

# REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - NYATIKE 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 National Government Constituencies Development Fund - Nyatike Constituency set out on pages 1 to 29, 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 - Nyatike 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**

### **1.0. Unsupported Bursary Expenditures**

The statement receipts and payments reflects other grants and other transfers balance of Kshs.67,612,470 which as disclosed in Note 7 to the financial statements includes bursaries disbursements totalling to Kshs.42,354,590. The amounts comprises of bursaries to secondary schools, tertiary schools and special schools of Kshs.12,921,400, Kshs.27,909,190 and of Kshs.1,524,000, respectively. However, disbursements totalling to Kshs.40,447,190 were not supported by acknowledgement receipts or letters by the recipient schools and institutions. Further, analysis of the disbursement schedule revealed that 338 beneficiaries received bursary allocations more than once.

In the circumstances, the accuracy and completeness of bursary expenditure of Kshs.40,447,190 for the year ended 30 June, 2022 could not be confirmed.

### **2.0. Unsupported Cash and Cash Equivalents**

The statement of assets and liabilities as at 30 June, 2022 reflects cash and cash equivalents balance of Kshs.11,278,165. Review of the bank reconciliation statement in support of the balance reflects receipts in cash book not yet recorded in the bank statement of Kshs.884,876 which, as indicated in the supporting schedule, was in respect of staff gratuity. However, receipt vouchers and related documents in support of the latter amount were not provided for audit.

In the circumstances, the accuracy and completeness of the cash and cash equivalents balance of Kshs.11,278,165 as at 30 June, 2022 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 - Nyatike 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**

## **Prior Year Audit Issues**

In the audit report of the previous year, several matters were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, the prior year audit issues had not been resolved as at 30 June, 2022 and also are not included in Annex 6 to the financial statements on progress on follow up of auditor recommendations. Management did not provide reasons for not resolving the prior year audit issues and why they were not included in the financial statements.

## **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**

### **1.0 Transfers to Other Government Units**

The statement of receipts and payments reflects transfers to other Government units amounting to Kshs.98,351,590 which, as disclosed in Not 6 to the financial statements, comprises of transfers to primary schools, secondary schools and tertiary institutions of Kshs.37,454,000, Kshs.54,997,590 and Kshs.6,100,000, respectively. Review of expenditure documents and physical verification of the projects revealed the following anomalies:

#### **1.1 Poor Workmanship of Project at Nyankondo Primary School**

An amount Kshs.1,300,000 was disbursed to Nyankondo Primary School for the completion of two classrooms. The works comprised fittings, plastering, flooring and painting. However, audit inspection of the project in the month of March, 2023 revealed that painting of the classrooms was incomplete as only under-coat of paint had been

applied while the floors had worn out, leaving big holes, an indication of poor workmanship.

## **1.2 Poor Workmanship of Project at Kanyandiko Primary School**

Transfers to primary schools include a balance of Kshs.900,000 disbursed to Kanyandiko Primary School for the construction of one classroom to completion. The works comprised of walling, roofing, fittings, plastering and painting. However, audit inspection of the project in the month of March, 2023 revealed big cracks on the walls and floor, an indication of poor workmanship.

## **1.3 Overpayment of Contractor for Construction of an Access Road**

An expenditure of Kshs.6,500,000 was incurred on construction of access roads including opening, grading and spot gravelling of approximately 1.4Km of the road from Mariba Secondary school junction to Obwalwanda primary school at a contract sum of Kshs.3,909,231. However, review of the expenditure records and tender documents in respect of the works revealed that the contractor was paid in excess of the contract sum by Kshs.90,769. Further, audit inspection carried out in the month of March, 2023 revealed that the road had a thin layer of murram implying the road works were substandard.

## **1.4 Omitted Elements in Construction of Access Road**

Transfers to primary schools include an amount of Kshs.6,500,000 utilized on opening, grading and spot gravelling of a road approximately 0.6Km from Lwangni junction to Kikongo primary school at a contract sum of Kshs.2,482,632. However, review of the expenditure records and tender documents revealed that the contractor was paid by Kshs.17,362 above the contract sum. Further, field inspection carried out in the months of March, 2022 revealed that culverts included in the bill of quantities at a cost of Kshs.162,000 were not done.

In addition, the two roads did not have signage making it difficult to confirm whether they were indeed done by the Fund or by other Government agencies.

## **1.5 Transfers to Secondary Schools**

The transfers to secondary schools amounting to Kshs.54,997,590 includes an expenditure of Kshs.11,700,000 incurred on seven (7) projects. However, field inspection carried out in the month of March, 2023 revealed the projects had not been completed and put to use for the benefit of the public.

## **1.6 Unused Borehole**

Transfers to tertiary institutions balance of Kshs.6,100,000 includes an amount of Kshs.5,000,000 spent on drilling and equipping a borehole at Rongo Macalder University learning centre. However, field inspection of the project carried out in the month of March, 2023 revealed that the borehole was not operational despite having running water.

In the circumstances, value for money of the expenditure of Kshs.25,291,863 utilised audit transfers to other Governments units could not be confirmed.

## **2.0 Other Grants and Transfers**

The statement of receipts and payments, and as disclosed in Note 7 to the financial statements, reflects other grants and transfers balance of Kshs.67,612,470. However, physical verification of the projects and review of project files revealed the following anomalies:

### **2.1 Unlabelled Administration Block at the Chief's Office in Orango Location**

Other grants and transfers expenditure includes a balance of Kshs.10,850,000 spent on security projects during the year under review, out of which an amount of Kshs.1,700,000 was in respect of construction of an administration block comprising 3 offices at the Chief's Office in Orango Location. The scope of works included foundation slab, walling, roofing, fittings, plastering and painting. Field inspection in the month of March 2023 revealed that the building was complete and in use. However, the building was not labeled as required by Regulation 11(1)(c) of the National Government Constituencies Development Fund Regulations, 2016 which states that, one of the functions of the Constituency Committee is to ensure projects are labelled in accordance with the guidelines issued by the Board.

Further, the office was constructed on the Chief's private land contrary to the CDF Board circular issued on 24 August, 2010, which requires CDF projects to be erected on public land and where no public land is available or where a need has been identified to expand public land, the Constituency Committee to initiate the process of procurement of land from alternative sources and obtain the title in the name of the public institution which is to benefit from the project, or in the name of the constituency.

### **2.2 Poor Workmanship - Construction of a Pit Latrine at Nyamache Primary School**

Further, the balance includes emergency projects expenditure of Kshs.8,620,000 out of which an amount of Kshs.500,000 was spent on the construction of a four-doors pit latrine at Nyamache Primary School. However, field inspection of the project conducted in the month of March, 2023 revealed that the walls had big cracks indicating poor workmanship.

### **2.3 Unutilized Rongo University – Learning Center**

In addition, the balance includes an amount of Kshs.1,450,000 which was transferred to Rongo University for tiling works of eight (8) classrooms. However, review of the supporting documents and audit inspection of the projects in the month of March, 2023 revealed that the University did not make a request for the emergency funds. Further, there was no report of environmental or sanitary inspection to ascertain the urgent need of funding and the eight (8) classrooms were not in use as there was no learning taking place the facility. Therefore, the use of emergency fund did not meet the threshold set by Section 8(3) of the National Constituencies Development Fund.

In the circumstances, Management was in breach of the law and the value for money incurred on the facility was yet to be realized by 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, except for the matters described in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, I confirm that nothing else has come to my attention to cause me to believe that internal controls, risk management and governance were not effective.

### Basis for Conclusion

#### 1. Failure to Maintain an Updated Asset Register

Annex 4 to the financial statements summary of fixed asset register reflects total fixed assets balance of Kshs.19,095,112 as at 30 June, 2022. However, review of the fixed asset register revealed that it was not updated as costs or valuation, location and custodian or users were not indicated against some assets. In addition, non-existent assets were included in the register and the furniture and office equipment had not been tagged.

Further, review of the register revealed the following anomalies:

- i. Valuation of motor vehicles and tractors was done on 24 March, 2021 and a report issued. However, the values had not be updated in the register to reflect the correct carrying costs of the respective assets.
- ii. Ownership documents for land, tractors and motor vehicles, except for a double cabin pickup vehicle, were not provided for audit review.
- iii. Motor vehicles and tractors included in the register were all grounded, non-serviceable and continued losing their recoverable value based on the observable physical and mechanical state.

In the circumstances, Management has not established effective internal controls over the fixed assets to eliminate theft, security threats, losses, wastage and misuse.

#### 2. Weaknesses Bursary Fund Management

Review of the bursary application forms provided for audit revealed that the Fund's bursary vetting committee members and the Chairman did not sign the forms as provided for in the same form. Further, review of list of beneficiaries revealed that some beneficiaries in the list had no admission numbers. Vetting committee minutes showing award and rejection of applications were not provided for audit, an indication that vetting of applicants may not have been done. In addition, the bursary committee minutes and attendance registers to meetings were not provided, thus, it was not clear whether the committee was in existence.

In the circumstances, the effectiveness of the controls over the management of bursaries could not be confirmed.

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 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 controls 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 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 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**

**17 July, 2023**