

# **REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - LAMU WEST CONSTITUENCY FOR THE YEAR ENDED 30 JUNE, 2021**

---

## **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 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**

### **Opinion**

I have audited the accompanying financial statements of National Government Constituencies Development Fund - Lamu West Constituency set out on pages 14 to 42, which comprise of the statement of assets and liabilities as at 30 June, 2021, 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, the financial statements present fairly, in all material respects, the financial position of the Lamu West National Government Constituencies Development Fund - Lamu West Constituency as at 30 June, 2021 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 Opinion**

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the National Government Constituencies Development Fund - Lamu West 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 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.218,354,988 and Kshs.154,668,572 respectively resulting to a budget shortfall of Kshs.63,686,416 representing 29% of the budget. Similarly, the Fund spent Kshs.145,375,240 against an approved budget of Kshs.218,354,988 resulting to an under-expenditure of Kshs.72,979,748 representing 33% of the budget.

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

#### **2. Project Implementation Status**

Review of the project implementation status for the year under review indicated that the Management had planned/budgeted to execute twenty-seven (27) projects with a total allocation of Kshs.100,180,590. However, only twelve (12) projects were completed, nine (9) projects with total allocation of Kshs.46,810,564 were on-going while six (6) projects with total allocation of Kshs.12,291,776 had not been started. In addition, three (3) rollover projects amounting to Kshs.28,541,537 remained incomplete by April, 2022.

The delay in completing projects may have impacted negatively on service delivery to the public and value for money may not have been realized from the projects.

# 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. Poor Implementation of Lamu West Constituency ICT Innovation Hub

The statement of receipts and payments and as disclosed in Note 9 to the financial statements Includes other payments balance of Kshs.1,169,256 in respect of payments to ICT Hub. The payment which was made to Telekom Kenya Limited relates to provisions of internet and associated services to Lamu West Constituency ICT Innovation Hub.

However, the following anomalies were observed:

- i. The contractual agreement made on 16 March, 2020 did not provide or specify the contract durations for the works agreed upon.
- ii. There was no delivery note, copies of performance security and equipment's insurance certificate provided for audit.
- iii. The Management raised a reminder letter under Reference No. NGCDF/LW/ICT/2021/2022/12 VOL.1 dated 16 December, 2021 to the contractor for delayed projects. However, it was noted that the Management had already paid the full contract sum earlier on 23, November 2020 contrary to Section 146 of the Public Procurement and Asset Disposal Act, 2015.
- iv. There were no inspection and/or test carried out on the equipment to confirm their conformity to the contract specifications by the Constituency Development Fund Committee.
- v. Physical verifications conducted on 12 April, 2022 revealed that the Digital Access Kits that would have composed of thirteen (13) number of S145KL Celeron Laptops were not on site.

In the circumstances, value for money on the Kshs.1,169,256 incurred on provision of internet and associated services could not be confirmed.

## **2. Incomplete Construction at Mpeketoni Girls Secondary School.**

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.79,121,862. This balance includes payment for transfers to secondary schools amounting to Kshs.38,650,491 out of which Kshs.12,000,000 was paid in respect of construction of twelve (12) classrooms block, borehole and ablution block at Mpeketoni Girls Secondary School. The Fund awarded the contract at contract sum of Kshs.54,498,139 on 29 November, 2019.

The contractual agreement entered on 29 November, 2019 indicated that works would be completed within 208 days and was expected to be completed by 17 December,2021. Physical inspection of the project on 12 April, 2022 revealed that the contractor was still on site and the works were on-going and was estimated to be 85% complete. Further, no monthly progress reports were provided for audit.

In the circumstances, the value for money on the amount of Kshs.12,000,000 incurred on the implementation of the project could not be confirmed.

## **3. Poor Project Implementation**

Verification of three (3) projects with a total allocation of Kshs.15,169,256 namely; Maleli police post, Mpeketoni Girls Secondary and Fund's ICT Hub revealed that they were not implemented in accordance with the terms and conditions of their respective contracts. This was contrary to Section 11(1) of National Government Constituencies Development Regulations, 2016 that states that the functions of a Constituency Committee shall be (j) to ensure that all projects receive adequate funding and are completed within three years; (m) monitor the implementation of projects in accordance with the monitoring and evaluation framework prescribed by the Board; (n) ensure that project reports are prepared and submitted to the Board.

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 has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

### **Basis for Conclusion**

#### **Summary of Fixed Assets**

Annex 4 of the financial statements reflects a summary of fixed assets register with an historical cost amount of Kshs.29,022,490. However, a review of the fixed assets register and other supporting documents maintained by the Fund indicated that land parcel that houses the Fund's headquarters offices had no ownership documents. Further, review of the asset register revealed that, the Fund owns three vehicles and one motorcycle. However, there were no ownership documents provided for audit.

In the circumstances, proper management and internal controls of the Fund's assets could not be confirmed.

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

#### **Responsibilities of Management and those Charged with Governance**

Management is responsible for the preparation and fair presentation of these financial statements in accordance 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 continue to sustain 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.

The 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 controls 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 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 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 Fund's policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by 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**

**15 September, 2022**