

# REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - TINDERET 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 - Tinderet Constituency set out on pages 1 to 51 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 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 - Tinderet 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 Project Management Committee Bank Balances**

Note 17.4 to the financial statements reflect Project Management Committee (PMC) bank balances amounting to Kshs.56,074,196 in respect to seventy-five (75) bank accounts held in two commercial banks. However, cash books, bank reconciliation statements, certificates of bank balance and bank statements for the seventy-five (75) bank accounts were not provided for audit review.

In the circumstances, the accuracy and completeness of project management committee bank balance of Kshs.56,074,196 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 - Tinderet 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 indicates that the Fund had approved final budget receipts of Kshs.219,632,489 comprising of Kshs.137,088,879 for 2021/2022 financial year, unspent balance brought forward from 2020/2021 financial year of Kshs.45,088,879 and bank balances of Kshs.37,454,731 for 2020/2021 brought down. During the year the fund incurred expenditure of Kshs.188,241,453 or 86% of the approved budget resulting in under expenditure of Kshs.31,391,036 or 14% of the budget.

The underperformance in expenditure may have affected the planned activities of the Constituency and could have impacted negatively on service delivery to the public.

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

There were issues raised in the audit report for 2020/21 financial year of which no report or recommendations from the Fund Management and oversight bodies were submitted for review. The issues remain unresolved contrary to Section 149(2)(l) of the Public Finance Management Act, 2012 which require accounting officers designated for national government entities to try to resolve any issues resulting from an audit that remain outstanding.

In the circumstances, the issues remain unresolved.

## **3. Projects**

### **3.1 Project Implementation**

Review of the project status report provided revealed that seventy-one (71) projects with a budget of Kshs.80,610,610. However, only twenty-two (22) projects with a disbursement of Kshs.34,110,000 were complete, while forty-nine (49) projects with a disbursement of Kshs.46,500,000 were ongoing.

### **3.2 Project Verification**

During the year under review, twelve (12) projects with a budget and fund disbursement of Kshs.27,900,00 were verified in March 2022. Four (4) projects were found to be complete and eight (8) were ongoing.

Delay in implementation of approved projects denies residents of Tinderet Constituency benefits accruing from the approved and completed projects.

## **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. Transfers to Other Government Units**

The statement of receipts and payments reflects transfers to other government units amount of Kshs.117,550,000 which, as disclosed in Note 6 to the financial statements includes transfers to Primary Schools amount of Kshs.28,850,000, Secondary Schools'

amount of Kshs.77,200,000 and Tertiary institutions of Kshs.11,500,000 for construction works. However, approved work and procurement plans were not provided for audit contrary to Regulation 25(1) of National Government Constituencies Development Fund Regulations, 2016 which states that the Officer of the Board seconded to the Constituency shall prepare a detailed budget, procurement plan and work plan for the year, for the National Government Constituencies Development Fund Committee Office, and shall, within the first quarter of a new financial year, present them to the Committee for approval.

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

## **2. Other Grants and Transfers - Emergency Projects**

The statement of receipts and payments reflects other grants and transfers amount of Kshs.59,756,643 which includes emergency projects payments of Kshs.2,965,600 as disclosed in Note 7 to the financial statements. The emergency payment of Kshs.2,965,600 was made to nine (9) projects during the year.

However, there was no evidence to indicate the constituency committee reported to the Board within thirty days of occurrence of emergency in respect to utilization of Kshs.2,965,600 in emergencies during the year contrary to Regulation 20(2) of National Government Constituencies Development Fund Regulations, 2016 which states that the utilization of the emergency reserve shall be reported to the Board within thirty days of the occurrence of the emergency, in the format prescribed by the Board.

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

## **3. Other Grants and Transfers - Issuance of Bursaries**

The statement of receipts and payments reflects other grants and transfers amount of Kshs.59,756,643 which includes bursary to secondary schools' amount of Kshs.33,531,043 and bursary to tertiary institutions of Kshs.18,500,000 all totaling to Kshs.52,031,043 as disclosed in Note 7 to the financial statements. However, there was no evidence to show that vetting, identification and categorizing of needy students was done by the bursary subcommittee that should include area education officer or a representative from the Ministry of Education contrary to CDF Board circular reference VOL1/111 dated 13 September, 2010 which requires formation of a subcommittee of Constituency Development Fund to manage the bursary scheme, which subcommittee should include two co-opted members one who must be an education officer or an officer seconded from Ministry of Education. Further, evidence of acknowledgement in form of receipts and acknowledgement letters from the various beneficiary institutions that received funds to support the bursary payments were not provided for audit. In addition, the Fund does not maintain a current/updated database of secondary schools, colleges and universities as registered by the Ministry of Education to ascertain whether the students who applied for and received the bursary are undertaking their studies in registered institutions.

In the circumstances, the Management was in breach of the law and the Fund is likely to lose funds through payment of bursaries to non-deserving students.

#### **4. Late Disbursement of Receipts**

The statement of receipts and payments reflects transfers from the National Government Constituencies Development Fund Board amount of Kshs.182,177,758 made up of the AIEs for 2020/2021 and 2021/2022 financial years as disclosed in Note 1 to the financial statements. However, an amount of Kshs.45,088,879 represents a delayed disbursement for the financial year 2020/2021. No reason has been provided for the delayed disbursements for the financial year 2020/2021 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 Management was in breach of the law and delay in fund disbursements from the board results in delay in implementation of approved projects or programs and therefore denies the residents of Tinderet Constituency the services and benefits accruing from completed projects.

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 controls, risk management and overall governance

were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

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

The 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 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 intentions to terminate the Fund or to cease operations.

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

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

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

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

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

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

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

**18 May, 2023**