

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - WESTLANDS CONSTITUENCY FOR THE YEAR ENDED 30 JUNE, 2022

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 - Westlands Constituency set out on pages 1 to 34, 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 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 National Government Constituencies Development Fund – Westlands 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. Inaccuracies in the Financial Statements

The statement of receipts and payments reflects comparative balances which are at variance with the certified financial statements balances as analysed below:

Item	Opening Balance 2021/2022 (Kshs.)	Closing Balance 2020/2021 (Kshs.)	Variance (Kshs.)
Transfer to Other Government Entities	63,598,524	56,963,874	6,634,650
Other Grants and Transfers	16,029,390	22,664,040	(6,634,650)
Transfer to Primary School	15,791,674	15,463,874	327,800
Transfer to Secondary School	47,806,850	41,500,000	6,306,850

In addition, Note 7 to the financial statements reflects other grants and transfers prior year balance of Kshs.16,029,390. However, omitted from this balance is the expenditure on environment projects amount of Kshs.720,000 and emergency projects amount of Kshs.5,514,650.

Further, Note 17.4 to the financial statements and as analysed under Annex 5 reflect Project Management Committee account balances totalling to Kshs.28,951,743 as at 1 July, 2021 while the certified financial statements reflect Kshs.42,197,586 resulting to a variance of Kshs.13,246,113 which was not explained or reconciled.

In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

2. Unsupported Bursary to Tertiary Institutions

The statement of receipts and payments reflects an amount of Kshs.73,832,619 in respect of other grants and transfers as disclosed under Note 7 to the financial statements. Out of this amount, Kshs.15,880,556 and Kshs.45,588,860 was in respect of bursary to tertiary institutions and secondary schools respectively. A review of records provided for audit review in respect of bursary to tertiary institutions revealed that Kshs.2,098,000 was paid as secondary schools bursary but was classified under bursary to tertiary institutions. In addition, the list of students and the amount paid attached to the payment voucher totaled to Kshs.1,998,600 as detailed in the attached Appendix. As a result, the bursary to tertiary institutions is overstated by Kshs.2,098,000. Further, the amounts disbursed to tertiary institutions were not supported with a schedule of benefiting institutions, names

of respective students, registration or admission numbers, amounts, cheque numbers and dates amounts were released.

In the circumstances, the accuracy and propriety of the bursary expenditure totalling to Kshs.61,469,416 could not be confirmed.

3. Security Projects

The statement of receipts and payments reflects an amount of Kshs.73,832,619 in respect of other grants and transfers as disclosed under Note 7 to the financial statements. Included in this amount is Kshs.3,691,899 in respect of security projects. Examination of the approved project code list for security projects revealed that the project code list allocated Kshs.3,191,899 for construction of 2 rooms office with 2 inside flush toilets with completion to the roof. However, the activity carried out involved construction of 2 room offices with a board room. No approval from the Board was provided for the variation. The tender documents for the project were not provided, and therefore it was not possible to verify the project progress and status.

Physical verification carried out on 13 March, 2022 revealed that there was only one flush toilet instead of 2, as recommended and the visitors' seats were 3 not 10 as recommended.

An inventory record for the assets acquired was not maintained.

In the circumstances the completeness of projects expenditure amounting to Kshs.3,191,899 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 - Westlands 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 audit 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 a final expenditure budget of Kshs.251,608,630 against actual expenditure of Kshs.227,335,170 resulting in budget under-utilization of Kshs.24,273,460 equivalent to 10% of the approved budget amount.

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

2. Unresolved Prior Year Matters

In the audit of the previous year, several issues were raised. Page 33 and 34 of the financial statements on progress of follow up of Auditor's recommendations indicate that prior year observations had been resolved. However, there was no audit evidence availed to ascertain how the issues raised were resolved.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, based on the 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

1.1 Irregular and Unsupported Expenditure

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflect transfers to other Government units totalling to Kshs.142,070,000, which include an amount of Kshs.80,470,000 disbursed to finance twelve (12) projects in secondary schools in Westlands Constituency.

Review of the payment vouchers, projects files, and other records revealed the following;

- i. The regret letters sent to the unsuccessful bidders did not indicate the winning bidder as required by Section 87(3) of the Public Procurement and Asset Disposal Act, 2015. Further, there was no record of delivery of the regret letters, contrary to Section 74 of the procurement law referred to above.
- ii. The contract awards were not published as is required by Section 138(1) of the Public Procurement and Asset Disposal Act, 2015 which states that "the Accounting Officer of a procuring entity shall publish and publicize all contract awards on their notice board at conspicuous places, and website if available within a period as prescribed".
- iii. There were no appointment letters and minutes in relation to the Inspection and Acceptance Committee, therefore it was not possible to confirm the legality of the committee.
- iv. It was not possible to confirm whether the project was approved by the National Environment Management Authority (NEMA) since no certificates, were provided for audit verification.

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

1.2 Irregularities in Project Implementation

The statement of receipts and payments reflects expenditure of Kshs.142,070,000 under transfers to other Government units, as disclosed under Note 6 to the financial statements. The amount includes Kshs.80,470,000 in respect of transfers to secondary schools. Out of this amount Kshs.20,000,000 was disbursed to High Ridge Girls Secondary School for the construction of a dormitory. Physical verification during the month of March, 2023 revealed that the dormitory was completed and all works done. However, only eight (8) windows of size 3800 x 1500 high were installed instead of eleven (11) as per the bill of quantities. Further, only two (2) steel doors of size 1800 x 2400 were installed instead of three (3). In addition, no explanation was provided on how the prime costs and provisional sums amounting to Kshs.7,400,000 were utilized.

In the circumstances, it was not possible to confirm that value for money was received in construction of the dormitory.

1.3 Incomplete Construction Works at Bohra Primary School

The statement of receipts and payments reflects expenditure of Kshs.142,070,000 under transfers to other Government units, as disclosed under Note 6 to the financial statements. The amount includes Kshs.61,600,000 in respect of transfers to primary schools. Out of this amount Kshs.5,350,000 was paid to Bohra Primary School for construction of two (2) classrooms on first floor, two (2) classrooms on second floor and a ramp to completion for a capacity of 100 students. However, physical verification carried out on the projects on 13 March, 2023 revealed that the ramp was not constructed and no reason was provided for the omission.

In view of the construction gaps referred to above, it was not possible to confirm that value for money was received in the construction project.

2. Unutilized Project Management Committee Funds

Note 17.4 other important disclosures and as disclosed in Annex 4 to the financial statements reflects Project Management Committee unutilized fund balances, totalling to Kshs.34,401,617. The Management failed to explain why the funds were not returned to the Constituency Main Account, contrary to Section 12(8) of the National Government Constituency 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.

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 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 controls, 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 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 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 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

18 July, 2023

Appendix – Overstated Bursary to Tertiary Institutions

Name of School	Students Name	Amount (Kshs.)
Kapsabet Boys High School	Njuguni Abdulwaheed Kariuki	50,000
Maryhill Girls High School	Terryann Muthoni	50,000
St Patricks Iten High School	Duncan Odhiambo	40,000
Asumbi Girls High School	Wafula Ann Namakuru	40,000
Lenana School	Wanjeri Maxwell Kamuna	50,000
Lugulu Girls High School	Shisungu Naise Khavai	40,000
Chavakali High School	Samuel Levi	40,000
State House Girls High School	Rehema Maombi	40,000
Utumishi Boys Academy	Joel Macharia	50,000
The Kenya High School	June Mkang'ombe	50,000
The Kenya High School	Tamara Waithera	50,000
Chavakali High School	Edmond Kabala	40,000
Kabare Girls High School	Irene Mueni	30,000
Ober Boys High School	Manyala Adrian Johnson	30,000
Mama Ngina Girls High School	Njoroje Claudia Wambui	30,000
St Marys Kibabii High School	Anindo Seth Opuka	40,000
Muthetheni High School	Githuho Michelle Mary Ngeno	30,000
Dagoretti High School	Egesa Mathias Oundo	30,000
Aquinas Girls High School	Omondi Clinton Jerry	30,000
Muthale Girls Secondary School	Nyang'au Christine Kwamboka	30,000
Asumbi Girls High School	Oigara Angelina Bisari	50,000
Kakamega School	Malele Namai Elly	50,000
Maryhill Girls High School	Kariuki Sherylyne Wambui	50,000
Mangu High School	Kimiri Caleb Waweru	50,000
Kagumo High School	Kingori Benjamin Constant	40,000
St Josephs Kitale Girls Secondary School	Wafula Mercy Bahati	30,000
Friends Kaimosi Boys High School	Elvis Wambulwa	30,000
Karoti Girls High School	Onyinkwa Stacy Moraa	30,000
Ruchu Girls High School	Ndurya Virginia Nyambura	30,000
Hospital Hill High School	Wanyonyi Hillary Masinde	30,000
Parklands Arya Girls High School	Muguga Catherine Adegga	30,000
Musingu High School	Kutswa Harmony Baraka	30,000
Lenana School	Miguel Lusasi	40,000
St Annes Musoli Girls Secondary School	Lovian Deizu Agesa	30,000

Nyakongo High School	Oigara Meshack Abuta	30,000
Mutomo Girls Secondary School	Kahin Remy Kalu	30,000
Good Shepherd Minor Seminary	Lemooge Brian Losieku	30,000
Karoti Girls High School	Muigah Wendy L Wanjiru	30,000
Friends School Kamusinga	Neemrod Orina Nyamongo	50,000
Maryhill Girls High School	Ann Mwendu Kioko	40,000
Kisumu Girls High School	Magdaline Gesare	40,000
Farasi Lane Secondary School	Morris Kinyua Nyakio	13,000
Parklands Arya Girls High School	Mule Teresia Nsisa	40,000
St Georges Girls Secondary School NRB	Wanjiku Hilda Nyambura	35,000
Mua Hills Girls High School	Musyoka Pamela Mbithe	40,000
St Mary's School	Oduor Nashon Wandere	40,000
Sironga Girls High School	Vivian M Adamba	40,000
St Georges Girls Secondary School NRB	No name	40,000
Chianda High School	Moindi Christian Adera	40,600
Bunyore Girls High School	Babra Akech Owino	50,000
Kakamega School	Ifedha Arnold	40,000
Nairobi School	Emmanuel Okoth	30,000
St Georges Girls Secondary School NRB	Kerubo Trizzah Elsie	30,000
Total		1,998,600