

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

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 - Kwanza 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 the 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 effects 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 - Kwanza Constituency as at 30 June, 2022, and of its financial performance and its cash flows for the year then ended, in accordance with the International Public Sector Accounting Standards (Cash Basis) and comply with the National Government Constituencies Development Fund Act, 2015 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1. Project Management Committee Bank Balances

Note 17.4 under other important disclosures reflects project management committee (PMC) bank balances of Kshs.43,978,309 as at 30 June, 2022 held in one hundred and thirty-seven (137) 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 thirty-seven (137) bank accounts were however, not provided for audit review.

In the circumstances, accuracy and existence of project management committee bank balance of Kshs.43,978,309 could not be confirmed.

2. Summary of Fixed Assets

Annex 4 to the financial statements on summary of fixed assets register reflects cumulative historical asset balance of Kshs.14,276,966 as at 30 June, 2022. The size and value of land on which the Fund's office is situated have not been determined and included in financial statements. Further, land title deed to confirm its ownership was not provided for audit review.

In the circumstances, land ownership and accuracy of fixed assets balance of Kshs.12,276,966 as at 30 June, 2022 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 – Kwanza 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.

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. Late Disbursements of Funds from the Board

The statement of receipts and payments reflects transfers from National Government Constituencies Development Fund Board amount of Kshs.171,277,758 for the year ended 30 June, 2022. The amount of Kshs.171,277,758 however, includes Kshs.34,188,879 or 20% of total receipts budgeted for in the 2020/2021 financial year 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 was breach of the law.

2. Irregular Award of Education Bursary

The statement of receipts and payments reflects other grants and other transfers amount of Kshs.94,191,200 for the year ended 30 June, 2022 which includes bursary payments to secondary schools and tertiary institutions amounts of Kshs.36,628,000 and Kshs.32,422,000 respectively as disclosed under Note 7 to the financial statements. The bursary payments totals to Kshs.69,050,000. There was however, no approved formal criteria to guide the bursary committee in awarding bursaries.

In the circumstances, transparency and fairness in awarding the bursaries could not be confirmed.

3.0 Implementation of Projects

3.1 Project Implementation Status

Review of project implementation status report revealed that seven (7) projects with total allocation of Kshs.5,590,083 were yet to be started. Further, twelve (12) roll-over projects with total allocation of Kshs.32,800,000, some started in the financial year 2018/2019 were not complete. This is contrary to Section 11(1)j of National Government Constituency Fund Regulations, 2016 which states that - Constituency Committee shall ensure projects receive adequate funding and are completed within three (3) years.

3.2 Unsatisfactory Implementation of Projects

Physical verification of Seven (7) projects with total disbursement of Kshs.5,620,000 revealed that the projects were either poorly implemented, incomplete or had stalled. The projects status is summarized in in **Appendix I**.

In the circumstances, the Fund was in breach of the law, and value for money had been 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, 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 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 financial reporting process, reviewing the effectiveness of how the Fund 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 overall 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 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 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 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 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

14 July, 2023

Appendix I: Projects Verification

No	Project Description and Scope of Work	Amount Kshs.	Observations
1	Namanjalala Secondary school: Completion of 90-students capacity twin laboratory	1,700,000	<ul style="list-style-type: none"> (i) The roof was poorly done and ceiling was loosely hanging and poor quality materials was used on the ceiling (ii) The veranda and the walling was not properly jointed as there was cracks in the whole building (iii) Fume chamber was incomplete and outlet also not done (iv) The fume chamber was poorly designed as the chamber is not airtight hence the risk of leaking gas into the main laboratory which poses health hazards. (v) There was no chimney for the outlet of poisonous gases. The type of material used on the walls were not as per the prescription of a fume chamber; the glass used were loose with spacing between the joints hence cannot contain the gases within, wooden frames used instead of aluminum hence posing health hazards to students and other users (vi) There were leaking water taps in most of the sinks, (vii) Terrazzo was poorly done with Cracks observed and fading colours in most parts of the floor and no polishing was done (viii) The works for 2021/22 is not labelled hence casting doubt if the works relate to 2021/2022
2	Namanjalala Secondary School: Completion of Multipurpose Hall (plastering, fitting of shutters and painting)	800,000	<ul style="list-style-type: none"> (i) There were cracks on the walls (ii) Poor or fading paint works (iii) Contract provided for roofing using gauge 28 but instead gauge 30 box profile was used (iv) Project started in 2013/14 hence had exceeded the allowable 3 years completion period. (v) The works for 2021/22 is not labelled hence casting doubt if the works relate to 2021/2022

No	Project Description and Scope of Work	Amount Kshs.	Observations
3	St. Cecilia Marinda Secondary School: purchase of 51-seater school bus	7,200,000	The bus was physically verified but it is not secured as the shade has no gate
4	St Francis Kolongolo High School; Completion of Multipurpose hall	1,129,917	(i) Project was started in 2013/2014 and has exceeded the allowable 3 years' period (ii) The works for 2021/2022 was not labeled (iii) The project bill of quantities (BoQ) were not provided to define scope of works to be carried out
5	St Augustine Maziwa Boys Secondary School: Additional funds for construction of storey tuition block for eight (8) classrooms each with a capacity of 45 students to completion	6,000,000	(i) Project is incomplete and abandoned as contractor was not on site (ii) Poor workmanship noted and poor quality materials used; Contractor used 30 gauge iron sheets instead of 28 gauge as per Bills Quantities, Roof poorly done as some of the iron sheets are falling off (iii) Iron sheets used are of poor quality and are fading. (iv) Doors: Metallic doors are of poor quality and poor finishes with sharp edges which can harm the students and other users, (v) Walling-poor workmanship noted on the walls with insufficient mortar on the joints leaving spacing hence weak walls and in some instances there was no mortar at all in the joints as stones laid on top of others. (vi) Veranda is incomplete and poor workmanship noted as the substructure left at hard core level without a slab,
6	St. Annes Umoja Girls High School: Construction of 80-students Capacity dormitory to completion	2,790,083	Dormitory completed but not yet in use
7	Bidii Assistant County Commissioners offices: additional funds for the completion of the Bidii	6,000,000	(i) At 90% completion. The contractor is however not on site and is behind schedule by four (4) months with the completion date of December 2022,

No	Project Description and Scope of Work	Amount Kshs.	Observations
	Assistant County Commissioners offices at Bidii Division headquarters		(ii) Painting incomplete with only undercoat done, (iii) Terrazzo done only in one room (iv) Interior doors not done and only wooden frames installed without shutters, (v) Ceiling not done at the veranda, (vi) No branding and signpost noted, The workmanship was however, good
		25,620,000	