

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - RUNYENJES 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 - Runyenjes Constituency set out on pages 1 to 28, 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 - Runyenjes Constituency as at 30 June, 2022, and 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. Inaccuracy in Other Grants and Transfers

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects other grants and transfers amounting to Kshs.92,225,695 which includes bursary to secondary schools and tertiary institutions amounting to Kshs.43,665,000 and Kshs.27,276,750 respectively totalling to Kshs.70,941,750. However, report on progress on attainment of strategic development objectives under performance column (page ix), reflected that the Fund allocated Kshs.70,941,750 and Kshs.19,481,107 totalling to Kshs.90,422,857 resulting to unexplained total variance of Kshs.19,481,107.

In the circumstances the accuracy and completeness of the bursary awarded amounts of Kshs.70,941,750 could not be confirmed

2. Unsupported Unutilized Fund Balance

As disclosed in Annex 3A to the financial statements are unutilized funds amounting to Kshs.32,261,010 for 2021/2022 and a comparative balance of Kshs.57,522,669 for 2020/2021. However, the Annex includes negative balances of Kshs.5,635,874 and Kshs.9,335,874 relating to 2021/2022 and 2020/2021 respectively whose supporting documents were not provided for audit.

In the circumstances, the accuracy and completeness of the unutilized funds balance of Kshs.32,261,010 could not be confirmed.

3. Inaccuracies in the Statement of Budget Execution by Sector and Projects

The statement of budget execution by sector and projects reflects total Committee allowance under administration and recurrent and monitoring and evaluation of Kshs.3,680,917. However, Note 5 to the financial statement reflected a total of Kshs.2,822,140 resulting to an unexplained variance of Kshs.858,777.

In addition, the statement reflects use of goods and services total of Kshs.4,469,186. However, the statement of receipts and payments reflected Kshs.10,694,803 resulting to an unexplained variance of Kshs.6,225,617.

In the circumstances, the accuracy and completeness of the above balances in the statement of budget execution by sectors and projects 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 - Runyenjes 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.194,641,372 and Kshs.194,641,372 respectively. Similarly, the Fund expended Kshs.162,380,362 against an approved budget of Kshs.194,641,372 resulting to an under-expenditure of Kshs.32,261,010 or 17% of the budget.

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

2. Unresolved Prior Year Matters

In the audit report of the previous year, several paragraphs were raised. However, Management has not resolved and disclosed the status of all the prior year matters as prescribed in the reporting requirements set by the Public Sector Accounting Standards Board. Management has not provided satisfactory explanation for the delay in resolving the issues.

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. Irregular Payment of Gratuity

Review of the payment records revealed that the Fund paid gratuity amounting to Kshs.453,577 to contractual employees who were still in service and whose contracts had not expired. This is contrary to Section D.32(1) of the Human Resource Policies and Procedures Manual for the Public Service which states that an officer is eligible for the grant of a pension or gratuity under the pensions Act only when he retires from the service of the Government.

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

2. Environment Activities

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects other grants and transfers amounting to Kshs.92,225,695 which includes environmental expenses amounting to Kshs.3,884,475. However, this translates to 2.1% of Kshs.182,177,758 receipts by the Constituency during the year under review, resulting to excess allocation and subsequent excess transfer of Kshs.240,919 to environmental activities. This is contrary to Section 25 (10) of National Government Constituencies Development Fund Act, 2015 which states that environmental activities may be considered as development projects for purposes of this Act provided that the allocation to such activities does not exceed two per cent (2%) of the total allocation of the constituency in that financial year. In addition, construction of toilets utilized Kshs.2,841,777 or 73% of the total allocation to environment activities. However, Management did not explain if this was the only environmental sustainability project in the constituency during the year under review.

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

3. Over-Allocation of Funds to Bursary

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects other grants and transfers amounting to Kshs.92,225,695 which includes Kshs.43,665,000 and Kshs.27,276,750 for bursary to secondary schools and tertiary institutions respectively both totalling to Kshs.70,941,750. However, the Constituency had received Kshs.182,117,758 from the NG-CDF Board and therefore the allocated amount of Kshs.70,941,750 represented 39% of the funds. This is contrary to Section 48 of the National Government Constituencies Development Fund Act, 2015 which states that the funding of social security programmes, education bursary schemes, mock examinations, and continuous assessment tests shall be considered as development projects for the purposes of the Act provided that such projects shall not be allocated more than thirty-five per cent (35%) of the total funds allocated for the constituency in any financial year.

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

4. Irregular Award of Contract

Review of contract documents revealed that the Fund Management awarded a contract for the construction of a dining hall at St. Michael Kevote Mixed Secondary at a contract sum of Kshs.7,398,377. However, the contractor was irregularly awarded the works through use of quotations method. This is contrary to Section 26 and Second Schedule of Public Procurement and Asset Disposal Regulations, 2020 which states that for procurement of works, the maximum level of expenditure under this method is Kshs.5,000,000 per request for quotation.

In the circumstances, the 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, 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 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 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 the Fund 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 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 controls 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 controls 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 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 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

16 May, 2023