

# REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND-MATUNGULU 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 - Matungulu Constituency set out on pages 1 to 39 which comprise of the statement of assets and liabilities as at 30 June, 2022, the statement 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 the National Government Constituencies Development

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

## **Basis for Qualified Opinion**

### **Unconfirmed Assets Balance**

The summary of fixed asset register as disclosed in Annex 4 to the financial statements reflect fixed assets balance of Kshs.16,074,360. Included in the assets register is land with zero balance while the Fund has buildings and structures balance of Kshs.10,187,700, which are located on the land. Further, the Management did not provide the title deed to confirm value and ownership of the land.

In the circumstances, the existence, ownership, accuracy and completeness of the fixed assets balance of Kshs.16,074,360 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 - Matungulu 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 judgement, are of most significance in the audit of the financial statements. There were no key audit matters to report on in the year under audit.

### **Other Matter**

#### **Budgetary Control and Performance**

The summary statement of appropriation reflects final receipts budget and actual on comparable basis of Kshs.226,251,610 and Kshs.182,297,352 respectively, resulting to underfunding of Kshs.43,954,258 or 19% of the budget. Similarly, the Fund expended Kshs.183,326,034 against a budget of Kshs.226,251,610 resulting to under-expenditure of Kshs.42,925,576 or 19% of the budget.

In the circumstances, the under-funding and under-expenditure affected implementation of the planned activities and programs and 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. Failure to Implement Paid up for Electricity Projects

The statement of receipts and payments reflects other payments amount of Kshs.7,167,154 as disclosed in Note 9 to the financial statements which includes payment to Rural Electrification and Renewable Energy Corporation amount of Kshs.5,299,331. The funds were allocated for electricity installation at St. John Manza Katine, Kivani Kwa Kumbu, Utooni and Kavumbu Syanthi villages. Field verification carried out in the month of March, 2023 revealed that the electricity works had not begun in the identified villages. Further, detailed contract outlining timelines and the scope of work to be carried out were not provided for audit review.

In the circumstances, value for money for electricity installation amounting to Kshs.5,299,331 allocated for the projects could not be confirmed.

### 2. Failure to Return PMC Bank Balances

Note 17.4 and Annex 5 to the financial statements reflects PMC account balances of Kshs.29,703,238. Review of the PMC account balances schedule detailing projects revealed that eleven (11) project accounts with a total balance of Kshs.19,207,299 had not been transferred back to the main NG-CDF account. The eleven (11) projects had however, been completed. This is contrary to Section 12(8) of the National Government Constituencies Development Fund Act, 2015, which states that all unutilized funds of the Project Management Committee shall be returned to the constituency account.

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

### 3. Failure to Implement Projects

The statement of receipts and payments reflects transfers to other Government units amount of Kshs.89,754,041 as disclosed in Note 6 to the financial statements which includes transfers to Secondary schools amount of Kshs.36,924,514, being expenditure on implementation of identified projects. Field inspection and verification of projects conducted in the month of March, 2023 revealed the following anomalies:

- i. Itheuni Secondary School project for the construction of one classroom and a perimeter wall, at a total cost of Kshs1,950,000 had not been completed. The classroom was at foundation stage an indication of slow implementation.

- ii. Katwanyaa Secondary School project for construction of two (2) classrooms at a cost of Kshs.2,179,411 had not started, though funds had been transferred to the PMC account.
- iii. Matungulu Girls Secondary School project for the construction of thirty-two (32) classrooms and an ablution block at a contract sum of Kshs.31,874,487 had not started though an amount of Kshs.11,150,450 had been transferred to the PMC Account. Further, the contractor had not erected a signage or publicity signboard.
- iv. St Joseph Katheka project for construction of two (2) classrooms at a contract sum of Kshs.2,051,988.60 which started in the financial year 2019/2020 was completed but floors and the walls had cracks.
- v. Tala Police Post project for construction of the administration office block at contract sum of Kshs.6,790,335 had the following defects:
  - The records office walls had cracks which were under repair by the contractor. The finished walls had not been repainted.
  - The male cell had no ventilation risking the lives of the inmates through suffocation.
  - The cell toilet which was to be inside the cell was constructed separately, and the inmates cannot access it.
  - The window stays were not installed, and pieces of wood were being used for windows to remain open.
  - The half door entrance opens on the wrong side hence no access.
  - The two-half door locking bolts are short and not reinforcing the required security.
  - The building columns were constructed using 4 D12 metal rods instead of the 6 that were recommended through a Presidential directive for storied buildings.

In the circumstances, value for money was not obtained by the residents and may have impacted negatively on service delivery to the public.

#### **4. Project Implementation Status**

Review of the approved code list and project implementation status revealed that the Management had budgeted to implement a total of forty-two (42) projects worth Kshs.81,940,888.29. The project implementation status indicates that funds for eight (8) projects valued at Kshs.24,369,331 were not disbursed and twenty-three (23) projects with total allocation of Kshs.32,295,029 had not started.

In the circumstances, the Constituents did not get value for money allocated for the projects which were not started.

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 matters 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**

#### **1. Lack of Risk Management Policy and Disaster Recovery Plan**

Review of the internal control system for the Fund revealed that the Management had not established a Risk Management Policy to identify, mitigate and control operational and other risks that the Fund may face from time to time. In addition, the Management did not carry out risk assessment to identify and address key areas of concern and document specific controls in response to any risks identified. Further, there was no documented disaster recovery plan to provide guidance in the event of a disaster.

In the absence of formally documented Risk Management Policy and Disaster Recovery Plan, the Fund is exposed to risks related to operations and system failure.

#### **2. Lack of Bursary Award Criteria**

The statement of receipts and payments reflects other grants and transfers of Kshs.69,404,613, which includes bursaries disbursed to secondary schools and tertiary institutions of Kshs.25,284,000 and Kshs.12,011,000 respectively as disclosed in Note 7 to the financial statements. Review of the bursary award records revealed that the Management did not have an approved criteria for selection and award of bursaries to the beneficiaries.

In the circumstances, there is risk of undeserving students being awarded the bursary.

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 controls 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 controls, risk management and overall governance.

In preparing the financial statements, Management is responsible for assessing the Fund's ability 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 its 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 controls may not prevent or detect misstatements and instances of noncompliance. 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 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 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**

**19 June, 2023**