

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - KILIFI SOUTH 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 National Government Constituencies Development Fund - Kilifi South Constituency set out on pages 1 to 36, 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 - Kilifi South Constituency as at 30 June, 2022, and 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 Public Finance Management Act, 2012 and the National Government Constituencies Development Fund Act, 2015.

Basis for Qualified Opinion

1. Cash and Cash Equivalents - Outstanding Reconciling Items

The statement of assets and liabilities and as disclosed in Note 10 to the financial statements reflects a bank balance of Kshs.19,539,166. Review of the supporting bank reconciliation statement revealed that there were unrepresented cheques amounting to Kshs.3,953,130, out of which Kshs.3,951,970 relates to bursaries. However, the unrepresented cheques amount includes a stale cheque of Kshs.15,120 which had not been reversed in the cash book as at 30 June, 2022. Further, the statement reflects payments in bank statement not yet recorded in cashbook amounting to Ksh.30,000 which Management had not posted in the cashbook after establishing that it was an erroneous payment of a stale cheque by the bank.

In the circumstances, the accuracy and completeness of the bank balance of Kshs.19,539,166 as at 30 June, 2022 could not be confirmed.

2. Undisclosed Fixed Asset

Annex 4 to the financial statements reflects summary of fixed asset register with a historical cost of Kshs.46,915,862. As previously reported, the assets register excluded land located on Mombasa-Malindi Road where the Constituency office block is situated. The title deed to the land is registered under the name Kilifi South Constituency Development Fund, contrary to National Government Constituencies Development Fund Act, 2015, Section 36(3) which states that, "all fixed and movable assets, including equipment bought under this Act for use by the Constituency Committee shall be the property of the Board and shall be insured in the name of the Board".

In the circumstances, the accuracy, valuation and ownership of the fixed assets with a historical cost of Kshs.46,915,862 could not be confirmed.

3. Unsupported Use of Goods and Services Expenditure

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects an amount of Kshs.8,997,565 in respect of use of goods and services. Included in the expenditure is an amount of Kshs.7,394,921 which was not supported with detailed schedules indicating the activities, services or goods supplied and payment voucher numbers.

In the circumstances, the accuracy, completeness and propriety of the expenditure of Kshs.8,997,565 in respect of use of goods and services 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 - Kilifi South 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 reflects final receipts budget and actual on a comparable basis of Kshs.203,085,936 and Kshs.185,797,057 respectively, resulting in an under-funding of Kshs.17,288,879 or 9% of the budget. Similarly, the Fund incurred Kshs.166,257,891 against an approved budget of Kshs.203,085,936, resulting in an under-expenditure of Kshs.36,828,045 or 18% of the budget.

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

2. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised. Although the issues were indicated as having been resolved, Management did not provide evidence of how they were resolved or a satisfactory explanation for the delay in resolving the issues.

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. Uninsured Assets and Maintenance of Damaged Assets

Annex 4 to the financial statements reflect summary of fixed asset register with historical cost of Kshs.46,915,862. However, the assets were not insured, contrary to Section 36(3) of the National Government Constituencies Development Fund Act, 2015.

Further, review of the detailed fixed assets register revealed assets with historical cost of Kshs.2,016,800 which were indicated as damaged and not in use but had not been disposed off. This is contrary to Section 163(1) of the Public Procurement and Asset Disposal Act, 2015 which requires an Accounting Officer to establish a disposal committee as and when prescribed for the disposal of unserviceable, obsolete and obsolescent or surplus store, equipment or assets.

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

2. Unauthorized Expenditure on Emergency Projects

The statement of receipts and payments reflects other grants and other payments of Kshs.60,376,000, out of which Kshs.9,500,000 is in respect of emergency projects. Included in the balance is an amount of Kshs.7,192,207 incurred on emergency projects whose utilization was not reported in the format prescribed by the Board and within thirty (30) days of occurrence, contrary to Regulation 20(2) of National Government Constituencies Development Fund Regulations, 2016.

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

3. Transfers to Other Government Units

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects transfers to other government units of Kshs.91,126,057 which comprised of amounts of Kshs.70,159,120 and Kshs.20,966,937 in respect of transfers to primary and secondary schools respectively. However, the following anomalies were noted;

3.1 Unauthorized Expenditure

Included in the amount of Kshs.70,159,120 transferred to primary schools is an amount of Kshs.1,700,000 for renovations of one classroom and Head Teacher's Office at Chondari Primary School. However, the amount included in the project proposal for financial year 2021/2022 and which was approved by the Board was Kshs.1,250,000, resulting in an unauthorised and unexplained over-expenditure of Kshs.450,000. This is contrary to Regulation 25(2) of the National Government Constituencies Development Fund Regulations, 2016 which states that a Constituency Committee shall not incur expenditure unless such expenditure is supported by an approved work plan, a procurement plan and a budget.

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

3.2 Expenditure Without Value for Money

Included in the amount of Kshs.70,159,120 transferred to primary schools is an amount of Kshs.9,615,751 transferred to Mtomondoni Scheme Primary School for the construction of four classrooms which were completed and officially opened on 24 June, 2022. However, the classrooms were not in use as at the time of the audit in March, 2023.

In the circumstances, value for money on the project has not been obtained by the students of the school.

4. Incomplete and Unutilized Projects

The audit inspection exercise carried out in March, 2023 revealed that five projects valued at Kshs.42,080,000 had various implementation anomalies as detailed in **Appendix 1** attached.

In the circumstances, value for money on the projects has not been obtained by the constituents of Kilifi - South Constituency.

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 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 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 Fund's 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 controls 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 Management.

- Conclude on the appropriateness of 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 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 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

26 May, 2023

Appendix 1 – Incomplete and Unutilized Projects

No.	Project Name	Approved Activity	Amount Disbursed (Kshs.)	Observations
1.	Mtomondoni Scheme Primary School	Construction of 3 floors storey tuition block of 10 classrooms, staffroom, head and deputy head teachers' offices, and store to completion	19,900,000	<ul style="list-style-type: none"> Project complete although 8 classrooms were not in use while 8 classrooms were in use. The balconies were not fixed with grilles posing a safety risk. The land in which the school is constructed did not have a fence and part of the school was encroached upon by a private developer. Windows did not have fanlights and mosquito gauze which were provided for in the Bill of Quantities.
2.	Chije Primary School	Two classrooms, two 3-door pit latrines and supply of 60 desks	4,060,000	<ul style="list-style-type: none"> UPVC Gutter was not fixed. Hardwood chalk rails were not fixed on the blackboard. Floor skirting was not done. Cracks seen on the walls. Window louvers were fixed without clear glass instead of window casement complete with stays, fasteners and permanent vents with mosquito gauze.
3.	Chengoni Primary School	Two classrooms, two 3-door pit latrines and supply of 60 desks	4,060,000	<ul style="list-style-type: none"> UPVC Gutter was not fixed. Harwood chalk rails were not fixed on the blackboard. Floor skirting was not done. Window louvers were fixed without clear glass instead of window casement complete with stays, fasteners and permanent vents with mosquito gauze. Huge cracks were visible on the walls.
4.	Vipingo Central Primary School	Two 3-door pit latrines and supply of 60 desks	4,060,000	<ul style="list-style-type: none"> Hardwood chalk rails were not fixed on the blackboard. Floor skirting was not done. Window louvers were fixed without clear glass instead of window casement complete with stays, fasteners and permanent vents with mosquito gauze. Visible cracks on the walls.
5.	Lutsangani Secondary School	Gground floor (phase 1) of a Two Floors Storey Dormitory	10,000,000	<ul style="list-style-type: none"> Project was ongoing at the time of audit inspection Contractor's signpost was not on site. Materials were on site while construction of the ground floor foundation slab, walling, concrete roof slab was complete. Plastering, windows, doors, painting and labelling had not been done.
		Total	42,080,000	