

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - MBEERE SOUTH 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 - Mbeere South Constituency for the year ended 30 June, 2022 set out on pages 1 to 40, 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 – Mbeere South 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. Accuracy of Summary Statement of Appropriation

The summary statement of appropriation for the year reflects Kshs.11,058,505 and Kshs.57,588,879 in respect to opening balance and outstanding disbursements respectively both totalling to Kshs.68,647,384 being unutilized funds from the previous year 2020/2021. However, the previous audited financial statements reflects funds balance of Kshs.56,747,384 resulting to unreconciled variance of Kshs.11,900,000.

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

2. Unsupported Project Management Committee (PMC) Account Balances

Note 17.6 and Annex 5 to the financial statements reflects a balance of Kshs.61,951,970 in respect to PMC account balances for one hundred and thirty-eight (138) Project Committee bank accounts. However, only twelve (12) accounts out of the one hundred and thirty-eight (138) accounts were supported with bank statements. Further, the cashbooks and bank reconciliation statements as at 30 June, 2022 were not provided for audit review.

In addition, analysis of Annex 5 revealed eighteen (18) out of the one hundred and thirty eight (138) PMC bank accounts holding a total of Kshs.925,239 were dormant contrary to Section 83 (1) and (2) of the Public Finance Management (National Government) Regulations, 2015 which states that The National Treasury shall be responsible for establishing sound cash management systems, procedures and processes, to ensure efficient and effective banking and cash management practices and for purposes of this regulation, sound cash management includes avoiding accumulation of idle balances.

In the circumstances, the accuracy and value for money for the account balances held in PMC bank accounts could not be confirmed.

3. Accuracy of Cash and Cash Equivalents

The statement of assets and liabilities and as disclosed in Note 10A to the financial statements reflects bank balances of Kshs.41,777,915. However, review of the bank reconciliation statement revealed receipts in bank statement not yet recorded in the cash book of Kshs.2,209,999 which understates the cash book balance by the same amount.

In the circumstances, the accuracy of the bank balances of Kshs.41,777,915 could not be confirmed.

4. Summary of Fixed Assets Register

Note 17.5 and Annex 4 to the financial statements reflects a balance of Kshs.44,733,673 in respect to historical cost of fixed assets which includes Kshs.899,335 and Kshs.1,103,000 in respect to office equipment and fittings and ICT equipment, software and other ICT assets. However, five (5) items with a total value of Kshs.148,300 were not functional but no explanation was given on why the items had not been earmarked for disposal contrary to Section 163 (1) of the Public Procurement and Asset Disposal Act, 2015 which states that an Accounting Officer shall establish a Disposal Committee as and when prescribed for the purpose of disposal of unserviceable, obsolete, obsolescent, or surplus stores, equipment or assets.

In the circumstances, the accuracy and fair value of the assets balance 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 - Mbeere South 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 judgement, 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

1.0. Budgetary Control and Performance

The summary statement of appropriation reflects approved budget expenditure of Kshs.205,736,263 and actual payments of Kshs.163,958,348 resulting to under expenditure of Kshs.41,777,915 or 20% of the budget.

In the circumstances, the under expenditure affected the planned activities for the year and may have impacted negatively on service delivery to the public.

2.0. Project Implementation Status

The project implementation status report as at 30 June, 2022 provided for audit review indicated that one hundred and sixty (160) projects worth Kshs.205,736,263 were budgeted to be implemented during the year under review. However, only one hundred and nineteen (119) projects worth Kshs.129,805,231 were completed, nine (9) projects worth Kshs.66,665,650 were ongoing while thirty two (32) projects worth Kshs.9,265,382 had not been started. In view of the foregoing, the constituents may have been denied the expected services equivalent to thirty two (32) projects not started worth Kshs.9,265,382 and the nine (9) ongoing projects worth Kshs.66,665,650 both totalling to Kshs.75,931,032. This is an indication of inappropriate project implementation, monitoring and evaluation mechanism.

In the circumstances, the residents of Mbeere South Constituency did not get services equivalent to the ongoing and not started projects during the year worth Kshs.43,418,500.

3.0. Poor Workmanship at Makutano Primary School

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects an amount of Kshs.108,070,118 in respect to transfer to other Government units which includes Kshs.47,460,000 in respect to transfer to primary schools which further includes Kshs.800,000 for construction of an administration block to lintel level, 2 roomed offices and 1 staffroom at Makutano Primary School. Physical verification carried out in March, 2023 revealed that the project is complete and in use. However, there were visible cracks on the floor and walls which is an indication of poor workmanship.

In the circumstances, the propriety and value for money for the Kshs.800,000 could not be confirmed.

4.0. Unresolved Prior Year Matters

In the audit of the previous year, several paragraphs were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, the Management did not disclose all the prior year matters and the progress on implementation of recommendations as provided by the Public Sector Accounting Standards Board Template.

Further, it was noted that Management had not resolved or given explanation on the issues raised in other previous years.

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

1.0 Unsatisfactory Implementation of Two Secondary Schools Projects

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects an amount of Kshs.108,070,118 in respect to transfer to other Government units which includes Kshs.57,510,118 in respect to transfers to secondary schools which further includes Kshs.4,400,000 disbursed for two projects at Rugogwe Secondary School and S. A Gategi Secondary School. However, physical verification carried out in March, 2023 revealed the following:

- i. A disbursement of Kshs.900,000 was made to Rugogwe Secondary School for completion of a dining hall. However, the dining hall was not in use since the kitchen

area was incomplete and the plumbing works had not been done. There were several cracks on the floor due to poor workmanship. Further, the paint works especially on the doors and walls were poorly done. However, the contractor was paid the contract amount contrary to Section 139(1) of the Public Procurement and Asset Disposal Regulations, 2020 which states that a contractor shall satisfactorily perform the contractual obligations prior to any payment by a procuring entity.

- ii. S.A Gateji Secondary School was allocated Kshs.3,500,000 for completion of 180 capacity storey building of 4 classrooms including upper floor roofing and plastering and painting to completion. The storey building of four (4) classroom is complete and in use. However, labelling of the project was not done and therefore it could not be confirmed that indeed the project was funded by the Fund contrary to Regulation 15(1)(f) of National Government Constituencies Development Fund Regulations, 2016. Also, there were visible cracks on the floor and wall which may be a result of poor workmanship. Further, the building was not accessible to persons with disability as the ramp was not included.

In the circumstances, the value for money for the Kshs.4,400,000 could not be confirmed.

2.0 Lack of Ownership Documents

Annex 4 to the financial statements reflects a balance of Kshs.44,733,673 in respect to fixed assets which includes a balance of Kshs.2,000,000 relating to value of land with title deed registered in the names of Barnabas Mitaru and Andrew Mbithi as Trustees of Gachoka CDF. The land was registered on 15 July, 2010 and had not been transferred to the Fund as at the time of audit in March, 2023. This raises doubts on the Accounting Officer's proper control of the assets as required by Section 72(1)(a)(b) of the Public Finance Management Act, 2012 which states that the Accounting Officer for a National Government entity shall be responsible for the management of entity's assets and liabilities and manage those assets in a way which ensures that the National Government entity achieves value for money in acquiring, using, and disposing of those assets.

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

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 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 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 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 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 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 control would not necessarily disclose all matters in the internal control that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Because of its inherent limitations, internal control may not prevent or detect misstatements and instances of non-compliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the Fund's policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.
- Conclude on the appropriateness of the Management's use of the applicable basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Fund's ability to 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 sustain its services.

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the Fund to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with the Management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that are identified during the audit.

I also provide Management with a statement that I have complied with relevant ethical requirements regarding independence and communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.



CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

16 June, 2023