

# **REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - KIBWEZI EAST 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 - Kibwezi East Constituency set out on pages 1 to 46, which comprise of the statement of assets and liabilities as at 30 June, 2022 statement of receipts and payments, statement of cash flows and summary statement of appropriations for the year 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 - Kibwezi East Constituency for the year ended 30 June, 2022, 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 Public Finance Management Act, 2012 and National Government Constituencies Development Fund Act, 2015.

## **Basis for Qualified Opinion**

### **1. Inaccuracies in Cash and Cash Equivalent Balances**

#### **a) Unpresented and Stale Cheques**

The statement of assets and liabilities and as disclosed in Note 10A to the financial statements reflects cash and cash equivalents balance of Kshs.51,708,428. However, the bank reconciliation statement for the month of June 2022 shows unrepresented cheques totaling to Kshs.13,868,191. Further, the unrepresented cheques include stale cheques amounting to Kshs.1,764,437 which had not been written back to the cash book. The stale cheques include bursary disbursements.

#### **b) Receipts in Bank Statement Not in Cashbook**

The bank reconciliation statement reflects receipts in the bank statement not in the cashbook of Kshs.706,192.54. The details of the receipts have not been provided and no explanation was given for failure to record the receipts in the cashbook.

#### **c) Erroneous Inclusion of Retention Amounts as Reconciling Item**

The bank reconciliation statement as at 30 June, 2022 reflects receipts in the cashbook and not in the bank statement amounting to Kshs.866, 521. It was noted that the figure relates to contractor's retention money and therefore cannot form part of the reconciling items.

In the circumstances, the accuracy and completeness of cash and cash equivalents balance of Kshs.51,708,428 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 - Kibwezi 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**

### **Budgetary Control and Performance**

The summary statement of appropriation reflects receipt budget and actual on comparable basis of Kshs.236,383,640 and Kshs.182,277,758 respectively, resulting in a shortfall of Kshs.54,105,882 or 23% of the budget. Similarly, the Fund expended Kshs.184,675,211 against a budget of Kshs.235,517,119 resulting to an under-expenditure of Kshs.50,841,908 or 22% of the budget.

The Fund also prepared unbalanced budget with a surplus of Kshs.866,521 contrary to the provision of Section 33(3) of the Public Finance Management Regulations, 2015 which prescribes preparation of a balanced budget.

In circumstances, the under-funding and under-expenditure affected implementation of the planned activities and programs and may have impacted negatively on service delivery to the public.

## **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. Irregular Procurement of Fuel, Oil and Lubricants**

The statement receipts and payments reflect an amount of Kshs.10,239,874 under use of goods and services which includes expenditure on fuel, oil and lubricants of Kshs.2,200,000 supplied by a petrol station and as disclosed in Note 5 to the financial statements. The expenditure was however not included in the procurement plan for the financial year 2021/2022 as required by Section 45(3)(a) of the Public Procurement and Asset Disposal Act 2015, which states that all procurements shall be as included in the annual procurement plan.

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

## **2. Procurement of Taxi Services**

The statement of receipts and payments reflects use of goods and services amount of Kshs.10,239,874 which includes expenditure on committee allowances of Kshs.5,887,000 as disclosed in Note 5 to the financial statements. Included in the expenditure is an amount of Kshs.280,000, paid to a firm, being taxi service charges. The supplier was not in the list of pre-qualified suppliers contrary to Regulation 33,3(a) of the Public Procurement and Asset Disposal Regulations, 2020 which states that the role of the procurement function shall be—(a) to maintain and continually update standing lists of registered suppliers for the procuring entity under Sections 57 and 71 of the Act;

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

## **3. Failure to Employ a Clerk of Works**

Review of the personnel records revealed that the Fund does not have a clerk of works or a person with knowledge in construction. The Fund, therefore, lacks an adviser for evaluation of projects implementation in the constituency, contrary to the provision of section 45(1) of the National Government Constituencies Development Fund Act, 2015 which states that project management committee shall engage staff for its function with knowledge on the various fields including construction. Failure to engage clerk of works implies lack of project supervision which could lead to substandard work being implemented.

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

## **4. Idle Project**

The statement of receipts and payments reflects other payments of Kshs.2,486,454, being expenditure on construction of two ICT laboratories at Machinery D.O's Office and Mtito Andei Chief's Office. Physical verification conducted on 8 March, 2023 revealed that the two projects were completed but were not equipped with furniture. The projects are therefore not operational and in use.

In the circumstances, value for money on the expenditure could not be confirmed.

## **5. Unbranded Projects**

The statement receipts and payments reflect Kshs.90,130,560 on transfers to other government units. The amount includes transfers to Primary and Secondary Schools projects undertaken during the period under review. The field verification conducted on 8 March, 2023 on projects revealed that the Construction of two administration office blocks with 7 offices each at Ituumo Primary school and Kalulu secondary school were not branded. This is contrary to the National Government Constituency Development Fund Regulations, 2016 11, 1 (cc) ensure projects are labelled in accordance with the guidelines issued by the Board

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

### **3. Delayed Projects**

The statement receipts and payments reflect an amount of Kshs.78,603,776 on other grants and other transfers which includes expenditures on security, environment and emergency of Kshs.1,500,000, Kshs.2,300,000 and Kshs.8,600,000, respectively. A review of the project files and physical verification of the projects revealed the following anomalies;

#### **a. Emergency Projects**

- i. Ngokolani primary school received Kshs.600,000 for the construction of a six-door toilet block. The project was completed and handed over, but it was not in use since all the doors were broken.
- ii. Ngwata Chief's Office project received an amount of Kshs.600,000 for the construction of a two-door toilet block, urinal and fencing the compound. The money was disbursed but has since remained in the Project Management Committee (PMC) account as the project has not been started.

#### **b. Environment Projects**

- i) Thange Primary School received Kshs.250,000 for the installation of a ten thousands (10,000) litres water tank, construction of tank base and the related pipe works. The tank base and gutters have been done but the tank has not been delivered.
- ii) Ituumo Primary School received an amount of Kshs.200,000 for the installation of a ten thousands (10,000) litres water tank, construction of tank base and related pipe works but no work or delivery has been done.
- iii) Kithasyu Primary School received Kshs.250,000 for the installation of a ten thousands (10,000) litres water tank, construction of tank base and related pipe works. The tank base and gutters had been done but the tank had not been supplied.
- iv) Metava primary school received Kshs.250,000 for the installation of a 10,000 litres water tank, tank base and related pipe works. The tank base and gutters had been done but the tank had not been supplied.

#### **c. Sport Activities**

Review of the approved budget revealed that sports activities had an allocation of Kshs.4,000,000 during the year. However, no sports activities were undertaken during the year and no explanation was provided for the situation.

In the circumstances, public funds were not effectively utilized and hence value for money not obtained.

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

### **Basis for Conclusion**

#### **Bursary Disbursements**

The statement receipts and payments reflect other grants and other transfers of Kshs.78,603,776, which includes transfers to Secondary schools and Tertiary institutions amounts of Kshs.43,453,776 and 22,750,000 respectively. Review of the expenditure and related records revealed anomalies noted below:

- i) The bursary application forms were not completed by the area chiefs or religious leaders as required by award procedures for bursary and as such they lack the requisite certification. Further, without the certification applicants for bursaries could not be confirmed to be from Kibwezi East Constituency.

The disbursements to tertiary institutions did not have acknowledgement receipts and hence it was difficult to ascertain whether these institutions received the funds.

In the circumstances, the controls in the process of bursary disbursement were weak and could not be relied upon for effectiveness.

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 controls, 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 as 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.

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 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 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 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 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 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**

**11 July, 2023**