanika Primary School. However, the tender advertisement, evaluation scoresheets for each committee member, professional opinion and notification to unsuccessful bidders were not provided for audit.
- 5.4 In addition, included in Kshs.93,870,000 is Kshs.3,000,000 disbursed to Mutitu North Special School for construction of a 50-capacity dormitory. However, there was no evidence of appointments to the tender opening and awarding committees including criteria of awarding. Further, tender advertisement, evaluation scoresheets for each committee member, professional opinion, notification to unsuccessful bidders and acceptance letter were not provided for audit. In addition, payment certificates and measurements approved by professional works officer were not provided.

In the circumstances, Management was in breach of the law and value for money of Kshs.10,000,000 on the four (4) projects could not be confirmed.

6. Delay in Project Implementation

Review of the project implementation status report revealed two (2) projects worth Kshs.3,500,000 had not been completed as at the time of the audit in March, 2023. Further, an amount of Kshs.7,572,000 was budgeted for provision of National Health Insurance Fund to cover one thousand two hundred and sixty-two (1,262) vulnerable people was re-allocated to bursary. In addition, the budget execution by sectors and projects indicates eight (8) projects budgeted at Kshs.2,050,000 were not implemented.

In the circumstances, value for money on the planned 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, 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. Failure to Maintain an Imprest Register

Review of the monthly expenditure returns, payment vouchers and imprest warrants revealed that imprest of Kshs.5,218,000 was issued in the year under review to facilitate monitoring and evaluation. However, there was no evidence of maintenance of an imprest register. This is contrary to Regulation 93(4) of the Public Finance Management (National Government) Regulations, 2015 which states that before issuing temporary imprests under paragraph (2), the Accounting Officer shall ensure that—the applicant has been recorded in the imprest register including the amount applied for;

In the circumstances, the effectiveness of internal controls on recording and maintenance of imprest register could not be confirmed.

2. Irregular Staff Recruitment

Review of personnel records revealed that the accounts assistant II, information and communications technology officer, procurement assistance and security personnel positions were filled during the year under review. However, there was no evidence of competitive recruitment process since requisition from the user department, advertisement for the positions, application letters, shortlisting, register interviewees, score sheets and the minutes for the interviewers were not provided for audit. In addition, there was no organizational structure and approved staff establishment to guide on filling these positions.

In the circumstances, the effectiveness of internal controls on staff recruitment could not be confirmed.

3. Lack of a Disaster Recovery Plan

During the year under review Management had not established a disaster recovery plan/ business continuity plan. This implies that there are no measures in place to identify, prevent and mitigate disasters to ensure that operations are not interrupted.

In the circumstances, the effectiveness of risk management and business continuity 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 control, 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 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 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 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 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 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 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

20 June, 2023