

## **REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - KACHELIBA CONSTITUENCY FOR THE YEAR ENDED 30 JUNE, 2022**

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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 - Kacheliba Constituency set out on Pages 1 to 42, 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 - Kacheliba 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 Public Finance Management Act, 2012 and National Government Constituencies Development Fund Act, 2015.

## **Basis for Qualified Opinion**

### **1. Unconfirmed Staff Gratuity Expenditure**

The statement of receipts and payments reflects compensation of employees amount of Kshs.2,647,752 for year ended 30 June, 2022 which includes gratuity expenditure of Kshs.562,092 as disclosed in Note 4 to the financial statements. The supporting schedules provided however, reflects gratuity payments of Kshs.685,157 resulting in an explained variance of Kshs.123,065. Further, staff personal files in respect of eight (8) staff members who received gratuity were not provided to confirm accuracy of the gratuity computations.

In the circumstances, the accuracy and completeness of gratuity payments of Kshs.562,092 could not be confirmed.

### **2. Misstated Cash and Cash Equivalent Balance**

The statement of assets and liabilities reflects bank balance as per the cash book of Kshs.2,640,921 and Nil cash at hand. The statement however, reflects total cash and cash equivalent balance of Kshs.2,440,921 and as disclosed in Note 10B to the financial statements. The board of survey report and memorandum cashbook/cash expenditure breakdown as at 30 June, 2022 were not provided for audit review.

In the circumstances, the accuracy of cash and cash equivalent balance could not be confirmed.

### **3. Unconfirmed Fixed Assets Balance**

Annex 4 to the financial statements, on summary of fixed assets register reflects cumulative historical asset balance of Kshs.56,356,933 as at 30 June, 2022.

The Fund's assets register however, reflects historical assets balance of Kshs.55,746,500 resulting to unexplained variance of Kshs.610,433. Further, Fund's size and value of land on which the office stands and the value of office furniture have not been determined and included in the financial statements.

In the circumstances, the accuracy and completeness of fixed assets balance Kshs.56,356,933 as at 30 June, 2022 could not be confirmed.

### **4. Unsupported Project Management Committee Bank Balances**

Other important disclosures Note 17.4 reflects Project Management Committee (PMC) bank balances balance of Kshs.12,306,137 as at 30 June, 2022 held in one hundred and

three (103) commercial bank accounts as disclosed in Annex 5 to the financial statements.

The cash books, bank reconciliation statements, certificates of bank balances and bank statements for the one hundred and three (103) bank accounts were however, not provided for audit review.

In the circumstances, the completeness, accuracy and existence of Project Management Committee bank balances totalling to Kshs.12,306,137 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 - Kacheliba Constituency 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**

### **Unresolved Prior Year Matters**

In the audit report of the previous year, several issues were raised but the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of Section 149(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.

## **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 matter(s) 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. Delay in Disbursement of Funds from the Board**

The statement of receipts and payments reflects transfers from National Government Constituencies Development Fund Board amount of Kshs.182,377,758 for the year ended 30 June, 2022, which includes Kshs.45,288,879 or 24% of total receipts budgeted

for in 2020/2021 financial year. This is contrary to 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 and section 40(1) which stipulates that the Board shall ensure that the list of projects forwarded to it by each constituency is, upon approval, funded in accordance with the Act.

Consequently, the Board was in breach of the law.

## 2. Transfers to Other Government Entities

The statement of receipts and payments reflects transfers to other Government units amount of Kshs.119,259,246, which includes transfers to primary schools, secondary schools and tertiary institutions amounts of Kshs.102,231,449, Kshs.13,027,797 and Kshs.4,000,000 respectively, as disclosed in Note 6 to the financial statements. Review of the expenditure records revealed the unsatisfactory matters below.

### 2.1 Kalam Primary School

The transfers to primary schools' amount of Kshs.102,231,449 includes, Kshs.2,000,000 transferred to Kalam Primary School for the construction of two classrooms to completion. The school management did not however, submit expenditure returns and reports contrary to Section 38 of the National Government Constituency Development Fund Act, 2015, which states that the officer of the Board in every constituency shall compile and maintain a record showing all receipts and disbursements and actual expenditures on monthly basis in respect of every project and sub project under this Act. Further, audit inspection of the project in March, 2023 revealed that the project had been done up-to lentil level, construction works had stalled and the contractor was not on site.

### 2.2 Irregular Allocation of Funds for Roads Construction Works

The transfers to primary schools' amount of Kshs.102,231,449 includes Kshs.15,440,000 paid for bush clearing, gravelling, dossier work and installation of gabions as detailed below:

Date	Road	PV. No.	Cheque No.	Amount (Kshs.)
10 December, 2021	Kamila Tarakit Road	106	007254	5,140,000
10 December, 2021	Amomor Komoli Road	107	007255	5,622,973
24 February, 2022	Amomor Komoli Road	136	007309	2,677,027
24 February, 2022	Kamila Tarakit Road	137	007310	2,000,000
	<b>Total</b>			<b>15,440,000</b>

The rural access road projects are however, devolved Government function and therefore their funding contravene Section 24 of the National Government Constituencies Development Fund Act, 2015, which provides that project under this Act shall- (a) only be in respect of works and services falling within the functions of the National Government under the Constitution. Further, project files, project contracts, expenditure returns, and reports were not provided for audit review.

In the circumstances, there was no value for money obtained from the expenditure and the Management was in breach of the law.

### **3. Other Grants and Transfer**

The statement of receipts and payments reflects other grants and transfers amount of Kshs.64,119,771 for the year ended 30 June, 2022, which includes bursaries to secondary schools, tertiary institutions, special schools and security projects amounts of Kshs.11,272,219, Kshs.23,253,974, Kshs.5,000,000 and Kshs.9,500,000 respectively as disclosed in Note 7 to the financial statements. Review of the expenditure records revealed the following issues.

#### **3.1 Education Bursary**

The bursary payments totalling to Kshs.39,526,193 for the support of the needy students includes bursary disbursements of Kshs.10,587,650 which were however, not supported by acknowledgement of receipt by the respective learning institutions. There was therefore no assurance that the disbursements benefited the intended needy students.

In the circumstances, the validity of the expenditure of Kshs.10,587,650 could not be confirmed.

#### **3.2 Security Projects**

Included in security payments of Kshs.9,500,000 is an amount of Kshs.4,000,000, being additional allocation for the construction of Alale Police Station through labour based contact. A total sum of Kshs.10,933,489 had been incurred on the project as at 30 June, 2022. As at the time of audit in March, 2023, no works were on going and the project had stalled at lintel level. No explanation was however, provided for the failure to complete the project.

In the circumstances, the Fund has not received value for money.

### **4. Lack Clerk of Works**

During the year under review, the Fund budgeted for implementation of projects valued at Kshs.123,206,666. The Fund management did not however, engage the services of the technical officer – clerk of works to assist in the project implementation contrary to Section 45(1) of the National Government Constituencies Development Fund Act, 2015 which states that the constituency committee may engage such staff as may be

necessary for execution of its functions including persons with knowledge in information and communication technology, construction and basic accounting.

In the circumstances, effective and efficient implementation of projects in the constituency may not have been achieved.

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 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 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 control 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 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 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**

**12 July, 2023**