

# **REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - NAKURU TOWN EAST 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 overall 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**

### **Adverse Opinion**

I have audited the accompanying financial statements of National Government Constituencies Development Fund - Nakuru Town East Constituency set out on pages 1 to 36, which comprise 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, because of the significance of the matters discussed in the Basis for Adverse Opinion section of my report, the financial statements do not present fairly, the financial position of National Government Constituencies Development Fund - Nakuru Town East Constituency as at June 30, 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 do not comply with the National Government Constituencies Development Fund Act, 2015 and the Public Finance Management Act, 2012.

## **Basis for Adverse Opinion**

### **1. Unsupported Other Grants and Transfers - Bursary**

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects other grants and transfers amounting to Kshs.102,842,390. The amount includes bursary to secondary schools of Kshs.62,218,908 and tertiary institutions of Kshs.18,928,400 all totalling to Kshs.81,147,308. However, financial returns acknowledging receipts of the funds and confirming that the amounts have been credited to the beneficiaries' fees accounts and the criteria for vetting the bursary application, vetting committee minutes and names of beneficiaries were not provided for audit verification.

Further, no documentary evidence was provided to confirm that the beneficiaries were residents of the constituency. This is contrary to Regulation 21(1) and (2) of the National Government Constituencies Development Fund Regulations, 2016 which provides that a Constituency Committee may support social security programmes in accordance with the provisions of Section 48 of the Act and the programmes shall support constituents living within a Constituency.

In addition, the total bursary amount of Kshs.81,147,308 differs with the supporting schedule amount of Kshs.26,438,000 resulting to unreconciled variance of Kshs.54,709,308.

In the circumstances, the accuracy, completeness and validity of the bursary expenditure of Kshs.81,147,308 could not be ascertained.

### **2. Unconfirmed Compensation of Employees Expenditure**

The statement of receipts and payments reflects compensation of employees amounting to Kshs.3,767,225. However, the supporting schedule reflects an amount of Kshs.3,839,203 resulting to unexplained and unreconciled variance of Kshs.71,978.

In the circumstances, the accuracy and completeness of compensation of employees amount of Kshs.3,767,225 for the year ended 30 June, 2022 could not be confirmed.

### **3. Unsupported Training Expenses**

The statement of receipts and payments and as disclosed in Note 5 to the financial statements reflects use of goods and services amounting to Kshs.12,691,426 which includes training expenses of Kshs.1,200,000. The expenditure was incurred on staff allowances, facilitation fees and refreshments for Constituency staff members attending

a 5-day benchmarking exercise in Njoro Constituency. However, the expenditure was not supported with invitation letter, signed attendance list and training needs assessment report.

In the circumstances, the accuracy, completeness and propriety of training expenses amounting to Kshs.1,200,000 could not be confirmed.

#### **4. Unsupported 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 amount of Kshs.81,502,625. However, the expenditure was not supported with relevant documents as described below.

##### **4.1. Construction of Perimeter Walls**

Note 6 to the financial statements reflects transfers to primary schools amount of Kshs.56,805,625. The amount includes an expenditure amounting to Kshs.49,805,625 incurred on the construction of perimeter walls for various primary schools. However, the expenditure was not supported with procurement records such as bills of quantities from qualified quantity surveyor, advertisements, tender evaluation minutes, signed contracts, inspection and acceptance committee reports, interim or completion certificates, Project Management Committee (PMC) accounting records such as cashbooks, bank statements and expenditure returns and evidence that the projects were implemented in consultation with relevant Government departments.

##### **4.2. Construction and Renovation of Classrooms**

Note 6 to the financial statements reflects transfers to secondary schools amount of Kshs.24,697,000. The amount includes an expenditure amounting to Kshs.17,697,000 incurred on construction and renovation of classrooms in various secondary schools. However, the expenditure was not supported with procurement records such as bills of quantities from qualified quantity surveyor, advertisements, tender evaluation minutes, signed contracts, inspection and acceptance committee reports, interim or completion certificates, Project Management Committee (PMC) accounting records such as cashbooks, bank statements and expenditure returns and evidence that the projects were implemented in consultation with relevant Government departments.

##### **4.3. Purchase of School Buses**

The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects transfer to other Government units amounting to Kshs.81,502,625. The amount includes an expenditure amounting to Kshs.14,000,000 incurred on the purchase of two school buses for Race Track Primary School and St. Maria Veronica Secondary School. However, the expenditure was not supported with procurement records such as tender advertisements, tender evaluation minutes, signed contracts, inspection and acceptance committee reports, Project Management Committee (PMC) accounting records such as cashbooks, bank statements and expenditure returns and evidence that the projects were implemented in consultation with relevant Government departments.

In the circumstances, the accuracy, completeness and propriety of transfers to other Government units amounting to Kshs.81,502,625 could not be confirmed.

## **5. Unsupported Sports Projects Expenditure**

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects other grants and transfers amounting to Kshs.102,842,390. The amount includes sports projects expenditure amounting to Kshs.2,741,777 in respect of Nakuru Town East Constituency sports activity. However, procurement records such as user requisitions, request for quotations, tender evaluation minutes, signed contracts, inspection and acceptance committee reports, Project Management Committee (PMC) accounting records such as cashbooks, bank statements and expenditure returns were not provided for audit review.

In the circumstances, the accuracy, completeness and propriety of sports projects expenditure amounting to Kshs.2,741,777 could not be confirmed.

## **6. Unsupported Acquisition of Assets Expenditure**

The statement of receipts and payments and as disclosed in Note 8 to the financial statements reflects acquisition of assets amounting to Kshs.6,000,000. The amount includes purchase of computers, printers and other IT equipment of Kshs.1,800,000 and purchase of office furniture and general equipment of Kshs.4,200,000. However, the expenditure was not supported with procurement records such as list of prequalified suppliers, tender evaluation minutes, signed contracts, inspection and acceptance committee reports and inventory records.

In the circumstances, the accuracy, completeness and propriety of acquisition of assets expenditure amounting to Kshs.6,000,000 could not be confirmed.

## **7. Unconfirmed Project Management Committee (PMC) Account Balances**

Note 17.4 to the financial statements on Other Important Disclosures reflects Nil Project Management Committee (PMC) account balances. The balance is a decrease of Kshs.4,527,189 from the previous year's balance of Kshs.4,527,189. However, cashbooks, bank statements and bank balance confirmation certificates were not provided for audit review.

In the circumstances, the accuracy and completeness of the Nil PMC account balances 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 - Nakuru Town East 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 adverse 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.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **Conclusion**

As required by Article 229(6) of the Constitution, because of the significance of the matters discussed in the Basis for Adverse Opinion and Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources sections of my report, based on the audit procedures performed, I confirm that public resources have not been applied lawfully and in an effective way.

### **Basis for Conclusion**

#### **1. Irregular Social Security Programme (NHIF) Expenditure**

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects other grants and transfers amounting to Kshs.102,842,390. The amount includes social security programmes (NHIF) amounting to Kshs.1,804,000. Review of documents revealed that the expenditure relates to NHIF payments for eight hundred and twenty-one (821) beneficiaries. However, the criteria for identifying the beneficiaries was not provided for audit review. Further, no documentary evidence was provided to confirm the residence of the beneficiaries. This is contrary to Regulation 21 of the National Government Constituencies Development Fund Regulations, 2016 which states that a Constituency Committee shall support constituents living within a Constituency and vet all persons proposed to receive support under social security programmes in accordance with guidelines issued by the Board.

In addition, the NHIF numbers of the beneficiaries and the by-product from NHIF were not provided for audit review.

In the circumstances, the Management was in breach of the National Government Constituencies Development Fund Regulations, 2016.

#### **2. Irregular Emergency Projects Expenditure**

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects other grants and transfers totalling to Kshs.102,842,390. The amount includes emergency projects expenditure of Kshs.6,965,750. However, review of records provided for audit reviewed that the expenditure was not of emergency in nature. Further, the expenditure was not reported to the National Government Constituencies Development Fund Board. This is contrary to Regulation 20(2) of the National Government Constituencies Development Regulations, 2016 which stipulates that the

utilization of the emergency reserve shall be reported to the Board within thirty days of the occurrence of the emergency.

In addition, the expenditure was not supported with procurement records such as list of prequalified suppliers, tender evaluation minutes, signed contracts, inspection and acceptance committee reports, interim or completion certificates, Project Management Committee (PMC) expenditure returns and evidence that the projects were implemented in consultation with relevant Government departments.

In the circumstances, the Management was in breach of the National Government Constituencies Development Fund Regulations, 2016.

### **3. Projects Verification Report**

Physical verification of ten (10) projects with funding amounting to Kshs.15,551,250 revealed unsatisfactory issues including failure to brand the projects, stalled project and failure to provide project files for audit review.

In the circumstances, value for money on the expenditure of Kshs.15,551,250 incurred on the above projects may not have been realized.

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, because of the significance of the matters discussed in the Basis for Adverse Opinion and Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources sections of my report, based on the audit procedures performed, I confirm 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 services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless the 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 the entity 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 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 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**

**29 August, 2023**