

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - KINANGO 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 - Kinango Constituency set out on pages 1 to 39, 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 National Government Constituencies Development Fund - Kinango 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. Inaccurate Cash and Cash Equivalents Balance

The statement of assets and liabilities as at 30 June, 2022 reflects a bank balance of Kshs.13,541,318 and as disclosed in Note 10 to the financial statements. Review of the supporting bank reconciliation statement as at 30 June, 2022 reflected unrepresented cheques amounting to Kshs.6,898,464, out of which stale cheques totalling to Kshs.2,115,239 had not been reversed in the cash book and no evidence was provided indicating that they were issued to the beneficiaries before becoming stale. Further, no bank statement was provided to confirm when the valid unrepresented cheques were cleared.

In the circumstances, the accuracy and completeness of bank balance of Kshs.13,541,318 could not be confirmed.

2. Undisclosed Fixed Assets

Annex 4 to the financial statements reflects a summary of fixed assets register with a historical cost of Kshs.51,416,890 as at 30 June, 2022. Review of records provided for audit revealed that the National Government Constituencies Development Fund Board donated fixed assets of undetermined values in 2013 to the Fund. However, the donated assets had not been included in the fixed assets register.

In the circumstances, the accuracy, valuation and ownership of the fixed assets with a historical cost of Kshs.51,416,890 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 - Kinango 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.

Emphasis of Matter

Budgetary Control and Performance

The summary statement of appropriation reflects final receipts budget and actual on a comparable basis of Kshs.215,921,292 and Kshs.182,177,758 respectively, resulting in

an under-funding of Kshs.33,743,534 or 16% of the budget. Similarly, the Fund expended Kshs.202,379,974 against an approved budget of Kshs.216,987,969, resulting in an under-expenditure of Kshs.14,607,995 or 7% of the budget.

The underfunding and underperformance may have impacted negatively on service delivery to the public.

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.

Unresolved Prior Year Matters

In the audit report of the previous year, several paragraphs were raised. However, Management has not resolved or given any explanation for failure to adhere to the guidelines issued by the Public Sector Accounting Standards Board and The National Treasury's Circular Ref: AG.3/88/ Vol.VII(20) dated 11 May, 2022.

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. Non-return of Unutilized Funds

Annex 5 to the financial statements reflects Project Management Committee (PMC) bank balances of Kshs.13,565,489 as at 30 June, 2022. Included in these balances is an amount of Kshs.1,789,098 held in various PMC accounts in respect of unutilized balances from completed projects which had not been returned to the Constituency account for about one year, contrary to Section 12(8) of the National Government Constituencies Development Fund Act, 2015 which requires that all unutilized funds of the Project Management Committee are returned to the constituency account.

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

2. Unsupported Statutory Deductions

The statement of receipts and payments reflects Kshs.3,045,895 in respect to compensation of employees which, as disclosed in Note 4 to the financial statements includes Kshs.267,616 for gratuity paid to a member of staff. However, no documentary evidence was provided for audit review in support of the statutory deductions from the

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payment and eventual remittance to Kenya Revenue Authority. This was contrary to Section 37 of the Income Tax Act, 2007 Cap 470 which states that an employer paying emoluments to an employee shall deduct therefrom, and account for tax thereon, to such extent and in such manner as may be prescribed.

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

3. Uninsured Fixed Assets

Annex 4 to the financial statements reflects a summary of fixed assets register historical cost of Kshs.51,416,890. However, the assets were not insured, contrary to Section 36(3) of the National Government Constituencies Development Fund Act, 2015 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.

Further, Management indicated that assets with historical cost of Kshs.7,803,702 were damaged but had not been disposed off 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, the Management was in breach of the law.

4. Unreported Expenditure on Emergency Projects

The statement of receipts and payments reflects Kshs.69,694,194 in respect to other grants and transfers which, as disclosed in Note 7 to the financial statements includes Kshs.7,122,815 in respect to emergency projects. This amount in turn includes Kshs.5,879,655 was utilized on emergency projects but not reported in the format prescribed by the Board and within thirty (30) days of occurrence, contrary to Regulation 20(2) of the National Government Constituencies Development Fund Regulations, 2016.

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

5. Unauthorized Re-allocation of Funds

Review of records maintained by Management revealed that Kshs.10,250,000 and Kshs.750,000 allocated for Dalu Tayari Girls Secondary School and social security projects respectively were re-allocated to bursary projects without the approval of the National Government Constituencies Development Fund Board. This was contrary to Section 6(2) of the National Government Constituencies Development Fund Act, 2015 which provides that once funds are allocated for a particular project, they shall remain allocated for that project and may only be re-allocated for any other purpose during the financial year with the approval of the Board.

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

6. Anomalies in Projects Implementation

Projects inspection carried out in the month of March, 2023 revealed that twelve (12) projects valued at Kshs.72,300,055 had anomalies as summarised below;

No.	Project Name	Approved Activity	Amount Disbursed (Kshs.)	Anomalies
1	Gonzi Rai Primary School	Construction of two classrooms, rainwater harvesting goods, 5,000-litre water tank, thirty desks and tiled floor.	3,000,000	<ul style="list-style-type: none"> Project was complete and in use. However, louver windows were installed instead of window casement costing Kshs.165,000. Skirting costing Kshs.5,400 was not done for the floor finishes. Wrot hardwood beading and hardwood chalk rail costing Kshs.5,500 had not been fixed on the black board.
2	CAFGEM Primary School	Construction of two classrooms, rainwater harvesting goods, 5,000-litre water tank, thirty desks and tiled floor.	3,000,000	<ul style="list-style-type: none"> Project was complete and in use. However, louver windows were installed instead of window casement costed at Kshs.165,00. Skirting costing Kshs.5,400 was not done for the floor finishes. Wrot hardwood beading and hardwood chalk rail costing Kshs.5,500 were not fixed on the black board.
3	Kisimani Primary School	Construction of two classrooms, rainwater harvesting goods, 5,000-litre water tank, thirty desks and tiled floor	3,300,000	<ul style="list-style-type: none"> Project was complete and in use. However, part of UPVC gutter fixed at cost of Kshs.36,000 was broken. Steel doors were installed instead of wrot hardwood costing Kshs.54,800. Windows were not fixed with permanent vents with mosquito gauze. Skirting costing Kshs.5,400 was not done for the floor finishes. Wrot hardwood beading and hardwood chalk rail costing Kshs.5,500 had not been fixed on the black board.
4	Mwarovesa Primary School	Construction of two classrooms, rainwater harvesting goods, 5,000-litre water tank, thirty desks and tiled floor	3,300,000	<ul style="list-style-type: none"> Project complete and in use. However, louver windows were installed instead of window casement costing Kshs.165,000. Skirting costing Kshs.5,400 was not done for the floor finishes. Wrot hardwood beading and hardwood chalk rail costing Kshs.5,500 had not been fixed on the black board.

No.	Project Name	Approved Activity	Amount Disbursed (Kshs.)	Anomalies
5	Sembe Primary School	Construction of three classrooms, rainwater harvesting goods, 5,000-litre water tank, forty-five desks and tiled floor.	4,950,000	<ul style="list-style-type: none"> Complete and in use, but louver windows were installed instead of window casement, costed at Kshs. 165,000 while skirting costing Kshs.5,400 was not done for the floor finishes.
6	Samburu Secondary School	Additional cost for purchase of school bus	5,500,000	Bus purchased and in use, but the logbook and project file not provided for audit review.
7	Dalu Tayari Secondary School -	Construction of twin lab @ Kshs.9.5 million and dining hall/kitchen @Kshs.10.5 million	20,000,000	<ul style="list-style-type: none"> Complete but not in use. Laboratory's PVC ceiling had started to fall while some parts were vandalised. In the dining hall and Kitchen, there were visible cracks on the floor, the roof was leaking and the windows were poorly fixed.
8	Kinango NG-CDF Office	Emergency Project Construction two three-door modern toilets	1,879,555	Complete and in use but there was no water.
9	Kinango Boys Secondary School -	Construction of 100 bed capacity dormitory.	10,700,000	Complete and in use. However, BoQ required use of gloss painting costing Kshs.19,500 which was not used.
10	Kinango Education Complex -	Completion of construction of Sub-County Education Complex	11,000,000	<ul style="list-style-type: none"> Complete but not in use. The building had no electricity. Part of the boardroom ceiling was falling off.
11	Kibandaongo Police Post -	Construction of Police post to completion.	4,000,000	<ul style="list-style-type: none"> Complete but not in use. There were visible cracks on the slab while gutters were dislodged and hanging loose.
12	Kinango NG-CDF Office	Refurbishment of Buildings-Renovation of office block	1,670,500	<ul style="list-style-type: none"> Completed and in use, Roofing costing Kshs.678,128 was not changed and gloss paint costing Kshs.53,000 was not used.
		Total	72,300,055	

In the circumstances, value for Kshs.72,300,055 spent on these projects may not have been achieved.

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

05 June, 2023