

# REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - YATTA CONSTITUENCY FOR THE YEAR ENDED 30 JUNE, 2019

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## REPORT ON THE FINANCIAL STATEMENTS

### Opinion

I have audited the accompanying financial statements of National Government Constituencies Development Fund - Yatta Constituency set out on pages 9 to 38, which comprise the statement of assets and liabilities as at 30 June, 2019, statement of receipts and payments, statement of cash flows and the summary statement of appropriation: recurrent and development combined 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, the financial statements present fairly, in all material respects, the financial position of the National Government Constituencies Development Fund - Yatta Constituency as at 30 June 2019, 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 Opinion

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the National Government Constituencies Development Fund - Yatta 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 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

### Budget Control and Performance

The summary statement of appropriation: recurrent and development combined reflects final receipts budget and actual on comparable basis of Kshs.177,914,083 and Kshs.164,088,364 respectively resulting to underfunding of Kshs.13,825,719 or 8% of the budget. Similarly, the Fund spent Kshs.160,680,429 against an approved budget of Kshs.177,914,083 resulting to an under-expenditure of Kshs.17,233,654 or 10% of the

budget. The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the residents of Yatta 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 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. Irregular Payments from Emergency Reserve Fund

As disclosed under Note 5 to the financial statements, the statement of receipts and payments reflects other grants and transfers of Kshs.65,518,737;(2018-Kshs.23,752,040). Included in this amount is Kshs.8,932,613 for emergency projects out of which payments totaling Kshs.1,250,000 were made to four (4) schools as detailed below:-

Project Details	Purpose	Amount (Kshs.)
Matuu day and mixed secondary school - Procurement of laboratory equipment	Procure lab equipment	200,000
KWA Mwatu secondary school - Procurement of laboratory equipment	Procure lab equipment	200,000
RGC Emmanuel Muusini High School-Construction of staff toilet	The staff and students are sharing toilets	300,000
Kyasioni Primary school - Roofing, purchasing and fixing of doors and windows, painting of Girls dormitory.	Complete Girls dormitory.	550,000

However, there is no evidence to confirm the projects qualify for emergency funding contrary to Section 8(3) of National Government Constituency Development Fund Act, 2015, which defines "Emergency" as an urgent, unforeseen need for expenditure for which in the opinion of the committee cannot be delayed until the next financial year without harming the public interest of the constituents.

#### 2. Projects Implementation

As disclosed under Note 4 to the financial statements, the statements of receipts and payments reflects transfers to other government units of Kshs.78,495,899;(2018-Kshs.8,250,000). Further, and as disclosed under Note 5, the statement of receipts and payments reflects other grants and other payments of Kshs.65,518,737 out of which Kshs.12,849,637 is on account of projects hence bringing the total expenditure on projects to Kshs.91,345,536 during the year. However, a review of project implementation status report as of 30 June, 2019 and other project related documents revealed the following unsatisfactory observations:-

## 2.1 Inconsistencies in Works Certified in Construction of Kenya Medical Training College (KMTC) - Matuu Campus

An amount of Kshs.15,000,000 was disbursed for the construction of three (3) buildings at KMTC Matuu campus which had been underfunded during the 2016/2017 financial year. Inconsistencies were noted between the works certified by the Sub-county engineer and re-measured works by the regional engineer resulting in over payments as tabulated below: -

Item	Sub-County Engineer Certificate (Kshs.)	Regional Engineer Remeasured (Kshs.)	Variance (Kshs.)	Amount Paid (Kshs.)	Over Payment (Kshs.)
Classrooms and Laboratories	8,000,000	7,545,583	454,417	7,600,000	54,417
Administration Block	3,600,000	2,399,835	1,200,165	3,430,000	1,030,165
Multipurpose Hall	3,400,000	2,643,438	756,562	3,220,000	576,562
<b>Total</b>	<b>15,000,000</b>	<b>12,588,856</b>	<b>2,411,144</b>	<b>14,250,000</b>	<b>1,661,144</b>

No satisfactory explanations were given for inconsistencies and the resultant overpayments of Kshs.1,661,144 to the contractor.

Further, the contracts for the construction of classrooms and laboratories were reviewed upwards from Kshs.7,204,204 to Kshs.8,000,000; and the construction of a multipurpose hall was also varied from Kshs.3,137,700 to Kshs.3,400,000 contrary to the provisions of Section 139(3) of Public Procurement and Asset Disposal Act, 2015 which provides that, no contract price shall be varied upwards within twelve (12) months from the date of the signing of the contract.

In view of the foregoing, it has not been possible to confirm whether public resources have been used in a lawful and effective manner.

## 2.2 Stalled Project-Kalandini Primary School

The contract for the construction of one classroom at Kalandini Primary School was awarded on 03 April, 2019 at contract sum of Kshs.780,000. The estimated project completion period was within six (6) months from the date of award. However, the project has since stalled despite Kshs.389,322 having been expended. No satisfactory explanation has been rendered as to provisions of Section 140(a, b and c) of Public Procurement and Asset Disposal Act, 2015, which provides for the contractor to be held liable to liquidated damages for delayed performance.

### **2.3 Projects Not Started**

Nine (9) projects fully funded for Kshs.19,240,818 during the year had not started although the funds had been disbursed to the respective PMC.

No explanations have been given for the delays, in commencing projects and measures being taken to deter recurrence.

Consequently, effectiveness in use of public resources could not be confirmed..

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 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 the 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 overall 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**

**20 September, 2021**