

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - TURKANA 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 overall 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 -Turkana East Constituency set out on Pages 1 to 34, 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 -Turkana 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 Public Finance Management Act, 2012 and National Government Constituencies Development Fund Act, 2015.

Basis for Qualified Opinion

1. Inaccuracy of Bank Balance

The statement of assets and liabilities reflects bank balance of Kshs.22,742,674 as disclosed in Note 10A to the financial statements. Review of bank reconciliation statements revealed unpresented cheques of Kshs.11,447,923 out of which cheques amounting to Kshs.5,309,108 were stale and had not been reserved in the cashbook or replaced. In addition, a payment of Kshs.70,000 in bank statements had not been recorded in the cash book.

In the circumstances, the accuracy and completeness of bank balance of Kshs.5,379,108 could not be confirmed.

2. Inaccuracy of Fixed Assets

Annex 4 on summary of fixed assets register reflects historical assets cost amount of Kshs.30,760,320 while the assets register reflects Kshs.29,532,642 resulting to an unexplained variance of Kshs.1,147,277. In addition, the register includes land, computers and accessories whose values have not been determined and are not included in the financial statements. Further, there was no title deed to support land ownership.

In the circumstances, accuracy, completeness and ownership of fixed assets balance of Kshs.30,760,320 could not be confirmed.

3. Unsupported Project Management Committee Bank Balance

Annex 5 reflects project management committee (PMC) bank balance of Kshs.37,793,298 held in forty-two (42) project bank accounts. However, the respective cash books, bank reconciliation statements, certificates of bank balance and bank statements were not provided for audit.

In the circumstances, accuracy and completeness of project management committee bank balance of Kshs.37,793,298 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 -Turkana 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 to report in the year under review.

Other Matter

1. Budgetary Control and Performance

The summary statement of appropriation reflects final payments budget of Kshs.212,795,024 and actual on comparable basis of Kshs.189,827,307 resulting in an under expenditure of Kshs.22,967,717 or 11% of the budget.

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

2. Unresolved Prior Year Matters

The Management has not addressed audit issues in Auditor General report for financial year 2020/2021 contrary to Section 68(2)(l) of the Public Finance Management Act, 2012 which require accounting officers designated for National Government Entities to try to resolve any issues resulting from an audit that remain outstanding.

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

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. Weaknesses in Project Implementation

During the year under review forty-two (42) projects and activities were allocated Kshs.137,088,879. However, only thirty-four (34) projects worth Kshs.97,196,672 were

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completed while five (5) projects allocated Kshs.13,700,000 were ongoing, one (1) projects allocated Kshs.18,500,000 appeared to be abandoned and funds for two (2) projects amounting to Kshs.7,692,207 were not disbursed. In addition, physical verification of twelve (12) schools in March, 2023 with an allocation of Kshs.34,216,895 revealed that classrooms were constructed, lockers, desks, benches and tables were supplied but the gutter and ceiling works were not done. Further, the construction of a two hundred (200) bed capacity dormitory at Kshs.3,800,000 was completed but not in use.

In the circumstances, value for money on incomplete, abandoned and not in use projects could not be confirmed.

2. Delayed Disbursement of Funds

The statement of receipts and payments reflects transfers from National Government Constituencies Development Fund Board amount of Kshs.182,177,758. The amount includes Kshs.45,088,879 or 25% of total receipts budgeted for in financial year 2020/2021. The late disbursements contravene Section 39(2) of the National Government Constituencies Development Fund Act, 2015 which states that the disbursement of funds to the Constituency Fund account shall be effected at the beginning of the first quarter of each financial year with an initial amount equivalent to twenty-five per centum of the allocation for the constituency and thereafter the Constituency Fund account shall be replenished in three equal instalments at the beginning of the second, third and fourth quarters of the financial year.

In the circumstances, the Board was in breach of the law resulting in delay in implementation of approved projects or programs.

3. Irregular Procurement of Repairs Services

The statement of receipts and payments reflects use of goods and services amount of Kshs.8,838,013 as disclosed in Note 5 to the financial statements. The amount includes routine maintenance of assets amount of Kshs.1,548,552 out of which Kshs.1,460,852 was motor vehicle repairs. However, there was no evidence of competitive bidding for the services. This was contrary to Section 106 (2) (b) of the Public Procurement and Asset Disposal Act, 2015 which requires the Accounting officer of a procuring entity to ensure that the request for quotation to be given to as many persons as necessary to ensure effective competition and shall be given to at least three persons, unless that is not possible;

In the circumstances, Management breached the law.

4. Irregular Procurement of Beds

Note 6 to the financial statements reflects transfer to tertiary institutions amount of Kshs.5,000,000 which was transferred to Turkana East Training Institute for purchase, supply and delivery of four hundred (400) double decker beds at Kshs.4,000,000 and construction of soak pit at Kshs.1,000,000. However, the double decker beds were procured using request for quotation instead of open tender since the value exceeded

Kshs.3,000,000 threshold for quotations. This was contrary to Regulation 91(1) of the Public Procurement and Disposal Regulation 2020 and Second Schedule which requires that the maximum level of expenditure under this method is Kshs.3,000,000. In addition, project verification in March, 2023 revealed that only two hundred (200) double decker beds and fifty (50) chairs were delivered instead of four hundred (400) double decker beds without evidence of contract variation. This was contrary to Section 150 of the Public Procurement and Asset Disposal Act, 2015 which states that (1) An accounting officer shall be responsible for ensuring that the goods, works and services are of the right quality and quantity. In addition, physical verification in March, 2023 revealed that the hostel is not in use.

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

5. Irregular Procurement of Construction Works

Note 6 to the financial statements reflects transfer to secondary schools' amount of Kshs.33,304,299 out of which Kshs.18,500,000 was transfer to Katilia Girls Secondary School for the construction to completion of one-storey building, an administration block, laboratory, ablution block and purchase of lockers and chairs. The tender was awarded at a contract sum of Kshs.26,167,965 and the contract agreement signed on 05 May, 2022. However, there was no evidence of any advertisement contrary to Section (96) (1) of the Public Procurement and Asset Disposal Act, 2015 which requires that those who may wish to submit tenders be informed. In addition, there was no evidence of appointment of tender opening committee and the tender evaluation committee contrary to Regulation 25 of the Public Procurement and Disposal Regulations, 2020. Further, there was no evidence of professional opinion prepared by procurement professional contrary to Section (84)(1) of the Public Procurement and Asset Disposal Act, 2015. In addition, physical verification in March, 2023 revealed no works were ongoing and the project appeared to be abandoned.

In the circumstances, Management was in breach of law and value for money on transfer of Kshs.18,500,000 could not be confirmed.

6. Failure to Properly Constitute Bursary Committee

Note 7 to the financial statements reflects bursary disbursements to tertiary institutions and secondary schools amount of Kshs.57,927,462. The bursary awards were done by a bursary sub-committee which did not include area education officer or a representative from the Ministry of Education. This was contrary to Constituency Development Fund Board circular reference VOL1/111 dated 13 September, 2010 which requires that a subcommittee of Constituency Development Fund to manage the bursary scheme should include two co-opted members one who must be an education officer, or an officer seconded from Ministry of Education.

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

7. Lack of a Constituency Oversight Committee

During the year under review there was no constituency oversight committee. This was contrary to Section 53(1) of National Government Constituencies Development Act, 2015 which states that there is established a Constituency Oversight Committee for projects undertaken under this Act.

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, I confirm that, nothing has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether effective processes and systems of internal control, risk management and overall governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Responsibilities of Management and those Charged with Governance

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Cash Basis) and for maintaining effective internal control as Management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal 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 comply 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 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 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 the 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 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

15 June, 2023