

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

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## 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 - Kapenguria Constituency set out on Pages 1 to 44, which comprise the statement of assets and liabilities as at 30 June, 2022, 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 the National Government Constituencies Development Fund - Kapenguria 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 Public Finance Management Act, 2012.

## **Basis for Qualified Opinion**

### **1. Unsupported Transfers to Other Government Entities**

The statement of receipts and payments reflects transfer to other government entities amount of Kshs.85,730,227 comprising of transfers to primary schools amount of Kshs.57,444,010 and secondary schools' amount of Kshs.28,286,217 as disclosed in Note 6 to the financial statements. However, project payments totalling to Kshs.21,530,678 were not supported by; project files, work plans, bills of quantities, expenditure returns, PMC minutes, handover reports and completion certificates contrary to Regulation 15(1)(b) of the National Government Constituency Development Fund 2016 states that, there shall be appointed a project management committee for each project in a Constituency in accordance with Section 36 of the Act which shall maintain proper records of all minutes, accounting documents and other records in relation to projects being implemented. Further, field inspection of the twelve (12) projects in March, 2023 revealed implementation concerns including poor workmanship, delays and non-labeling of the projects as summarized in **Appendix I**.

In the circumstances, the accuracy and value for money on the expenditure of Kshs.21,530,678 for the year ended 30 June,2022 could not be confirmed.

### **2. Cash and Cash Equivalent**

The statement of assets and liabilities reflects bank balance of Kshs.12,982,357 as disclosed in Note 10A to the financial statements. However, the bank reconciliation statements for June, 2022 reflect unrepresented cheques amounting to Kshs.1,615,004 out of which Kshs.326,000 had become stale and were not reversed to the cashbook.

In the circumstances, the accuracy of bank balance of Kshs.12,982,357 as at 30 June, 2022, could not be confirmed.

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

Note 17.4 to the financial statements reflects project management committee (PMC) bank balances of Kshs.3,401,994 held in twenty-two (22) bank accounts in various commercial banks as disclosed in Annex 5 to the statements. However, cash books, bank reconciliation statements and bank statements for these accounts were not provided for audit.

In the circumstances, accuracy and completeness of project management committee bank balance of Kshs.3,401,994 as at 30 June, 2022 could not be confirmed.

#### **4. Accuracy of Fixed Assets Records**

Annex 4 to the financial statements – summary of fixed assets register reflects cumulative historical asset amount of Kshs.42,035,446. However, the asset register reflects total asset amount of Kshs.41,988,600 resulting to unexplained variance of Kshs.46,846. Further, the land on which the Fund’s building and structures are built on has not been valued and included in the fixed asset register. In addition, no evidence of land ownership provided for audit review.

In the circumstances, completeness and accuracy of fixed assets historical cost amount of Kshs.42,035,446 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 - Kapenguria 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 reflect a final total receipts budget of Kshs.188,041,077 against actual receipts of Kshs.174,582,198 resulting in underfunding of Kshs.13,458,879 or 7% of budgeted funds. Similarly, the total payments of Kshs.161,599,841 were made against the budget of Kshs.188,041,077 resulting to an under-absorption of Kshs.26,441,237 or 14% of the budget.

Under-funding and non-utilization budgeted funds are an indication that services and approved projects/programmes were not implemented and therefore the envisaged services and benefits were provided to the residents.

##### **2. Unresolved Prior Year Matters**

The Management has not addressed audit issues in 2020/2021 financial year report contrary to 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.

The Management have not complied with the reporting template requirements.

## 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. Delay in Disbursement of Funds from the Board

The statement of receipts and payments reflects transfers from National Government Constituencies Development Fund Board of Kshs.170,088,879 out of which Kshs.33,000,000 or 19% of total receipts were in respect of 2020/2021 financial year. Further, balance of Kshs.13,458,879 for the year under review remained undisbursed 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.

In the circumstances, the Board is in breach of law resulting in delay in implementation of approved projects or programs for the benefit of residents of Kapenguria Constituency.

#### 2. Irregular Disbursement of Bursaries

The statement of receipts and payment reflects other grants and transfers amount of Kshs.62,951,438 which include bursary disbursements to tertiary institutions of Kshs.18,513,368 and bursary disbursement to secondary schools of Kshs.20,000,000 all totalling to Kshs.38,513,368 as disclosed in Note 7 to the financial statements.

Although, the bursary awards were done by a bursary sub-committee, there was no evidence to show that vetting, identification and categorizing of needy students was done using approved formal criteria contrary to Constituency Development Fund Board circular reference VOL1/111 dated 13 September, 2010 which requires such criteria to be established prior to vetting, identification and categorization of the needy students.

Further, the subcommittee did not include the area Education Officer or a representative from the Ministry of Education contrary to the Board circular reference VOL1/111 dated 13 September, 2010 which requires that formation of a subcommittee of Constituency Development Fund to manage the bursary scheme, in which the subcommittee should include two co-opted members one who must be an education officer or an officer seconded from Ministry of Education.

In addition, out of a sample for Kshs.10,070,000 bursary disbursements reviewed, bursary payments amounting to Kshs.7,410,000 were acknowledged by respective institutions while a balance of Ksh.2,660,000 were not acknowledged.

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

### **3. Security Projects**

The statement of receipts and payments reflects other grants and other transfers amount of Kshs.62,951,437 which includes transfers to security projects of Kshs.12,150,000 out of which Kshs.1,500,000 was incurred on fencing Kapenguria Administration Police camp. However, the project file with approved bills of quantities, inspection certificates from the clerk of works, tender advertisement and structural drawings were not provided for audit review. Further, the tender opening committee minutes were not signed contrary to Section 78(9a) of the Public Procurement and Assets Disposal Act, 2015 which states that each member of the tender opening shall sign each tender on one or more pages as determined by the tender opening committee.

Physical project verification carried out in March, 2023 revealed that the fencing is done but not labelled contrary to Regulation 15(1)(f) of the National Government Constituencies Development Fund Regulations, 2016 which states that, there shall be appointed a project management committee for each project in a Constituency in accordance with Section 36 of the Act which shall undertake project closure, labelling and handover upon completion.

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

### **4. Emergency Projects**

The statement of receipts and payments reflects other grants and transfers amount of Kshs.62,951,437 which includes emergency projects payments of Kshs.9,620,069 out of which Kshs.5,565,000 was incurred on repair of classrooms, construction of a pit latrines and repair of water drainage system in respect of ten projects. However, the payments did not meet emergency criteria as required by Section 8(3) of the NGCDF Act, 2015 which states that "Emergency" shall be construed to mean an urgent, unforeseen need for expenditure for which it is in the opinion of the committee that it cannot be delayed until the next financial year without harming the public interest of the constituents.

Further, there was no evidence to show that Fund Management notified the Board after emergency payments were made which is contrary to Regulation 20(2) of the National Government Constituencies Development Fund Regulations, 2016 which requires that

the utilization of the emergency reserve shall be reported to the Board within thirty days of the occurrence of the emergency, in the format prescribed by the Board.

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

#### **5. Delayed Remittance of National Social Security Fund (NSSF) Contributions**

The statement of receipts and payments reflects compensation of employees amount of Kshs.3,955,542 out of which two payments totalling to Kshs.38,076 paid on 9 November, 2021 as outstanding National Social Security Fund arrears for the month of August and September, 2021 inclusive of late payment penalties of Kshs.2,856.

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

#### **6. Lack of Clerk of Works**

The statement of receipts and payments reflects transfers to other government units of Kshs.85,730,227 and other grants and transfers of Kshs.62,951,438 for the year ended 30 June, 2022 for implementation of various projects across the constituency. However, the Fund management did not engage the services of the technical expert, -clerk of works, to assist in the project implementation contrary to Section 45(1) and (2) 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 communications technology, construction, and basic accounting.

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

#### **7. Lack of Staff Appraisal**

The statement of receipts and payments reflects compensation of employees amount of Kshs.3,955,542 in respect of twenty-one (21) members of staff. However, the Fund did not carry out staff appraisal contrary to paragraph G.10 of the Public Service Commission Human Resource Policy Manual 2016 which states that performance appraisal is an on-going process throughout the performance period. Milestones over the review period should be documented and maintained in the appraisee's personal file.

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

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 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**

The 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 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 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 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 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 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**

## Appendix I : Projects Inspection

S/No	Project Name	Project Activity	Amount Disbursed (Kshs)	Observations
1	Administration Police Welfare Project	Fencing of the entire Kapenguria AP camp	1,500,000	A complete fence covering the perimeters of the AP camp installed, Installation of the App main gate completed and duly done
2	Mtembur Chiefs' Office	Construction of two chiefs' office, secretary office and a boardroom	3,000,000	Tiles not done, window glasses not installed, all the doors for the offices and the boardroom not installed and plastering not done.
3	Mtembur Secondary School	Construction of one classroom to completion at Kshs.900,000 and equipping with 20 desks at Kshs.100,000	1,000,000	The project is completed and labeled
4	Kanyarkwat Mixed Day Secondary School	Construction of two classrooms to completion at Kshs.1,600,000 and equipping with 40 desks at Kshs.200,000	1,800,000	The two classes were constructed however, verandah was not smoothed, floor finishing not done, internal wall finishing not done, external wall finishing(keying) not done, half (4) of the window glasses not fixed, Labelling was not done
5	Tomena Primary School	Repair of seven classrooms (Emergency)	2,500,000	The classrooms roof, windows, doors and floor were replaced. Labelling was not done
6	Napawoi Primary School	Repair of roof (Emergency)	600,000	The school used the funds to repair the roof and the remaining funds was used to build a classroom. The classroom is incomplete, it is built of

<b>S/No</b>	<b>Project Name</b>	<b>Project Activity</b>	<b>Amount Disbursed (Kshs)</b>	<b>Observations</b>
				bricks and normal iron sheets, verandah finishing not done, internal floor is not plastered, external wall finishing not done window glasses not fixed. Labelling not done.
7	Poole Primary School	Construction of one classroom to completion at Kshs.600,000 and equipping with 20 desks at Kshs.100,000	700,000	The school constructed two(2) classes made of bricks, the floor was poorly done, window glasses not fixed, and labelling was not done.
8	Lokitedel Primary School	Construction of one classroom to completion at Kshs.500,000 and equipping with 20 desks at Kshs.100,000	600,000	The school constructed two(2) classrooms instead of one(1),the classes are incomplete, they used bricks, normal iron sheets, and labeling not done.
9	St.Paul's Kitelakapel Boys Secondary School	Construction of three classrooms at Kshs.3,000,000 and equipping with 60 desks and lockers at Kshs.600,000	3,600,000	The three classes were well built however the project is not labeled.
10.	AGC Ketiam Boys Secondary School	Construction of two classrooms to completion at Kshs.1,600,000 and equipping with 40 desks at Kshs.200,000	1,800,000	As at time of audit, The classrooms were not in use instead one was used as a dormitory as the dormitory was not complete
11.	AGC Ketiam Boys Secondary School	Construction of forty students' capacity dormitory for boys to completion at Kshs.2,430,678 and equipping with 20 double decker beds at Kshs.200,000	2,630,678	As at the time of audit, the dormitory was not complete i.e the windows had not been installed, external wall keying not done, floor not plastered

<b>S/No</b>	<b>Project Name</b>	<b>Project Activity</b>	<b>Amount Disbursed (Kshs)</b>	<b>Observations</b>
12.	St.Monica Girl's Secondary School	Construction of two classrooms to completion at Kshs.1,600,000 and equipping with 40 desks at Kshs.200,000	1,800,000	The class was in use. The glasses in the windows had not been installed, Building not painted, Labelling not done
	<b>Total</b>		<b>21,530,678</b>	