

# REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - MAKADARA 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 - Makadara Constituency set out on pages 1 to 34, which comprise the statement of assets and liabilities as at 30 June, 2022, and the statement of receipts and payments, statement of cash flows and summary statement of appropriation for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of the National Government Constituencies Development Fund - Makadara Constituency as at 30 June, 2022, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Cash Basis) and comply with the Public Finance Management Act, 2012 and National Government Constituencies Development Fund Act, 2015.

## **Basis for Qualified Opinion**

### **1. Unsupported Use of Goods and Services Expenditure**

The statement of receipts and payments reflects use of goods and services expenditure balance of Kshs.8,209,120 as disclosed in Note 5 to the financial statements. Review of records revealed the following instances of unsupported expenditures:-

- i. Included in the use of goods and services balance of Kshs.8,209,120 are other committee expenses and committee allowances of Kshs.1,200,000 and Kshs.1,248,000 respectively. However, detailed ledgers confirming the dates of payment, payee, activity descriptions and amounts paid were not provided for audit verification.
- ii. Included in the balance of use of goods and services balance of Kshs.8,209,120 are accommodation-domestic travels of Kshs.395,048 and Kshs.916,000 respectively. However, review of sampled payment vouchers revealed that they were not sufficiently supported with the relevant travel receipts, requisitions outlining the budget and itinerary for the safaris undertaken and back to office reports

In the circumstances, the validity, accuracy and completeness of use of goods and services expenditure of Kshs.3,759,048 for the year ended 30 June, 2022 could not be confirmed.

### **2. Unsupported Transfers to Primary Schools**

The statement of receipts and payments reflects transfers to other Government units amount of Kshs.83,986,387 which includes transfers to primary schools of Kshs.68,431,540 as disclosed in Note 6 to the financial statements. However, review of records revealed that payments totaling to Kshs.10,098,600 made in respect four (4) primary schools were not included in the ledger supporting the transfers.

In addition, payments totaling to Kshs.13,799,000 in respect of supply of standard lockers and chairs were not supported with delivery notes and inspection and acceptance reports.

Further, expenditure totalling to Kshs.27,720,317 in respect of construction of classrooms and levelling of playground at Star of Hope Primary School were not supported by interim certificates or completion and acceptance certificates as proof of works done.

In the circumstances, the validity, accuracy and completeness to transfers to primary expenditure of Kshs.51,617,971 for the year ended 30 June, 2022 could not be confirmed.

### **3. Unsupported Construction of Perimeter Wall and Renovations at Jogoo Road Police Station**

Included in other grants and other transfers balance of Kshs.58,173,195 is security projects expenditure of Kshs.3,516,895 as disclosed in Note 7 to the financial statements. Review of records revealed that the amount was disbursed towards construction of a perimeter wall and renovations at Jogoo Road Police Station. The contract agreement for the project with a local contractor dated 14 April, 2022 indicated a contract sum Kshs.8,473,280. However, the bill of quantities reflected a total of Kshs.12,078,540 resulting to an unexplained variance of Kshs.3,605,260.

In addition, a cumulative amount of Kshs.6,344,780 had been made to the contractor as at time of audit, while only Kshs.5,727,804 was traceable to the cash book, leaving a balance of Kshs.616,976 unaccounted for.

Further, expenditures on provisional sums for the guard house, project management committee (PMC) allowances and contingency allowances of Kshs.450,000, Kshs.300,000 and Kshs.200,000, respectively were not supported by appropriate and sufficient documentation.

In the circumstances, the validity, accuracy and completeness of security expenditure of Kshs.6,344,780 on the project 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 - Makadara 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 final expenditure budget of Kshs.183,025,690 against actual expenditure of Kshs.163,624,368, resulting in budget under-utilization of Kshs.19,401,322 equivalent to 11% of the approved budget.

In the circumstances, the under-absorption of the budget may have affected implementation of activities plan for the year, impacted negatively on service delivery to the people of Makadara Constituency.

## 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. Delayed Completion in Construction of NG-CDF Offices

The statement of receipts and payments reflects other payments totalling to Kshs.10,000,000 which as disclosed at Note 9 to the financial statements, was in respect of NGCDF offices. Review of records revealed that the contract for construction of CDF offices commenced on 14 April, 2022 with an expected completion date of 11 October, 2022. However, field verification at the time of audit on 1 March, 2023 revealed that the project was incomplete.

In addition, the contractor had only been paid a cumulative amount of Kshs.6,110,068 while the project management committee bank account did not reflect any unspent balances.

In the circumstances, it was not possible to confirm that value for money was obtained in the construction of the NG-CDF offices.

#### 2. Transfer to Other Government Units

The statement of receipts and payments reflects transfers to other Government units amount of Kshs.83,986,387 which, as disclosed in Note 6 to the financial statements.

##### 2.1 Lack of Project Management Committees for Primary School Projects

Included in transfers to other Government units amount of Kshs.83,986,387 is transfers to primary schools of Kshs.68,431,540, out of which payments totalling to Kshs.26,492,445 were made directly to the contractor instead of being disbursed to project management committee bank accounts. The details of the transactions are as tabulated below;

Name of School	Name of the Contractor	Payment Details	Payment Date	Amount Kshs.
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Ofafa Primary School and Baraka Primary School	Jericho Primary	Ponela Limited (K)	Supply of Standard 400 Lockers and Chairs	15 Aug 2021	2,544,000
St Johns Primary School and Harambee Primary School		Figmax Services Ltd	Supply of standard 360 lockers and chairs	05 Aug 2021	2,293,000
Bahati Primary School and Star of Hope Secondary School		Figmax Services Ltd	Supply of standard 400 lockers and chairs	05 Aug 2021	2,582,000
Star of Hope Primary School		Pridowe Enterprises	Supply of standalone 200 desks and chairs with steel frame	30 Nov 2021	3,190,000
Star of Hope Primary School		Pridowe Enterprises	Supply of standalone desks and chairs with steel frame	29 Dec 2021	3,190,000
Star of Hope Primary School		Dragomen Construction Company Ltd	Levelling of play ground	14 Apr 2022	3,132,000
Star of Hope Primary school		Dragomen Construction Company Ltd	Construction of new classrooms	18 Nov 2021	3,108,403
Star of Hope Primary school		Dragomen Construction Company Ltd	Construction of new classrooms	10 Aug 2021	6,438,000
Star of Hope Primary school		Dragomen Construction Company Ltd	Construction of new classrooms	30 Dec 2021	15,041.914
<b>Total</b>					<b>26,492,445</b>

This is contrary to the provisions of Section 36(1) of the National Government - Constituency Development Act, 2015 which states that: "Projects under this Act shall be implemented by the project management committee appointed in accordance with the regulations made under Section 57, with the assistance of the relevant department of Government and all payments through cheques or otherwise shall be processed and effected in accordance with government regulations for the time being in force".

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

## 2.2 Unsatisfactory Implementation of Secondary School Projects

The statement of receipts and payments reflects transfers to other Government units amount of Kshs.83,986,387 which includes transfers to secondary schools of Kshs.15,544,847 as disclosed in Note 6 to the financial statements. However, review of

records and field verification carried out at the time of audit in 22 March, 2023 revealed the following unsatisfactory matters;

- i. Included in the balance is disbursed Kshs.11,735,100 towards construction of 4 classrooms at a cost of Kshs.11,735,100 at St. Anne's Girls Secondary School. However, field verification revealed that the down pipes and rain water gutters were not installed as provided for in the bill of quantities without proper explanation.
- ii. Included in the balance is an amount of Kshs.2,700,000 disbursed towards construction of 4 classrooms and provision of 200 lockers and chairs at St. Patrick's Secondary School. However, field verification at the time of audit in March, 2023 revealed that the project had stalled, and no lockers and chairs had been delivered.

In the circumstances, value for money from the expenditure totalling to Kshs.14,435,100 on secondary schools for the year ended 30 June, 2022 could not be ascertained.

### **3. Unapproved Project Re-allocations**

Review of records revealed variations in various projects costs without the Board approvals as enumerated below:-

- i. Projects for the construction of 32No. classrooms, 72No. toilets and a staffroom at Star of Hope Primary School at a cost of Kshs.108,928,060. However, the contractor was paid a total of Kshs.129,284,342, resulting in unapproved contract price variation of Kshs.20,356,282.
- ii. Note 7 to the financial statements reflects other grants and other transfers totalling Kshs.58,173,195 which includes bursaries to secondary schools and tertiary institutions amounts of Kshs.36,665,000 and Kshs.7,984,000 respectively. However, included in bursaries to secondary schools is bursaries to 300 students in tertiary institutions without proper approval for the reallocation.
- iii. Included in other grants and other transfers in Note 7 to the financial statements is expenditure totalling to Kshs.3,516,895 incurred on security projects. Review of the project activity as per the approved project code list indicates; "construction of administration block consisting of offices for officer in charge of stations (OCS), Deputy OCS, traffic, crimes, armoury, waiting bay and 6 doors toilet". However, the project activity as per the payment voucher provided indicated "Construction of Jogoo Road Police Station perimeter wall and renovations".

This is contrary to Section 6(1) of the National Government Constituency Development Fund Act, 2015 which provides that once funds are allocated for a particular project, they shall remain allocated for that project and may only be re-allocated for any other purpose during the financial year with the approval of the Board.

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

#### **4. Failure by Project Management Committees to Submit Returns**

The Makadara NG-CDF disbursed Kshs.142,159,582 in relation to transfers to other government units and other grants and transfers, to project management committees, for use in various development activities across the Constituency. However, the following unsatisfactory matters were made during the audit;

- i. The project management committees did not maintain proper records of accounting and handing over, in relation to projects under implementation, for the purpose of accounting to the Constituency Committee for the funds received.
- ii. There were no project management committees work plans approved by the Constituency Committee, indicating how the PMC intended to utilize the funds given, before they are released.
- iii. The Project Management Committee did not make quarterly reports to the Constituency Committee on the status of the project management committee accounts.
- iv. Projects implemented during the year were not incorporated in Annex 5 - PMC bank balances as at 30 June, 2022.

This is contrary to the provisions of Regulation 15(1) of the National Government Constituency Development Regulations, 2016 which states that there shall be appointed a project management committee for each project in a Constituency which shall—(a) implement projects in consultation with the relevant departments of government; (b) maintain proper records of all minutes, accounting documents and other records in relation to projects being implemented; (c) open and maintain an independent bank account for each project; (d) prepare returns and file them with a Constituency Committee.

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

#### **4. Failure to Establish a Project Management Committee (PMC) for Sports Activities**

The statement of receipts and payments reflects other grants and other transfers of Kshs.58,173,193 which includes sports projects expenditure of Kshs.2,660,000 as disclosed in Note 7 to the financial statements. However, review of the payment records revealed that a project management committee was not established for the purpose of implementing the project, but instead the Fund Account Manager organized the events and paid for them. This is contrary to the provisions of Section 36(1) of the National Government -Constituency Development Act, 2015 which states that: "Projects under this Act shall be implemented by the project management committee appointed in accordance with the regulations made under Section 57, with the assistance of the relevant department of Government and all payments through cheques or otherwise shall be processed and effected in accordance with government regulations for the time being in force".

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

## **5. Failure to Brand a Completed Security Project**

Included in other grants and other transfers balance of Kshs.58,173,195 is security projects expenditure of Kshs.3,516,895 as disclosed in Note 7 to the financial statements. Review of records revealed that the amount was disbursed towards construction of a perimeter wall and renovations at Jogoo Road Police Station. However, field verification revealed that the project was not labelled in line with the provisions of Regulation 11(1)(cc) of the National Government Constituencies Development Regulations (2016) which states that the functions of a Constituency Committee is to ensure projects are labelled in accordance with the guidelines issued by the Board.

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

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

## **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

### **Conclusion**

As required by Section 7(1)(a) of the Public Audit Act, 2015, based on the audit procedures performed, I confirm that, nothing has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

### **Basis for Conclusion**

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether effective processes and systems of internal control, risk management and overall governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

### **Responsibilities of Management and those Charged with Governance**

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Cash Basis) and for maintaining effective internal control as Management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal control, risk management and overall governance.

In preparing the financial statements, Management is responsible for assessing the Fund's ability to continue to sustain services, disclosing, as applicable, matters related to



sustainability of services and using the applicable basis of accounting unless Management is aware of the intention to terminate the Fund or to cease operations.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

In addition to the responsibility for the preparation and presentation of the financial statements described above, Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them, and that public resources are applied in an effective way.

Those charged with governance are responsible for overseeing the Fund's financial reporting process, reviewing the effectiveness of how Management monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

### **Auditor-General's Responsibilities for the Audit**

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal control in order to give an assurance on the effectiveness of internal controls, risk management and 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 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 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 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**

**06 July, 2023**