

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - OL JOROOROK 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 – Ol joroorok Constituency set out on pages 1 to 35, 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 - Ol joroorok 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. Lack of Land Ownership Documents

The statement of receipts and payments and as disclosed under Note 6 to the financial statements reflects an amount of Kshs.70,335,788 in respect to transfers to other Government units, which includes transfers to primary school of an amount Kshs.43,950,000. Included in the amount is Kshs 4,150,000 in respect to purchase of 0.783 hectares of land for the construction of the proposed Kirima Booster Primary School. However, the land ownership documents were not provided for audit.

In the circumstances, the ownership status for the parcel of land purchased worth Kshs.4,150,000 could not be confirmed.

2. Unconfirmed Other Grants and Other Transfers-Bursary

The statement of receipts and payments and as disclosed under Note 7 to the financial statements reflects other grants and other transfers amounting to Kshs.115,019,179, which includes bursary to secondary schools and tertiary institutions amounting to Kshs.60,530,474 and Kshs.13,548,042 respectively, totalling to Kshs.74,078,516. However, the bursary award committee minutes approving award of bursary totalling Kshs.74,078,516 and acknowledgement letters from the various institutions that received bursary funds were not provided for audit review.

In the circumstances, the accuracy, validity and completeness of the bursary awards amounting to Kshs.74,078,516 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 - Ol joroorok 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 Audit Issues

In the audit report of the previous year, several matters were raised under the Report on Financial Statements, Other Matter and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Annex 6 to the financial statements in relation to progress on follow up of prior year auditors' recommendations indicates issues that are not as per audit report for the year ended 30 June, 2021. Management has not provided explanations on how issues for the year ended 30 June, 2021 were resolved.

In the circumstances, the issues remain 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. Unutilized Assets

The statement of receipts and payments and as disclosed under Note 6 to the financial statements reflects transfers to other Government units amounting to Kshs.70,335,788, which includes Kshs. 26,385,788 transferred to secondary schools, which further includes Kshs.2,000,000 transferred to Gatimu Mixed Secondary Schools for the purchase of one hundred (100) double decker beds. Physical verification of the project revealed that the beds were supplied as requested. However, only three (3) beds were in use, and the other ninety-seven (97) had not been put to use.

In the circumstances, the public may not have achieved value for money on the expenditure of Kshs.1,940,000.

2. Irregular Appointment of Constituency Oversight Committee

Review of the Fund's records revealed that the Member of the National Assembly appointed the Constituency Oversight Committee on 4 February, 2021. However, the appointment of the Constituency Oversight Committee was not supported by stakeholders' views or meetings minutes. This is contrary to Section 53(2) of the National Government Constituencies Development Fund Act, 2015, which requires that Constituency Oversight Committee shall be comprised of the constituency member of the National Assembly and not more than four other members, appointed by the Member of National Assembly for the constituency in consultation with other stakeholders.

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

3. Unauthorized Expenditure

The statements of receipts and payments reflects total payments of Kshs.206,729,229 for the year ended 30 June, 2022. However, Kshs 65,184,151 was incurred from 30 May, 2022 to 30 June, 2022 after the expiry of the National Government Constituency

Development Fund Committee (NGCDFC) Contrary to Section 12(5) of the National Government Constituencies Development Fund Act, 2015 which states that every payment or instruction for payment out of the constituency fund account shall be strictly in accordance to the minutes of a resolution of a meeting of the Constituency Committee.

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

4. Emergency Projects

The statement of receipts and payments and as disclosed under Note 7 to the financial statements reflects emergency projects expenditure amounting to Kshs.11,514,413. However, review of project implementation status report revealed that the description of the projects undertaken was not emergency in nature, contrary to Section 8(3) of the National Government Constituencies Development Fund Act, 2015 which states that "emergency" shall be construed to mean an urgent, unforeseen need for expenditure for which it is in the opinion of the committee that it cannot be delayed until the next financial year without harming the public interest of the constituents. Further, no information was provided for audit to indicate that the utilization of the emergency reserve was reported to the Board within thirty days of the occurrence of the emergency as required by Regulation 20(2) of the National Government Constituencies Development Fund Regulations, 2016.

In addition, physical verification of projects funded through emergency funds revealed that five (5) projects with total funds allocation of Kshs.1,900,000 had unsatisfactory issues, including incomplete works, poor workmanship and some projects although deemed complete had not been put to use.

In the circumstances, Management was in breach of the law. In addition, the public may not have achieved value for money on the expenditure of Kshs.1,900,000.

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 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 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

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 overall governance.

In preparing the financial statements, Management is responsible for assessing the Fund's ability 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 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 - Ol joroorok 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 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 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 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

18 May, 2023