

# **REPORT OF THE AUDITOR GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - LAISAMIS 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 Control, 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 - Laisamis Constituency set out on pages 1 to 40, which comprise of the statement of assets and liabilities as at 30 June, 2022, and

the 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 matter 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 - Laisamis 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 the National Government Constituencies Development Fund Act, 2015.

### **Basis for Qualified Opinion**

#### **Non-Acknowledgement of Bursaries Disbursements**

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects Kshs.78,940,119 in respect of other grants and other payments out of which Kshs.19,498,466 and Kshs.17,865,652 were disbursed as bursaries to secondary schools and tertiary institutions, respectively, totalling to Kshs.37,364,118. However, records provided for audit review revealed that out of the total bursary disbursed, bursaries totalling Kshs.32,474,118 or (87%) were acknowledged by the respective beneficiary institutions while bursaries totalling Kshs.4,890,000 or (13%) were not acknowledged.

In the circumstances, validity of the bursary disbursed but not acknowledged totalling Kshs.4,890,000 could not be ascertained.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the National Government Constituencies Development Fund - Laisamis 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 reflects final receipts budget and actual on comparable basis totalling to Kshs.201,541,993 and Kshs.191,087,454 respectively, resulting to an underfunding amounting to Kshs.10,454,539 or 5% of the budget.

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

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

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **Conclusion**

As required by Article 229(6) of the Constitution, and 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 Method for Sports Kits**

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects Kshs.78,940,119 in respect to other grants and other transfers which includes Kshs.2,411,000 in respect to transfers to sports projects for purchase and distribution of sports kits and trophies to schools and registered football clubs through request for quotation. However, three suppliers requested to quote for the supply were not in the list of prequalified suppliers contrary to Section 106(2)(a) that requires that the accounting officer of a procuring entity shall give the request to such persons as are registered/prequalified by the procuring entity. In addition, there was no evidence that the sports Project Management Committee (PMC) conducted a market survey before awarding the quotation contrary to Section 91(4) of the Public Procurement and Assets Disposal Regulation, 2020 that states that before any decision to award a procurement under request for quotation the head of a

procurement function shall by way of a professional opinion make a recommendation based on a market survey.

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

## **2. Irregular Award of Contract**

The statement of receipts and payments and as disclosed in Note 8 to the financial statements reflects Kshs.8,182,073 in respect to acquisition of assets which includes Kshs.7,862,072 in respect to construction of buildings, out of which Kshs.4,000,000 was for construction of a reinforced concrete ramp attached to Laisamis Fund's office building for use by people living with disability. The project for construction of a ramp was awarded at a contract price of Kshs.4,066,934 to the same contractor without subjecting the additional works to competitive bidding. This is contrary to Section 158 (1) of the Public Procurement and Asset Disposal Regulations, 2020 which states that Procurement of goods, works and services under these Regulations shall be competitive in accordance with the provisions of Section 157(3)(b) of the Act.

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

## **3. Expenditure not within Mandate**

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects Kshs.78,940,119 in respect to other grants and other payments which include Kshs.28,150,000 spent on security projects. Included in the Kshs.28,150,000 was Kshs.13,000,000 utilized on opening of new roads which is a devolved function of the County Government. This is contrary to Section 24(a) of the National Government Constituencies Development Fund Act, 2015, which requires that all projects under this Act shall only be in respect to works and services falling within the functions of the national government.

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

## **4. Delay in Implementation of Projects**

The project implementation status report provided for audit review indicated that seventy-five (75) projects worth Kshs.137,088,879 were budgeted to be implemented. However, seventy-three (73) projects worth Kshs.131,588,879 were completed, one (1) project worth Kshs.2,000,000 was ongoing while one (1) project worth Kshs.1,500,000 had not started and one (1) project was completed but the project was vandalized.

In the circumstances, the value for money of the projects not yet completed could not be confirmed.

## **5. Unsatisfactory Implementation of Projects**

The statement of receipts and payments and as disclosed in Note 6 to the financial statement reflects a balance of Kshs.88,000,000 in respect to transfer to other government units out of which Kshs.68,100,000 and Kshs.19,900,000 are transfers to primary and secondary schools, respectively. Physical verification carried out in March, 2023 revealed the following observations: -

### **5.1 Kamatonyi Primary**

A transfer of Kshs.1,500,000 was made to the School for construction of one classroom, supply of 20 metal frame desk, installation of piping & gutters, supply, and installation of 10,000 litre water tank with a concrete slab at Kamatonyi primary School. Although the project was complete, the gutters were installed on one side of the building only and the water tank was not fitted with an outlet tap nor labelled. No metal frame desks were supplied to the school which was a material deviation from the priced bill of quantities.

### **5.2 Losidan Primary school**

An amount of Kshs.1,500,000 was transferred to the School for construction of one classroom, supply of 20 metal frame desk, installation of pipes & gutters, supply, and installation of 10,000 litres water tank with a concrete slab. Although the classroom was completed, only eleven (11) metal frame desks were delivered resulting to nine (9) desks that could not be accounted for. Further, the 11 desks available were made of wooden frame which was a material deviation from the priced bill of quantities which required metallic frame desks.

### **5.3 Tirgamo Primary School**

A transfer of Kshs.2,000,000 was made to the School for fencing of 900m length with metallic poles and barbed wires, build a wide steel gate on concrete post and construction of one double door pit latrine with a ramp on one door for persons living with disability at Tirgamo Primary School. A ramp for persons living with disability had not been installed which was a deviation from the requirement of the priced bill of quantities.

### **5.4 Loglogo Primary School**

A transfer of Kshs.1,000,000 was made to the school for renovation of dining hall at the school. Some works spelt out in the Bills of Quantities were not carried out which included installation of gutters, fixing of 75mm diameter rainwater downpipe, fitting of windowsill size 250x50m.

### **5.5 Loglogo Mixed Day Secondary School**

A transfer of Kshs.2,900,000 was made to the school for construction of two classrooms. However, although the construction had been completed, the building

was vandalised, and significant damage caused, and the water tank was stolen. The case was reported to the relevant authorities and was still under investigation.

## **5.6 Kurkum Primary School**

A transfer of Kshs.1,500,000 was made to the School for Fencing of the Primary School compound. However, the bill of quantity (BQ) required use of heavy gauge (gauge 14) chain link and barbed wire. However, a light gauge chain link was used instead. Further, the BQ required red-oxide primer and the high gross paint to be applied on the iron posts together with mass concrete at the base of the iron posts which was not done.

In the circumstances, value for money for the uncompleted projects whose expenditure total Kshs.10,400,000 could not be determined.

The audit was conducted in accordance with the International Standards for Supreme Audit Institutions (ISSAIs) 3000 and 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 comply, 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 CONTROL, RISK MANAGEMENT AND GOVERNANCE**

### **Conclusion**

As required by Section 7(1)(a) of the Public Audit Act, 2015, and based on the audit procedures performed, except for the matter described in the Basis for Conclusion on Effectiveness of Internal Control, 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 control, risk management and overall governance were not effective.

### **Basis for Conclusion**

#### **Lack of Internal Audit Function**

As reported in the previous year, the Fund has not established an Internal Audit Function. This is contrary to Section 73(1) of the Public Finance Management Act, 2012 which states that every national government entity shall ensure that it complies with this Act and has appropriate arrangements in place for conducting internal audit according to the guidelines of the Accounting Standards Board. In addition, although the financial statements state that the Fund had constituted an Audit and Risk Management Committee to provide fiduciary oversight, there was no evidence of meetings to discuss audit reports and make recommendation.

In the circumstances, existence of an effective internal control at the Fund could not be confirmed.

The audit was conducted in accordance with the International Standards for Supreme Audit Institutions (ISSAIs) 2315 and 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 comply 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 control, 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 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 continue 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**

**15 May, 2023**