

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - TIGANIA EAST 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 - Tigania East Constituency set out on pages 1 to 55, 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 - Tigania East 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. Variances in Transfers from the Board

The statement of receipts and payments and as disclosed in Note 1 to the financial statements reflects transfers from the NGCDF Board amount of Kshs.160,188,879. However, the disbursement schedule from the National Government Constituencies Development Fund Board reflects transfers from the Board of Kshs.165,277,758 resulting to unexplained and unreconciled variance of Kshs.5,088,879.

In the circumstances, the accuracy of the transfers from the Board of Kshs.160,188,879 could not be confirmed.

2. Bank Balances - Stale Cheques

The statement of assets and liabilities and as disclosed in Note 10A to the financial statements reflects bank account balance of Kshs.27,084,986. Review of the bank reconciliation statement revealed stale cheques amounting to Kshs.131,409 that had not been reversed in the cashbook. This is contrary to Section 90 (3) of Public Finance Management (National Government) Regulations, 2015 which states that Accounting Officers shall ensure any discrepancies noted during bank reconciliation exercise, are investigated immediately and appropriate action taken including updating the relevant cash books.

In the circumstances, the accuracy, reliability and completeness of bank balance of Kshs.27,084,986 could not be confirmed.

3. Unsupported Retention

The statement of assets and liabilities and as disclosed in Note 12A to the financial statements reflects retention balance of Kshs.240,000 which was not supported with a schedule detailing breakdown of amounts relating to each project.

In the circumstance, the accuracy and completeness of retention balance of Kshs.240,000 could not be confirmed.

4. Gratuity Payable

4.1 Undisclosed Gratuity Payable

Note 12B to the financial statements reflects a Nil balance on gratuity. Review of employee records revealed the Fund had nine (9) staff who were on contract. Although Management indicates all the gratuity had been paid, records reviewed revealed gratuity

paid of Kshs.523,200 as reflected in Note 4 to the financial statements related to the period ended 31 December, 2021 but gratuity for the six (6) months from January, 2022 to June, 2022 was not disclosed as it had not been paid. The Fund therefore contravened the requirement of the Public Sector Accounting Standards Board reporting template which requires disclosure of gratuity as at 1 July, gratuity held during the year, gratuity paid during the year and closing gratuity as at 30 June, 2022.

Further, review of June, 2022 payroll revealed provision for gratuity was not made on a monthly basis contrary to Paragraph 11(b) of NG-CDFB/CEO/BOARD CIRCULARS Vol II (030) dated 26 August, 2021 which states that NG-CDF Committees are required to make a budgetary provision for monthly staff gratuity for employees employed on contract terms. This should be provided for separately from the provision for monthly salaries and other remunerative allowances.

In the circumstance, the accuracy, reliability and completeness of Nil gratuity balance could not be confirmed.

4.2. Unsupported Expenditure on Gratuity Paid to Contractual Employees

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects compensation of employees amount of Kshs.3,515,840 which include Kshs.523,200 expenditures on gratuity to contractual employees. The amount was paid through payment voucher number 186 dated 25 February, 2022 which includes gratuity and PAYE paid to eight (8) employees. However, the schedule provided on payment of gratuity does not indicate basic salary contrary to the Kenya Gazette Vol. CXIX—No. 89 dated 7 July, 2017 Gazette Notice No.6516 which states that officers serving or appointed to a fixed term of office shall be paid a service gratuity at the rate of 31% of the basic remuneration package for the term served.

In the circumstance, the accuracy, completeness and reliability of gratuity paid of Kshs.523,200 could not be confirmed.

5. Unsupported Project Management Committee (PMC) Bank Balances

Note 17.4 and Annex 5 to the financial statements reflects PMC bank account balances of Kshs.10,266,443 held in seventy-six (76) Project Management Committees bank accounts. However, the relevant cash books, bank confirmation certificates and bank reconciliation statements supporting the balances were not provided for audit verification contrary to Section 100 of Public Finance Management (National Government) Regulations, 2015.

In the circumstance, the accuracy and completeness of the PMC bank account balances of Kshs.10,266,443 could not be confirmed.

6. Unsupported Expenditure on Bursaries

The statement of receipt and payments and as disclosed in Note 7 to the financial statements reflects other grants and other transfers amount of Kshs.91,274,227 which include bursaries totalling Kshs.58,120,669 comprising of Kshs.24,633,600 and Kshs.33,487,069 disbursed to secondary schools and tertiary institutions respectively.

However, the expenditure was not supported with Bursary Committee minutes, vetting and categorizing students awarded contrary to requirements of CDF Board Circulars Ref: CDF BOARD CIRCULAR /VOL1/III dated 13 September, 2010 on guidelines for disbursement of Constituency Development Fund which states terms of reference for Bursary Committee includes issue of bursary applications, vetting, identifying and categorizing needy students using established criteria, decide on awards in accordance with guidelines, verify bursary cheques, compile reports, keep proper records and list beneficiaries in identified notice boards. No report was provided identifying, vetting and categorizing needy students.

Further, out of the Kshs.58,120,669 bursaries disbursed during the year, only Kshs.55,540,156 or 96% were acknowledged by the beneficiary schools and institutions leaving a balance of Kshs.2,580,513 or 4% unacknowledged.

In the circumstances, the accuracy and validity of expenditure of Kshs.58,120,669 on bursaries 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 - Tigania East 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 in the year under review.

Other Matter

1. Budgetary Control and Performance

The summary statement of appropriation reflects final receipts budget and actual receipts of Kshs.232,334,785 and Kshs.215,245,906 respectively resulting to revenue shortfall of Kshs.17,088,879 or 7% of the budget.

Similarly, the statement reflects final expenditure budget and actual expenditure of Kshs.232,334,785 and Kshs.188,400,920 respectively resulting to an under expenditure of Kshs.43,933,865 or 19% of the budget.

Further, the statement and budget execution by sectors and projects reflects acquisition of assets actual expenditure of Kshs.751,420 and Nil final budget resulting to unauthorized expenditure of Kshs.751,420.

In the circumstances, the underfunding and under expenditure affected planned activities and may have impacted negatively on service delivery to the public. In addition, the Fund incurred expenditure of Kshs.751,420 without authorization.

2. Unresolved Prior Year Matter

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance which have not been resolved contrary to Section 68 (2) (I) of Public Finance Management Act, 2012 which require Accounting Officers designated for national government entities to take appropriate measures to resolve any issues arising from audit which may remain outstanding.

In the circumstances, the prior year 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. Project Implementation

1.1. Project Under-Funding

During the year, the Fund was allocated Kshs.137,088,879. However, review of the Constituency project proposal for the financial year 2021/2022 and Constituency Development Fund Committee minutes dated 15 September, 2021 revealed nine (9) projects were under funded and therefore project completion might take more than three years. This is contrary to Section 11(1) (j) of the National Government Constituencies Development Fund Regulations, 2016 which states the Constituency Development Fund Committee shall ensure that all projects receive adequate funding and are completed within three years.

Further, the approved code list for 2022/2023 financial year was not provided to confirm whether funding was allocated in 2022/2023 financial year to fund the underfunded projects.

In the circumstances, under funding of projects delays the benefits that would have accrued from their completion. In addition, the Fund was in breach of the law.

1.2. Delay in Project Implementation and Stalled Project

Review of the project implementation status report provided revealed a total of one hundred (100) approved projects allocated a total of Kshs.101,611,681 have not been completed out of which forty-three (43) are on-going worth Kshs.40,100,000, fifty-six

(56) have not been started worth Kshs.60,661,681 and one (1) project allocated Kshs.850,000 which has stalled.

Further, it was noted that ten (10) projects approved in 2017/2018 financial year and allocated Kshs.9,100,000 have been ongoing for more than three years contrary to Section 11(1) (j) of the National Government Constituencies Development Fund Regulations, 2016.

In addition, one (1) project which was started in 2018/2019 financial year for Gatithine Assistant Chiefs office allocated Kshs.850,000 stalled due to boundary dispute which results in wastage of public funds.

In the circumstances, the value for money for the delayed and stalled project could not be confirmed.

2. Unsupported Fuel, Oil and Lubricants

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects use of goods and services amount of Kshs.11,509,433 which include fuel, oil and lubricants of Kshs.971,312. However, the fuel register provided does not show the balance brought forward and balances carried down. It was not therefore possible to confirm whether all fuel paid was consumed contrary to Section 104(1) of the Public Finance Management (National Government) Regulations, 2015 which states that all receipts and payments vouchers of public moneys shall be properly supported by pre-numbered receipts, payment vouchers, appropriate authority and documentation.

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

3. Irregular Payment for Maintenance of Motor Vehicle

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects an amount of Kshs.11,509,433 in respect to use of goods and services which include Kshs.1,069,800 on routine maintenance vehicles and other transport equipment which further includes Kshs.888,400 paid to various suppliers for repairs and maintenance of vehicle. However, quotations, professional opinion, job cards and the post service/repair inspection reports were not provided for audit contrary to Section 104(1) of the Public Finance Management (National Government) Regulation, 2015 and Section 35(3) of Public Procurement and Asset Disposal Regulations, 2020.

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

4. Transfers to Other Government Entities

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects transfers to other Government units amount of Kshs.81,350,000 comprising of transfers to primary schools of Kshs.52,250,000 and transfers to secondary schools of Kshs.29,100,000. However, the following was noted:

4.1. Transfers to Secondary Schools

4.1.1. Stalled Project and Poor Workmanship in Akaiga Day Secondary School - Construction of Dining Hall

Included in the transfers to secondary schools of Kshs.29,100,000 is an amount of Kshs.1,000,000 paid through payment voucher number 168 dated 27 January, 2022 for the construction of the dining hall in Akaiga Day Secondary School. However, physical verification carried out in March, 2023 revealed that the dining hall had been constructed to the lintel level but had stalled and the contractor was not on site. Further, no documents were provided including approved code list to confirm allocation of additional funding to the project contrary to Section 11(1) (j) of the National Government Constituencies Development Fund Regulations, 2016 which states that the Constituency Committee shall ensure that all projects receive adequate funding and are completed within three years.

Further, Project Management Committee minutes, Inspection and Acceptance Committee minutes, certificate of payments and drawings were not provided for audit verification.

In the circumstance, the value for money for the expenditure of Kshs.1,000,000 could not be confirmed. In addition, the Fund was in breach of the law.

4.1.2. Stalled Project in Amugaa Mixed Day Secondary School - Construction of Four Rooms Administration Block

Included in the Kshs.29,100,000 an amount of Kshs.1,000,000 transferred to Amugaa Mixed Day Secondary School through payment voucher 166 dated 27 January, 2022 for the construction of four rooms administration block. Physical verification carried out in March, 2023 revealed that the roofing works to be done at a cost of Kshs.523,750 were partially done but full payments done contrary to Section 139 (1) of Public Procurement and Asset Disposal Regulations, 2020 which states that a contractor shall satisfactorily perform its contractual obligations prior to any payment by a procuring entity and Section 25(1) of the National Government Constituencies Development Fund Act, 2015 which states that any funding under this Act shall be for a complete project or a defined phase of a project and may include the acquisition of land and buildings.

Further, approved code list has not been provided to confirm whether additional funding was allocated yet the project had stalled.

In the circumstances, the value for money could not be confirmed. In addition, the Fund was in breach of the law.

4.1.3. Stalled Project in Kailutha Day Secondary School - Construction of Laboratory

Included in the Kshs.29,100,000 in the transfers to secondary schools is an amount of Kshs.1,000,000 for the completion of science laboratory at Kailutha Secondary School. Physical verification carried out in March, 2023 revealed that the laboratory had stalled and the contractor was not on site. The flooring, plastering, construction of lab benches, installation of water and gas system, construction of fume chamber and fixing of window panes had not been done. Further, approved code list was not provided to confirm

additional funding has been allocated yet the project is stalled contrary to Section 11(1) (j) of the National Government Constituencies Development Fund Regulations, 2016.

In the circumstances, the value for money could not be confirmed. In addition, the Fund was in breach of the law.

4.1.4. Poor Workmanship in Construction of Three Classrooms in Githu Day Secondary School

Included in the Kshs.29,100,000 on transfers to secondary schools is an amount of Kshs.1,000,000 transferred to Githu Day Secondary for the construction of one storey building with three (3) classrooms.

However, physical verification carried out in March, 2023 revealed the project had developed major cracks on the walls and floors which reflects poor workmanship contrary to Section 36(1) of the National Government Constituencies Development Fund Act, 2015 which states that projects under this Act shall be implemented by the Project Management Committee appointed in accordance with the Regulations made under Section 57, with the assistance of the relevant department of Government and all payments through cheques or otherwise shall be processed and effected in accordance with government regulations for the time being in force.

Further, majority of window panes had fallen, only under coat was applied, wiring was open and windows were substandard. In addition, the railing was to be done at a cost of Kshs.109,470. However, the rails were shaky which is a clear indication that they were not properly grouted to the concrete floor. Further, the rain water works at a cost of Kshs.119,300 were not done.

In the circumstances, the value for money could not be confirmed. In addition, the Fund was in breach of the law.

4.1.5. Poor Workmanship in Mukono Secondary School - Completion of Science Laboratory

Included in the Kshs.29,100,000 on transfers to secondary schools is an amount of Kshs.1,000,000 for completion of science laboratory at Mukono Secondary School. Physical verification carried out in March, 2023 revealed the laboratory was completed and in use but the floor had developed major cracks which is an indication of poor workmanship. Further, the contractor was to apply three coats of plastic emulsion paint at a cost of Kshs.89,100 but applied the undercoat.

In addition, the contractor was to erect and complete a 150mm thick masonry wall fume cupboard of exterior dimensions of 1200mm width, 1000mm depth and 2400mm high at a cost of Kshs.70,000 but this work had not been done. It was further noted that the laboratory was not standard size to accommodate 45 students and was poorly ventilated.

Management explained that some works were not done due to piece meal allocation resulting to substandard works which contravenes Section 11(1) (j) of the National Government Constituencies Development Fund Regulations, 2016.

Further, no explanation was provided on how defects noted will be rectified since the contractor has been fully paid based on certificate of completion issued

In the circumstances, the value for money could not be confirmed. In addition, the Fund was in breach of the law.

4.1.6. Procurement Procedures for Works

Included in the Kshs.29,100,000 on transfers to secondary schools is Kshs.8,900,000 incurred on four (4) projects procured through restricted tendering without justification contrary to Section 102 (1) and (2) of Public Procurement and Asset Disposal Act, 2015.

It was also observed that in each contract, tenders were issued to six (6) suppliers contrary to Section 89(5) of the Public Procurement and Asset Disposal Regulations, 2020 which states that where restricted tendering is used pursuant to Section 102(1)(b) of the Act, the procuring entity shall invite tenders from at least ten persons selected from the list maintained as provided under sections 57 and 71 of the Act or otherwise as permitted under section 56 of the Act.

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

4.2. Transfers to Primary Schools

4.2.1. Poor Workmanship One Classroom at Mikinduri Primary School

Included in the transfers to primary schools of Kshs.52,250,000 is an amount of Kshs.1,000,000 transferred to Mukono Primary for construction of one classroom.

However, physical verification carried out in March 2023 revealed window panes falling off due to poor fixing since no silicon was used and substandard putty was applied, substandard window grills were fitted, poor wall polishing since only scrubbing was done, the floor was cracking and one class is flooding due to non-levelling during flooring.

It was further noted that payments were not supported by Inspection and Acceptance Committee minutes and there was no evidence of appointment of such a Committee contrary to Section 48(3)(b) of the Public Procurement and Asset Disposal Act, 2015 which states that the Inspection and Acceptance Committee shall immediately after the delivery of the goods, works and services inspect and review the goods, works and services in order to ensure compliance with the terms and specifications of the contract.

In the circumstances, the value for money could not be confirmed. In addition, the Fund was in breach of the law.

4.2.2. Poor Workmanship on Levelling of Playing Field at Ngutu Primary School

Included in the transfers to primary schools of Kshs.52,250,000 is an amount of Kshs.2,000,000 incurred on levelling of playing field 100 meters by 100 meters and grass planting in Ngutu Primary School. Physical verification carried in March, 2023 revealed the field was poorly levelled and area levelled is less than the 100M by 100M measurement specified in the approved code list. Further inspection report and completion certificate from the Ministry of Roads and Public Works were not provided for audit verification contrary to Section 104(1) of the Public Finance Management (National Government) Regulations, 2015.

In the circumstances, the value for money could not be confirmed. In addition, the Fund was in breach of the law.

4.2.3. Two Abandoned Classrooms at Mukono Primary School

Included in the transfers to primary schools of Kshs.52,250,000 is an amount of Kshs.1,200,000 to Mukono Primary School for construction of one classroom which was completed. However, physical verification carried out in March, 2023 revealed that in the same school there were two abandoned classrooms funded by the National Government Constituencies Development Fund which were approved and allocated funding totalling Kshs.1,350,000 in 2013/2014 and 2014/2015 financial years as detailed below:

Year Funded	Project Description	Allocation (Kshs.)
2013/2014	Construction of 1 classroom	700,000
2014/2015	Construction of 1 classroom	650,000
	Total	1,350,000

The classrooms were constructed up to roofing level without doors and windows and are not complete as indicated in the project implementation status report. The classrooms are therefore deteriorating because of non-completion. Further, no documentation was provided for audit on the two classrooms including project file, contract agreements and bills of quantities.

In the circumstances, the value for money spent could not be confirmed.

5. Other Grants and Transfers

5.1 Security Projects

5.1.1 Completed but Un-utilized Lucielubuai Police Post and Vandalism of the Project

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects other grants and transfers amount of Kshs.91,274,227 which includes security projects of Kshs.20,125,872 which further includes Kshs.1,700,000 transferred to Lucielubuai Police Post vide payment voucher number 160 dated 27 January, 2022 for construction of staff offices to facilitate deployment of police officers in that area with a view to enhancing security lapses that had been occasioned by frequent banditry attacks. However, physical verification carried out in March, 2023 revealed that although the project was completed, it has not been put to use to serve the purpose for which it was intended.

In addition, there was vandalism and destruction of all the glassed windows since the area remains unguarded to date. Further, the remaining other facility structures such as doors, iron sheets and facial board are potential targets of theft thus undermining the provisions of Section 43(d) of Public Finance Management (National Government) Regulations, 2015 which states that an Accounting Officer shall manage, control and ensure that policies are carried out efficiently and wastage of public funds is eliminated. In the circumstances, value for money could not be confirmed. In addition, the Fund was in breach of the law.

5.1.2 Poor Workmanship in Mikunduri Police Station

The statement of receipts and payment and as disclosed in Note 7 to the financial statements reflects other grant and transfers amount of Kshs.91,274,227 which includes security projects of Kshs.20,125,872 out of which Kshs.8,425,872 was transferred to Mikunduri Police Station vide payment voucher number 162 and 36 dated 27 January, 2022 and 7 May, 2022 respectively for construction of offices.

However, although the project was completed and indeed in use, physical verification carried out in March, 2023 revealed several construction defects like visible wall cracks, peeling off of the floor leaving remarkable pot holes, leaking of roof, non-fixing of gutters, poor toilet drainage and ungrilled reception counter which is an indication of poor workmanship. This is contrary to Section 139 (1) of Public Procurement and Asset Disposal Regulations, 2020 which states that a contractor shall satisfactorily perform its contractual obligations prior to any payment by a procuring entity.

In the circumstances, the value for money could not be confirmed. In addition, the Fund was in breach of the law.

5.2. Unsupported Sports Expenditure

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects other grants and other transfers of Kshs.91,274,227 which includes sports projects expenditure of Kshs.4,247,691 which includes an amount of Kshs.3,850,560 paid to two (2) suppliers for the supply of sports equipment. However, the following observations were noted:

- i) Procurement records such as quotations, inspection and acceptance report and stores records supporting expenditure amounting to Kshs.3,021,000 incurred on the purchase of sports items which include T-shirts, shorts, socks, leather size footballs and training bibs were not provided for audit verification. Further, details of venue and dates when tournament took place were not provided casting doubt on whether the events really took place.
- ii) Documents supporting tournament organizing expenditure of Kshs.555,000 such as the list containing names of the Organizing Committee Members, names of officials who officiated the tournament, appointment letters, signed attendance registers, rates, number of days they officiated, criteria for identifying officials, the teams or officials who were awarded and the kind of awards given were not provided for audit review contrary to Section 15(1) (b) and (d) of National Government Constituencies Development Fund Regulations, 2016.

In the circumstances, the Fund's Management was in breach of law.

5.3 Unsupported Expenditure on Environment Projects

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects other grants and other transfers amount of Kshs.91,274,227 which include Kshs.2,579,995 paid for construction of water tank bases, supply of 10,000 litres

PVC water tanks, installation of gutters, plumbing works and planting of 1,500 trees. However, the following anomalies were observed:

- i) Restricted tendering was used to procure water tanks, tree seedlings and construction of gutters costing Kshs.2,579,998 contrary to Sections 102(1) and (2) of Public Procurement and Asset Disposal Act, 2015 and 89(5) of Public Procurement and Asset Disposal Regulations, 2020.
- ii) The criteria used to identify the beneficiaries, the distribution list of the tanks and the acknowledgment from the beneficiaries supporting expenditure of Kshs.1,241,995 on supply of plastic water tanks were not provided. In addition, physical verification carried out in March, 2023 revealed that the tank at East Rapid Deployment Unit Camp had developed cracks and the water was leaking. Further, the Masonary raised base at Matabithi Primary School and Tigania East Rapid Deployment Unit Camp had developed major cracks.
- iii) Suitability report from the relevant department, the criteria used to identify the beneficiaries, the distribution list of the seedlings, the acknowledgment from the beneficiaries and report or minutes supporting sustainability measures put in place to support, expenditure of Kshs.1,188,000 on the purchase and planting of tree seedlings were not provided contrary to Section 104(1) of the Public Finance Management (National Government) Regulations, 2015.

In the circumstances, the value for money could not be confirmed. In addition, the Fund was in breach of the law.

5.4. Non-Compliance with Emergency Funding Requirements

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects other grants and transfers amount of Kshs.91,274,227 which includes emergency projects of Kshs.6,200,000. The projects undertaken were largely toilets located in both primary and secondary schools.

However, photo evidences of the collapsed toilets were not provided for audit review to credibly justify the projects undertaken as emergency situations contrary to Section 8(3) of the National Government Constituencies Development Fund Act, 2015 which stipulates that expenditure on emergency should be for an urgent, unforeseen need for expenditure which in the opinion of the constituency committee cannot be delayed until the next financial year without harming the public interest of the constituents.

Further, some applications were not dated such as applications from MCK Kiremu Primary School, Kiguru Primary School and Mutewa Primary School thus doubting their authenticity. In addition most schools put in normal requests that could have been allocated funds when submitting annual project proposals for approval and no report on utilization of emergency funds was submitted to the Board contrary to requirements of Section 20(2) of the National Government Constituencies Development Fund Regulations, 2016 which states that utilization of the emergency reserves shall be reported to the Board within thirty (30) days of the occurrence of the Emergency as prescribed by the Board.

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

6. Undisposed and Obsolete Assets

Annex 4 to the financial statements reflects fixed assets balance of Kshs.19,391,911. However, review of the Constituency asset register revealed some unserviceable, obsolete and idle assets worth Kshs.3,504,812 which includes motor vehicle of Kshs.3,264,012 which was not earmarked for disposal contrary to Section 163 (1) of Public Procurement and Asset and 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, Management was in breach of the law.

7. Lack of Cheque Dispatch Register

The statement of assets and liabilities and as disclosed in Note 10A to the financial statements reflects bank balance of Kshs.27,084,986. Review of the bank reconciliation statement revealed payments in cash book not in bank statement comprising of unrepresented cheques amounting to Kshs.9,218,860. However, the cheque dispatch register was not provided to support payments in the cash book not in bank statement contrary to Section 100 of Public Finance Management (National Government) Regulations, 2015 which states that Accounting Officers shall keep in all offices concerned with receiving cash or making payments a cash book showing the receipts and payments and shall maintain such other books and registers as may be necessary for the proper maintenance and production of the accounts of the Vote for which he or she is responsible.

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 matter 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

Lack of Disaster Recovery Plan

The Fund has not assessed the impact of outage or disruption to the information communication technology system and thereby develop a business continuity or information technology disaster recovery plan. In case of disaster, the Fund may not

restore critical infrastructure services and system for continued operations. This is contrary to Section 68 (2) (c) of the Public Finance Management Act, 2012 which states that accounting officer for National Government entities, Parliament and the Judiciary shall ensure that all financial and accounting records the entity keeps in any form, including in electronic form are adequately protected and backed up. The Fund needs to collaborate with the Ministry of Information to develop, approve and implement disaster recovery plan for all key business systems.

In the circumstances, Management is not adequately prepared for any disaster that may adversely affect the activities of the Fund.

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 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 services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless the 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 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 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 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 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 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 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

23 May, 2023