

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - WAJIR EAST 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, gazetted 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

Qualified Opinion

I have audited the accompanying financial statements of National Government Constituencies Development Fund - Wajir East Constituency set out on pages 14 to 41, which comprise of the statement of financial 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, 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

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respects, the financial position of National Government Constituencies Development Fund - Wajir East Constituency as at 30 June, 2021, 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 the Public Finance Management Act, 2012 and the National Government Constituencies Development Fund Act, 2015.

Basis for Qualified Opinion

1. Unsupported Emergency Expenses

The statement of receipts and payments reflects an amount of Kshs.57,791,029 under other grants and transfers as disclosed in Note 5 to the financial statements. Included in the amount is an expenditure of Kshs.5,720,000 on emergency projects. However, review of the project files and other tender documents revealed the following anomalies:

- i. Payments for water tracking services amounting to Kshs.1,600,000 were not supported with delivery notes, LSO, Invoices and quotations. It was therefore not possible to confirm how the water tracking services were procured. Further, there were no water tracking schedules or acknowledgment letters signed by head teachers as evidence of the delivery of water to various schools.
- ii. Payments for fuel worth Kshs.350,000 were not supported with delivery notes, LSO, invoices and quotations. It was therefore not possible to confirm how the fuel was procured and utilized.
- iii. There were no minutes of approval for utilization of emergency funds from the Constituency Committee. Further, no evidence was provided to confirm that the utilization of the emergency funds was reported to the Board within thirty (30) days of the occurrence as required by Section 20(2) of the National Government Constituencies Development Committee Regulations, 2016.
- iv. The emergency expenditure was not supported with minutes of the Constituency Committee contrary to the requirement of Section 12(5) of the National Government Constituencies Development Fund Act, 2015.

In the circumstances, the accuracy and regularity of other grants and transfers of Kshs.57,791,029 could not be confirmed.

2. Casting Errors in the Financial Statements

Review and recasting of the financial statements revealed casting errors as analyzed in the table below:

Details	Figure as per Annex 1 and 3	Correct Figure after Recasting	Variance
	Kshs.	Kshs.	Kshs.

Sub-totals for compensation of employees, committee expenses and use of goods and services – 2019/2020	598,522	593,044	5,478
Sub-total for amounts due to other Government entities for 2020/2021	51,292,326	52,160,501	(868,175)
Sub-total for amounts due to other grants and other transfers – 2020/2021	14,244,140	15,406,212	(1,162,072)
Sub-total for amounts due to other grants and other transfers – 2019/2020	33,778,995	33,797,416	(18,421)
total PMC account balance for 2019/2020 at Annex 3	89,351	77,061	12,290

In the circumstances, the accuracy of balances presented in Annex 1 and Annex 3 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 - Wajir 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 other key audit matters to report in the year under review.

Other Matter

1. Budgetary Control and Performance

The summary statement of comparative budget and actual amounts reflects final receipts budget and actual on a comparable basis of Kshs.209,816,907 and Kshs.140,179,724 respectively resulting to an under-funding of Kshs.69,637,183 or 33% of the budget. Similarly, the Fund spent Kshs.140,179,724 against an approved budget of Kshs.209,816,907 resulting to an under-expenditure of Kshs.69,637,183 or 33% of the budget.

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

2. Projects Implementation Status

During the year under review, the Fund budgeted to implement a total of one hundred and eight (108) projects comprising of seventy (72) on education, eighteen (18) on security, fifteen (15) on environment, one (1) on sports and two (2) under other categories.

Out of the planned projects in various categories, the Fund managed to complete seventy-three (73) out of the one hundred and eight (108) projects approved for implementation during the year under review.

Non-implementation of development projects may have negatively affected service delivery to the public.

3. Unresolved Prior Year Matters

In the audit report of the previous year, a number of issues were raised under the Report on Financial Statements. However, Management has not resolved the issues nor disclosed all the prior year matters as provided by the Public Sector Accounting Standards Board templates.

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. Transfers to Secondary Schools

The statement of receipts and payments reflects an amount of Kshs.70,550,000 under transfers to other government units as reflected in Note 4 to the financial statements. Included in the amount is Kshs.26,870,000 transferred to Project Management Committees for implementation of projects in various secondary schools. However, review of payment records and project files among other records revealed that grants totalling to Kshs.9,335,000 had the following anomalies:

- i. Contracts amounting Kshs.2,435,000 were awarded to contractors who did not satisfy the mandatory requirements for award of the contracts as they did not have valid business permits and valid tax compliance certificates as required by the evaluation criteria of the tenders.
- ii. Project files for projects amounting Kshs.4,035,000 provided for audit did not contain tender documents such as confidential business questionnaires, form of tender, tender questionnaires and handing over reports. It was therefore not possible to confirm whether the projects were procured in accordance with the Public Procurement and Asset Disposal Act, 2015.

- iii. Contracts amounting to Kshs.9,335,000 and awarded by Project Management Committees were not supported with procurement professional opinion as required by Section 84(1) of the Public Procurement and Asset Disposal Act, 2015.
- iv. Contracts amounting to Kshs.5,000,000 in respect of supply and delivery of chairs, lockers, bed and mattresses supplied to various schools were not supported with delivery reports, waybills or acknowledgement letter from the institution confirming the receipt of the items.
- v. Tender opening registers were not maintained by the Project Management Committees as required under Section 78(6) of the Public Procurement and Asset Disposal Act, 2015.

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

2. Security Projects

The statement of receipts and payments reflects an amount of Kshs.57,791,021 under other grants and transfers as reflected in Note 5 to the financial statements. Included in the amount of Kshs.27,335,000 transferred to Project Management Committees for implementation of security projects. However, review of payment records and project files among other records revealed that expenditure totalling to Kshs.8,850,000 on security projects had the following anomalies:

- i. There were no notification letters of regrets in the project files sent to unsuccessful bidders. This is contrary to the provisions of Section 87(3) of the Public Procurement and Asset Disposal Act, 2015 which stipulates that when a person submitting the successful tender is notified under sub-section (1), the accounting officer of the procuring entity shall also notify in writing all other persons submitting tenders that their tenders were not successful, disclosing the successful tenderer as appropriate and reasons thereof
- ii. Project files provided for audit did not contain tender documents such as confidential business questionnaires, form of tender, tender questionnaires and handing over reports. It was therefore not possible to confirm whether the projects were procured in accordance with the provisions of the Public Procurement and Asset Disposal Act, 2015.
- iii. Contracts awarded by Project Management Committees were not supported with a professional opinion contrary to the requirement of Section 162 of the Public Procurement and Asset Disposal Act, 2015.
- iv. Tender opening register was not maintained as required under Section 78(6) of the Public Procurement and Asset Disposal Act, 2015.

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 matters described in the Basis for Conclusion on 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 governance were not effective.

Basis for Conclusion

1. Lack of Ownership Documents

Annex 2 to the financial statements on summary of fixed assets register reflects historical cost of land of Nil balance. Further, the Fund does not have a title deed or allotment letter as evidence of ownership. Lack of ownership documents for the land may expose the land to threats of grabbing. In addition, the parcel of land is not registered contrary to the provisions of Regulation 139(1)(a) of the Public Finance Management (National Government) Regulations, 2015.

In the circumstances the ownership of the parcel of land could not be confirmed.

2. Failure to Value the Assets

Annex 2 to the financial statements on summary of fixed assets register reflects historical cost of assets owned by the Fund of Kshs.8,686,941. Review of the maintained assets register revealed that most of the assets were acquired more than ten (10) years ago. However, the assets in question have not been revalued since acquisition contrary to the requirement by International Public Sector Accounting Standards.

In the circumstances, it was not possible to confirm whether the historical cost of assets reflected in the financial statements represents the fair value of those assets.

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 the Fund's ability to sustain its services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless Management is aware of the intention to terminate the Fund or to cease operations.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

In addition to the responsibility for the preparation and presentation of the financial statements described above, Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them, and that public resources are applied in an effective way.

Those charged with governance are responsible for overseeing the Fund's financial reporting process, reviewing the effectiveness of how Management monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibilities for the Audit

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them and that public resources are applied in

an effective way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal 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 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 controls.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.
- Conclude on the appropriateness of the Management's use of the applicable basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Fund's ability to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the Fund to cease to sustain its services.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the Fund to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with the Management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal controls that are identified during the audit.

I also provide Management with a statement that I have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.



CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

20 September, 2022