

# REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - VIHIGA 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 the National Government Constituencies Development Fund - Vihiga Constituency set out on pages 1 to 44, 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 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 - Vihiga 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**

### **1. Unsupported Bursary Disbursements**

The statement of receipts and payments as disclosed in Note 7 to the financial statements reflects other grants and transfers of Kshs.72,224,133 which includes bursaries of Kshs.39,700,242, Kshs.13,819,100 and Kshs.965,000 to various secondary schools, tertiary institutions and special schools respectively all totalling to Kshs.54,484,342. Review of the records provided for audit revealed that details of the beneficiaries including names of the learning institution, bank details of the learning institution, bursary amount, full names of the student, admission number, type of institution and county in which the learning Institution is located were not provided for audit review.

In the circumstances, the propriety and accountability of the expenditure of Kshs.54,484,342 could not be confirmed.

### **2. Unsupported Emergency Projects**

The statement of receipts and payments as disclosed in Note 7 to the financial statements reflects other grants and transfers of Kshs.72,224,133 which includes an expenditure on emergency projects amounting Kshs.6,750,200. However, there was no evidence provided to confirm that the emergency relates to urgent, unforeseen need for expenditure that could not have been delayed until the next financial year without harming the public interest of the constituents. In addition, there was no evidence provided to confirm that the use of the emergency reserves was reported to the Board within thirty (30) days of occurrence.

In the circumstances, the propriety of the expenditure of Kshs.6,750,200 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 - Vihiga 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 under the year under review.

## **Other Matter**

## **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. The report on progress on follow-up of the auditor's recommendations in the financial statements for the year under review indicates that some of the issues had been resolved and work to resolve the remainder was ongoing as at 30 June, 2022 and the actual status of all the issues will be confirmed after they are discussed by the Oversight Committee.

## 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. Variation of the Contract Sum

##### **(i) Kidinye Secondary School-Construction of 2 storeyed 6No. Classrooms/Tuition Block & 2No. Office Block**

The tender was awarded on 4 December, 2019 at a contract sum Kshs.9,723,131.60. The project was revised upwards to Kshs.14,371,080.20, which is 32% of the original contract sum.

##### **(ii) Vihiga KMTTC-Proposed Kenya Medical Training College Campus**

The tender was awarded on 19 May, 2021 at contract sum of Kshs.19,354,175. The contract sum was revised upwards to Kshs.35,000,000 as per NG-CDF project proposal minutes dated 25 July, 2022 or 44.7% of the original contract sum.

##### **(iii) Chanzeywe Technical & Vocational Centre -Construction of Concrete Posts & Chain-Link Fence, Gate & Sentry**

The contract sum as per the tender was Kshs.1,502,200. However, payment voucher No. 126 indicates that the contractor was paid a total of Kshs.1,547,750 resulting to a variance of Kshs.45,550 which was not explained.

This was contrary to Section 139. (1) (a) (4) (c) of the Public Procurement and Asset Disposal Act, 2015 states that an amendment or a variation to a contract resulting from a procurement proceeding is effective only if (a) the variation or amendment has been approved in writing by the respective tender awarding authority within a procuring entity and any variation of a contract shall only be considered after twelve months from the date of signing the contract and shall only be considered if the quantity variation of works does not exceed twenty per cent of the original contract quantity.

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

#### 2. Delayed Implementation of Projects and Sub-standard Workmanship

The statement of receipts and payments reflects transfers to other government units amount of Kshs.90,293,760 during the year under review. Included in the amount is Kshs.50,946,010 and Kshs.26,547,750 in respect of transfers to secondary schools and tertiary institutions. Physical inspection of the projects in the month of March, 2023 revealed that most of the projects are yet to be completed. Sub-standard workmanship was also noted in some of the projects as detailed below:

**(i) Chango Secondary School-Construction of One Storey 150 Student Capacity Dormitory Phase1**

The project commenced in the 2019/2020 financial year with original contract sum of Kshs.13,518,070. The amount paid as at 30 June, 2022 was Kshs.8,000,000. Summary report on ongoing projects and payments made to date revealed slow progress in the implementation since commencement in 2019/2020 financial year.

**(ii) Ikumba Secondary School- Construction of 2 Storey Tuition Block Comprising of 12 Classrooms and 3 Offices**

The project commenced in the 2019/2020 financial year with original contract sum of Kshs.14,700,000. The amount paid as at 30 June, 2022 was Kshs.9,300,000. Physical inspection of the project in March, 2023 revealed that the floors and walls were already cracked possibly due to poor workmanship. The contractor began roofing of the building using timber but it stalled hence all the timber is destroyed due to heavy rains and the works need to be redone. One of the pillars was poorly constructed and had already started to wear and tear posing risk even before the building is completed.

**(iii) Kidinye Secondary School-Construction of 2 Store Building Comprising of 6 Classrooms and 3 Offices**

The project commenced in the 2018/2019 financial year with original contract sum of Kshs.9,723,131. The amount was revised upwards to Kshs.14,371,080 and the amount paid as at 30 June, 2022 was Kshs.13,500,000. Physical inspection of the project in March, 2023 revealed that the floors and walls were already cracked possibly due to poor workmanship even before the project was completed and handed over officially.

**(iv) Madira Secondary School - Construction of 150 Student Capacity Dormitory**

The project commenced in the 2019/2020 financial year with contract sum of Kshs.31,393,520. The amount paid as at 30 June, 2022 was Kshs.10,000,000. Physical inspection of the project in March, 2023 revealed that the project was abandoned, stalled and no activities were noted while the walls had already started to wear and tear.

**(v) Masana Secondary School-Construction of 2 Storey Building Comprising of 8 Classrooms, 3 Offices and One Exam Hall**

The project commenced in 2018/2019 financial year with original contract sum of Kshs.18,197,268. The amount paid as at 30 June, 2022 was Kshs.10,300,000. Summary report on ongoing projects and payments made to date revealed slow progress in the implementation of the project since commencement in 2018/2019 financial year.

**(vi) Construction of Vihiga KMTTC College**

The project commenced in the 2020/2021 financial year with original contract sum of Kshs.19,354,175. The amount was revised upwards to Kshs.35,000,000 with payments

of Kshs.35,000,000 to date. Physical verification in March, 2023 revealed that there were no activities on the site. Further, only the ground floor is complete despite full varied contract sum of Kshs.35,000,000 fully paid. Further, the project lacks comprehensive routine supervision and monitoring and evaluation reports.

### **(vii) Construction of 2 Storey Classrooms at Vigna Secondary School**

The project commenced in the 2018/2019 financial year with original contract sum of Kshs.14,400,000. The amount paid as at 30 June, 2022 was Kshs.6,939,999. Summary report on ongoing projects and payments made to date revealed slow progress in the implementation of the project since commencement in 2018/2019 financial year.

In the circumstances, the delay in completion of the projects has negatively impacted service delivery to the public.

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**

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 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 controls in order to give an assurance on the effectiveness of internal controls, 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 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 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 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 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**