

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - MWEA CONSTITUENCY FOR THE YEAR ENDED 30 JUNE, 2022

PREAMBLE

I draw your attention to the contents of my report which is in three parts:

- A. Report on the Financial Statements that considers whether the financial statements are fairly presented in accordance with the applicable financial reporting framework, accounting standards and the relevant laws and regulations that have a direct effect on the financial statements.
- B. Report on Lawfulness and Effectiveness in Use of Public Resources which considers compliance with applicable laws, regulations, policies, gazette notices, circulars, guidelines and manuals and whether public resources are applied in a prudent, efficient, economic, transparent and accountable manner to ensure Government achieves value for money and that such funds are applied for the intended purpose.
- C. Report on Effectiveness of Internal Controls, Risk Management and Governance which considers how the entity has instituted checks and balances to guide internal operations. This responds to the effectiveness of the governance structure, the risk management environment and the internal controls, developed and implemented by those charged with governance for orderly, efficient and effective operations of the entity.

An unmodified opinion does not necessarily mean that an entity has complied with all relevant laws and regulations, and that its internal controls, risk management and governance systems are properly designed and were working effectively in the financial year under review.

The three parts of the report are aimed at addressing the statutory roles and responsibilities of the Auditor-General as provided by Article 229 of the Constitution, the Public Finance Management Act, 2012 and the Public Audit Act, 2015. The three parts of the report, when read together constitute the report of the Auditor-General.

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of National Government Constituencies Development Fund - Mwea Constituency set out on pages 1 to 37, 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 - Mwea 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 National Government Constituencies Development Fund Act, 2015 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1. Unconfirmed Unutilized Funds Balance

Note 17.3 to the financial statements reflects a balance of Kshs.22,914,077 relating to unutilized funds. However, Annex 3 to the financial statements reflects a balance on the same amounting to Kshs.22,490,680 resulting to unexplained and unreconciled variance of Kshs.423,397.

In the circumstances, the accuracy and completeness of unutilized funds balance of Kshs.22,914,077 could not be confirmed.

2. Unsupported Project Management Committee (PMC) Account Balances

Note 17.4 to the financial statements reflects PMC account balances of Kshs.6,206. However, cashbooks, certificates of bank balances and bank reconciliation statements for the PMC bank accounts were not provided for audit review.

In the circumstances, the accuracy and completeness of PMC bank accounts balances of Kshs.6,206 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 - Mwea 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 expenditure budget and actual on comparable basis amount of Kshs.201,363,855 and Kshs.178,449,778 respectively, resulting to an under expenditure of Kshs.22,914,077 or 11 % of the budget.

The under-expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

2. Unresolved Prior Year Matters

The audit report for the year ended 30 June, 2021 highlighted several unsatisfactory matters. However, the Management has not indicated if the issues had been resolved or not as at 30 June, 2022 in Annex 6 to the financial statements on progress on follow-up of auditor recommendations as required by the Public Sector Accounting Standards Board reporting template.

In the circumstances, the audit issues remained unresolved.

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. Incomplete Projects

During the year under review, the Fund budgeted for thirty-eight (38) projects with a total budgeted expenditure of Kshs.82,325,000 out of which 35 projects with a budget of Kshs.74,725,000 were complete and in use. However, two (2) projects with a budget of Kshs.6,400,000 were ongoing and one (1) project with a budget of Kshs.1,200,000 was awaiting funding.

In the circumstances, the public did not get value for money on the projects that had not been implemented.

2. Poorly Implemented Projects

During the project inspection done in March, 2023, fifteen (15) projects costing Kshs.57,900,000 were verified and found complete and in use. However, physical inspection of Ciagiini Primary School Project which entailed renovation of fifteen (15) classrooms at a cost of Kshs.7,620,000 revealed poor workmanship in regard to the walls whereby they were painted over without plastering.

In the circumstances, the public did not get value for money on the project that was not properly implemented.

3. Non-Compliance with Law on Staff Ethnic Composition

Review of the personnel records provided for audit indicated that Fund's staff population was Six (6). However, all members of staff were from the dominant ethnic community contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which states that no public establishment shall have more than one third of its staff from the same ethnic community.

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

4. Lack of Bursary Policy

Note 7 to the financial statements reflects other grants and transfers amount of Kshs.59,398,858 which includes an amount of Kshs.30,426,941 for bursaries to secondary schools and an amount of Kshs.13,921,000 and Kshs.918,000 for bursaries to tertiary institutions and special schools respectively. However, the Fund did not have a documented bursary policy guidelines, procedures and processes to ensure efficient and effective management of the bursary fund.

In the circumstances, it is not clear how Management effectively determines the minimum and maximum amount that can be awarded as bursaries to beneficiaries.

5. Avoidable Interest and Penalties Expenditure on Pay As You Earn (PAYE)

Records provided for audit review revealed that the Fund's Management paid interest and penalties on PAYE dues from June, 2017 to May, 2019 to Kenya Revenue Authority (KRA) amounting to Kshs.39,112 and Kshs.194,674.60 respectively, all totalling to Kshs.233,787.

In the circumstances, the value for money on the expenditure of Kshs.233,787 was not realized by the public.

6. Lack of Approved Annual Procurement Plan

During the year under review, the Management did not prepare and approve an annual procurement plan contrary to Section 53(2) of 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.

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. Weak Information Technology (IT) Controls

Review of the Fund's IT internal controls revealed that the Fund does not have an approved IT continuity plan and disaster recovery plan and therefore in the event of a disaster the Fund may lose data and may not recover from the disaster. Further, the Fund doesn't have an IT steering and risk management committee, an approved IT security policy to ensure data confidentiality, integrity and availability, formal documented and tested emergency procedure have also not been put in place.

In the circumstances, the effectiveness of the Fund's IT internal controls could not be confirmed.

2. Lack of a Risk Management Policy

The Fund did not have a risk management policy that guides on the assessment and evaluation of risk and development of the strategies to mitigate them. This is contrary to Regulation 165(1) of the Public Finance Management (National Government) Regulations, 2015 which requires the Accounting Officer to ensure that the entity develops risk management strategies, which include fraud prevention mechanism, and a system of risk management and internal control that builds robust business operations.

In the circumstances, the effectiveness of the Fund's risk management processes could not be confirmed.

3. Failure to Update Fuel Register

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects an amount of Kshs.9,207,267 in respect to use of goods and services which includes Kshs.400,000 for fuel, oil and lubricants. However, the fuel register was not updated with entries for goods received numbers (GRNs), order numbers, signatures of the receiving officers and details of the vehicles drawing fuel.

In the circumstances, the existence of effective internal control mechanism on the utilization of the fuel drawn 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 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.

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 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 noncompliance. 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 Management.
- Conclude on the appropriateness of 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 sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the Fund to cease to continue to sustain its services.

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

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

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



CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

18 May, 2023