

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

Adverse Opinion

I have audited the accompanying financial statements of National Government Constituencies Development Fund - Kuria West Constituency set out on pages 1 to 20, which comprise the statement of assets and liabilities as at 30 June, 2022, and the statement of receipt 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, because of the significance of the matters discussed in the Basis for Adverse Opinion section of my report, the financial statements do not present fairly, the financial position of the National Government Constituencies Development Fund - Kuria West Constituency as at 30 June, 2022 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 do not comply with the National Government Constituencies Development Fund Act, 2015 and the Public Finance Management Act, 2012.

Basis for Adverse Opinion

1.0 Use of Goods and Services

The statement of receipts and payments, and as disclosed in Note 4 to the financial statements, reflects use of goods and services expenditure of Kshs.9,229,028. Review of the documents in respect of the expenditure revealed the following anomalies:

1.1 Unsupported Domestic Travel and Subsistence Allowances

The use of goods and services expenditure includes domestic travel and subsistence allowances amounting to Kshs.891,200, out of which, an amount of Kshs.124,000 was not supported by payment vouchers, invoices and sales receipts among others. In addition, payment vouchers submitted in support of expenditure of Kshs.767,200 were photocopies whose authenticity could not be verified and were not authorized by the Accounting Officer.

In the circumstances, the validity, accuracy and completeness of the domestic travel and subsistence allowance expenditure of Kshs.891,200 could not be confirmed.

1.2 Unsupported Training Expenses

Note 4 to the financial statements reflects training expenses amounting to Kshs.946,660 incurred on staff and Committee Members of the Fund. However, the supporting schedule provided for audit review reflected an expenditure of Kshs.1,013,488, resulting in an unexplained variance of Kshs.66,828. In addition, other supporting documents such as training needs assessment report, approved training plan, invoices, receipts, local service orders and acknowledgement receipts by institutions offering the trainings were not provided for audit review.

In the circumstances, the accuracy and completeness of training expenditure of Kshs.946,660 could not be confirmed.

1.3 Unsupported and Unauthorized Committee Expenses

The use of goods and services expenditure includes other committee expenses amounting to Kshs.4,110,568 which differs with the supporting schedule total of Kshs.3,967,300, resulting to an unexplained variance of Kshs.143,268. In addition, payment vouchers for the expenditure were not authorized by the Accounting Officer.

In the circumstances, the validity, accuracy and completeness of the committee expenses of Kshs.4,110,568 could not be confirmed.

1.4 Unsupported Committee Allowances

The use of goods and services balance of Kshs.9,229,028 includes committee allowances amounting to Kshs.1,698,200 as disclosed in Note 4 to the financial statements. However, payment vouchers provided for audit review in respect of expenditure totalling to Kshs.996,200 were photocopies and lacked supporting documents and attachments.

In the circumstances, the authenticity and completeness of committee allowances of Kshs.996,200 could not be confirmed.

2.0 Unsupported Bursaries Expenditure

The statement of receipts and payments reflects other grants and transfers amounting to Kshs.79,695,700 which, as disclosed in Note 7 to the financial Statements, includes bursary disbursements of Kshs.60,795,700 comprising of Kshs.39,430,027 and Kshs.21,187,000 to secondary schools and tertiary institutions respectively. Review of records provided for audit revealed that bursaries amounting to Kshs.5,387,700 were awarded to 442 secondary schools students and 103 tertiary institutions students. However, the students' admission or registration numbers confirming admission to the institutions were not indicated in the disbursement schedules.

In the circumstances, the accuracy and completeness of the bursary expenditure of Kshs.5,387,700 could not be confirmed.

3.0 Unsupported PMC Bank balances

The Project Management Committee (PMC) bank balances schedule in Annex 5 to the financial statements reflects bank balances totalling to Kshs.14,391,169. However, the supporting certificates of bank balances and bank statements for the accounts were not provided for audit review.

In the circumstance, the accuracy and completeness of the PMC bank balances of Kshs.14,391,169 as at 30 June, 2022 could not be confirmed.

4.0 Undisclosed and Obsolete Assets in the Summary of Fixed Asset Register

The summary of fixed asset register disclosed in Annex 2 to the financial statements reflects a balance of Kshs.5,888,697, while the fixed asset register provided for audit revealed assets with a historical cost Kshs.6,175,197, resulting in an unexplained variance of Kshs.286,500.

In addition, the asset register includes thirteen (13) transport and other equipment valued at Kshs.5,266,900 which were not in use as they were unserviceable. Part of the unserviceable assets were donated to the Fund and had not been valued. Further, Management had not initiated the process of disposal of the obsolete assets, except for one motor vehicle.

In the circumstances, the accuracy and completeness of the assets balance of Kshs.5,888,697 as at 30 June, 2022 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 - Kuria West 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 adverse 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 of Kshs.259,343,457 and actual on comparable basis of Kshs.238,343,457, resulting in an underfunding of Kshs.20,600,000 or 8% of the budget. Similarly, the statement reflects final expenditure budget of Kshs.259,343,457 and actual expenditure on comparable basis of Kshs.204,107,724, resulting to under expenditure of Kshs.55,235,733 or 21 % of the budget. The underfunding and under-expenditure adversely affected the Fund's planned activities and delivery of services to the residents of Kuria West Constituency.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, because of the significance of the matters discussed in the Basis for Adverse Opinion and Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources sections of my report, based on the audit procedures performed, I confirm that, public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

1.0 Unapproved Reallocation of Funds

During the year under review, an amount of Kshs.7,500,000 allocated for purchase of a motor vehicle in the previous year was not approved by the Board contrary to Section 6(1) of the National Government Constituencies Development Fund Act, 2015 which provides that once funds are allocated for a particular project, they shall remain allocated for that project and may only be re-allocated for any other purpose during the financial year with the approval of the Board.

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

2.0 Transfers to Other Government Units

The statement of receipts and payments reflect transfers to other government units amounting to Kshs.112,700,000. Review of the expenditure and physical inspection of the projects revealed the following anomalies:

2.1 Poor Workmanship

Physical verification of projects revealed poor workmanship and procurement anomalies as detailed below;

- i. An amount of Kshs.7,400,000 was incurred on completion of a tuition block at Nyamaharaga PAG Primary School. The scope of works included construction of a two-storey building of eight classrooms and two offices on top of an existing building undertaken by a local contractor at a contract sum of Kshs.7,400,000 which was paid in full. However, field inspection carried out on 21 March, 2023 revealed that the newly constructed building was in a deplorable state with chipped off and cracked floors, poorly done painting, poorly fitted and dangling doors and unsafe staircase all indicating poor workmanship. In addition, the tender evaluation report, professional opinion and contract agreements were not provided for audit review.
- ii. An expenditure of Kshs.1,000,000 was incurred on renovation of six (6) classrooms at Nyamaharaga Mixed Primary School. However, audit inspection on 21 March, 2023 revealed that the floors had chipped off, painting was substandard and plastering around the door frame was done poorly. In addition, the project was not branded with the Constituency Development Fund logo and the year when the activities were approved and budgeted for implementation in line with Regulation 11(1)(cc) of the National Government Constituencies Development Regulations (2016) which states that the functions of a Constituency Committee should ensure projects are labelled in accordance with the guidelines issued by the Board. Further, one classroom had not been renovated.

In the circumstances, value for money for the expenditure of Kshs.8,400,000 could not be confirmed and the benefits expected from the project may not be realized. In addition. Management was also in breach of the law.

2.2 Projects Executed Without Approved Procurement Plan

The transfers to other Government units amount of Kshs.112,700,000 includes an amount of Kshs.42,800,000 transferred to secondary schools for implementation of projects. However, the Management implemented the projects without an approved Procurement Plan, contrary to Regulation 25(2) of the National Government Constituencies Development Fund Regulations, 2016 which provides that a Constituency Committee shall not incur expenditure unless such expenditure is supported by an approved work plan, a procurement plan and a budget.

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

2.3 Delayed Completion of Jointly Funded Projects

The transfers to other Government units amount of Kshs.112,700,000 includes transfers to secondary schools of Kshs.42,800,000, out of which, Kshs.4,000,000 was in respect of two (2) projects jointly implemented by the Fund and the Ministry of Education comprising completion of a laboratory at Kugitura Mixed Secondary School and construction of first floor of a storey tuition block of 4 classrooms at St. Mary's Maberu Girls with a funding of Kshs.1,000,000 and Kshs.3,000,000 respectively by the fund while Ministry of Education funded the remaining amount. However, the agreements and relevant documents specifying the units that were to be financed by the Ministry of Education and those that were to be done by the Fund were not provided for audit review. In addition, field inspection on 21 March, 2023 revealed that both projects were not complete.

In the circumstances, same projects may be double funded by the Ministry of Education and the Fund. In addition, value for money of the expenditure of Kshs.4,000,000 could not be confirmed, and the expected benefits from the projects may not be realized in a timely manner.

2.4 Unsupported Procurement in Construction of Education Office

The transfers to other government units includes Kshs.12,000,000 transferred to tertiary institutions for construction of the Maberu Sub-County Education Office. However, review of procurement and other records relating to the project revealed the following anomalies:

- i. The procurement plan proposing the procurement method and the planned dates for procurement of works and awarding of contracts were not provided for audit review. This was contrary to Regulation 25(2) of the National Government Constituencies Development Fund Regulations, 2016 which provides that a Constituency Committee shall not incur expenditure unless such expenditure is supported by an approved work plan, a procurement plan and a budget.
- ii. The tender evaluation report, in line with the provisions of Section 46(4b) of the Public Procurement and Asset Disposals Act, 2015 which provides that the Ad Hoc Evaluation Committee shall advise on the evaluation of the tender documents and give a recommendation on the same to the committee within a reasonable time, was not provided for audit review.
- iii. The professional opinion was not provided for audit review as required by Section 84 (1) of the Public Procurement and Asset Disposal Act, 2015 which provides that the Head of Procurement Function of a procuring entity shall, alongside the report to the Evaluation Committee as secretariat comments, review the tender evaluation report and provide a signed professional opinion to the Accounting Officer on the procurement or asset disposal proceedings.

In the circumstances, the fairness of the procurement process and value for money for the expenditure of Kshs.12,000,000 could not be confirmed. Management was also in breach of the law.

3.0 Irregular Use of Emergency Funds

The statement of receipts and payments reflects other grants and transfers amounting to Kshs.79,695,700 which includes Kshs.6,700,000 incurred on emergency projects. However, no evidence was provided for audit to indicate that the use of the emergency reserves was reported to the Constituency Committee Board within 30 days as required by Regulation 20(2) of the National Government Constituencies Development Fund Regulations, 2016.

Further, Kshs.5,200,000 was utilized for purchase and supply of lockers and chairs for the four (4) secondary schools and one (1) primary school. However, review of the expenditure revealed following anomalies:

- i. Justification for categorizing the expenditure as an emergency was not provided for audit, contrary to Section 8(3) of the National Government Constituencies Development Fund Act, 2015, which requires that emergency funds be utilized only for urgent and unforeseen need for expenditure which cannot be delayed.
- ii. Requisitions from the affected schools indicated the need for emergency expenditure, requisite procurement documents such as evaluation reports, professional opinions and contract agreements were not provided for audit. It was also noted that all the contracts for the supply of chairs and lockers for the various schools were awarded to one supplier without any justification.
- iii. An audit inspection carried out on 21 March, 2023 at Nyabokarange Primary School revealed that the lockers and chairs bought in exceeded the school's needs and therefore, were being stored at the school store. In addition, they were not labelled.

In the circumstances, Management was in breach of the law and value for money of the expenditure of Kshs.5,200,000 could not be confirmed.

4.0 Unimplemented and Ongoing Projects

Review of the approved list of projects and Project Implementation Status Report for the Fund revealed that seven (7) projects which had been allocated a total of Kshs.12,300,000 were not implemented, while five (5) projects with total allocation of Kshs.32,800,000 were ongoing as at 30 June, 2022. No explanation was provided for slow implementation of the projects.

In the circumstances, the expected benefits from the projects may not be realized.

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, because of the significance of the matters discussed in the Basis for Adverse Opinion and Basis for Conclusion on the Effectiveness of Internal Controls, Risk Management and Governance sections of my report, based on the audit procedures performed, I confirm that, internal controls, risk management and overall governance were not effective.

Basis for Conclusion

Failure to Authorize Payment Vouchers

Several payment vouchers for the expenditures incurred on compensation of employees and use of goods and services during the year under review did not have signature and date for authorization by the Fund Account Manager. Further, the supporting schedule of employees did not bear requisite approval.

In the circumstances, the effectiveness of internal controls over processing of payments 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 governance.

In preparing the financial statements, Management is responsible for assessing the Fund's ability to continue to sustain its 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 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 National Government Constituencies Development Fund – Kuria West Constituency 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 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

01 August, 2023