

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - MARAKWET 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 control, 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 - Marakwet West Constituency set out on pages 1 to 51, 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 the 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 - Marakwet 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 comply with the Public Finance Management Act, 2012 and the National Government Constituencies Development Fund Act, 2015.

Basis for Qualified Opinion

1. Unsupported Compensation of Employees

The statement of receipts and payments reflects compensation of employee's balance of Kshs.3,503,783 as disclosed in Note 4 to the financial statements. However, the amount includes provision for gratuity of Kshs.866,006 which had not been paid. Further, the statement of assets and liabilities reflects gratuity balance of Kshs.1,082,508 which differs with the balance of Kshs.866,006 reflected in Note 12B resulting to an unexplained variance of Kshs.216,502.

In the circumstances, the accuracy of compensation of employees' amount of Kshs.3,503,783 and the gratuity balance of Kshs.1,082,508 could not be confirmed.

2. Non-Disclosure of Retention Fees

The Fund awarded a contract for the proposed renovation of CDF offices Marakwet West to a local company at a contract sum of Kshs.761,515. Examination of payment voucher number 230 revealed that the Management held Kshs.76,151 as retention fees in relation to the contract. However, the retention amount of Kshs.76,151 was not disclosed in the statement of assets and liabilities.

In the circumstances, the accuracy of total financial liabilities of Kshs.1,082,508 could not be confirmed.

3. Unreconciled Variance in the Statement of Cash Flows

The statement of cash flows reflects increase in accounts payable of Kshs.866,006. However, the respective Note 16 to the financial statements reflects a balance of Kshs.649,504, resulting to an unreconciled variance of Kshs.216,502.

In the circumstances, the accuracy of the statement of cash flows could not be confirmed.

4. Unbalanced Trial Balance

The trial balance for the year ended 30 June, 2022 reflects total debits and credits of Ksh.226,382,031 and Kshs.225,516,025, respectively, resulting to an unexplained variance of Kshs.866,006.

In the circumstances, the accuracy of the balances reported in the financial statements could not be confirmed.

5. Unsupported Project Management Committee Account Balances

Note 17.4 to the financial statements reflects Project Management Committee accounts balances of Kshs.39,255,160 relating to funds disbursed to the projects which had not

been utilized by the end of the year. However, respective cash books, bank confirmation certificates and bank reconciliation statements were not provided for review.

In the circumstances, the accuracy, completeness and existence of project management committee account balances of Kshs.39,255,160 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 - Market 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 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. Budgetary Control and Performance

The summary statement of appropriation reflects final receipts budget and actual on comparable basis of Kshs.237,604,904 and Kshs.225,516,025 respectively resulting to an under-funding of Kshs.12,088,879 or 5.1% of the budget. Similarly, the Fund spent Kshs.207,248,380 against an approved budget of Kshs.237,604,904 resulting to an under-expenditure of Kshs.30,356,524 or 13% of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

2. Project Verification

Review of records revealed that the Fund made disbursements to projects valued at Kshs.112,154,000. Out of this, eight (8) projects with total disbursements of Kshs.14,200,000 were sampled for physical verification in March, 2023. Three (3) projects with a total disbursement of Kshs.2,800,000 were found to be complete and in use while five (5) projects with a total disbursement of Kshs.11,400,000 were partially completed.

Delayed or non-implementation of development projects may negatively impact on service delivery to the public.

3. Unresolved Prior Year Audit Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements and the Report on Lawfulness and Effectiveness in Use of Public Resources. However, the issues remain unresolved contrary to Section 68(2)(l) of the Public Finance Management Act, 2012 which require accounting officers designated for

National Government entities to try to resolve any issues resulting from an audit that remain outstanding.

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

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 matter 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

Construction of Multipurpose Hall at Proposed KMTTC Kerio Valley Campus

The statement of receipts and payments reflects transfers to other government units of Kshs.112,154,000 as disclosed in Note 6 to the financial statements. This amount included Kshs.10,000,000 for construction of a Multipurpose hall at proposed KMTTC Kerio Valley campus that had been disbursed to the PMC for the project, though no payments had been made as at the time of audit in March, 2023.

It was observed that on 22 June, 2022, the Fund advertised in the local daily for the construction of a Multipurpose hall at proposed KMTTC Kerio Valley campus which had a contract number KMTTC/MULTIPURPOSE HALL/1/2021-2022. The project was to be co-funded by NGCDF Marakwet East Constituency.

Documents provided for audit revealed that on 1 July, 2022 at KMTTC Iten Campus opening of the tender documents was done and subsequently tender evaluation was done on 6 July, 2022. On evaluation, the committee awarded the tender to a local contractor having submitted the lowest responsive tender and notification of award letter given on 30 August, 2022.

The contract was signed on 17 October, 2022 between the Chairman NGCDF Marakwet East Constituency and the contractor at a contract price of Kshs.9,954,645 (Nine million nine hundred and fifty-four thousand six hundred and forty-five shillings). However, the following anomalies were noted:

- i. Minutes approving the project by the two constituency committees NGCDF Marakwet West Constituency and NGCDF Marakwet East Constituency were not provided for audit as required by Section 26(2) of National Government Constituencies Development Fund Act, 2015.
- ii. Project file lacked monthly expenditure returns, reports detailing particulars of works to be performed by the two Funds, project proposals, details of project funding, approved drawings and structural designs, signed contractual agreement with terms and conditions, inspection and acceptance reports and Constituencies Development Fund Committee monitoring and evaluation reports.

- iii. No performance security bond was provided for review since the works were above Kshs.5,000,000 (five million). Further, the tender security provided by the contractor quoted NGCDF Marakwet East Constituency as the procuring entity instead of NGCDF Marakwet West Constituency which had advertised for the tender. Management therefore flouted procurement regulations by awarding a contract in the absence of the requisite performance security bond from the contractor.

In the absence of supporting documents for this project, it could not be confirmed whether the residents of Marakwet West Constituency received value for money on this project.

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

As required by Section 7(1)(a) of the Public Audit Act, 2015, based on the audit procedures performed, except for the matters described in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

1. Lack of an Updated Asset Register

Review of the summary of fixed assets register at annex 4 to the financial statements revealed that the Fund has assets with historical cost of Kshs.27,702,707 which differs with the balance in asset register provided of Kshs.25,100,194 resulting to an unexplained variance of Kshs.2,602,513.

In the circumstances, the accuracy, existence and completeness of the fixed assets register balance of Kshs.27,702,709 as disclosed in the summary of fixed assets register at annex 4 could not be confirmed.

2. Lack of a Register for Cheque Books

The statement of assets and liabilities reflects a bank balance of Kshs.19,133,652 as detailed in Note 10A to the financial statements. However, the Fund Management does not maintain a register of the cheque books indicating series, date received, and the bank account they relate to.

In the circumstances, there may not be proper internal controls on the receipt and issuance of cheques.

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

The 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 overall governance.

In preparing the financial statements, Management is responsible for assessing the Fund's ability to continue to sustain its services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless Management is aware of the intention to terminate the Fund or to cease operations.

The 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 overall 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 overall governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal controls 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 controls.
- 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 controls 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

19 May, 2023