

# REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - NDARAGWA 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 – Ndaragwa Constituency set out on pages 1 to 38, 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 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 effects of the matter 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 - Ndaragwa Constituency as at 30 June, 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 comply with the National Government Constituencies Development Fund Act, 2015 and the Public Finance Management Act, 2012.

## **Basis for Qualified Opinion**

### **Misclassification of Other Committee Expenses**

The statement of receipts and payments reflects an expenditure of Kshs.13,420,637 under use of goods and services which, as disclosed in Note 5 to the financial statements, includes an amount of Kshs.518,100 incurred on other committee expenses. However, included in the latter balance is an amount of Kshs.250,700 wrongly classified under other committee expenses instead of other operating expenses.

In the circumstances, the accuracy and completeness of other committee expenses amount of Kshs.518,100 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 - Ndaragwa 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**

### **Unresolved Prior Year Audit Issues**

In the audit report of the previous year, several matters were raised under the Report on Financial Statements, Other Matter, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Annex 6 to the financial statements in relation to progress on follow up of prior year auditors' recommendations indicates issues are awaiting deliberation by the Special Funds Accounts Committee of the National Assembly hence the issues remain unresolved.

## **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. Unutilized Projects**

During the year under review, the Fund transferred Kshs.3,500,000 to Aberdare Girls' Secondary School for construction of an administration block to completion. The project inspection carried out in the month of March, 2023 revealed that despite the project having been completed and commissioned on 28 January, 2022, it had not been put to use, fourteen (14) months after it was completed. Further, an amount of Kshs.2,500,000 was transferred to Mbuyu Assistant Chief Office for the construction and completion of an Assistant Chief's office. However, physical verification of the project in the month of March, 2023 revealed that the project was not in use.

In the circumstances, the public did not get value for money on the expenditure of Kshs.6,000,000 incurred on the two projects.

### **2. Irregular Re-Allocation of Funds**

The statement of receipts and payments reflects an expenditure of Kshs.106,860,000 in respect of transfers to other Government units which, as disclosed in Note 6 to the financial statements, includes an amount of Kshs.44,300,000 transferred to Secondary schools. The funds transferred to secondary schools includes an amount of Kshs.3,500,000 transferred to Mukoe Secondary school for the construction of an administration block. However, physical verification of the project in the month of March, 2023 revealed that the school constructed a multipurpose hall with a capacity of 400 students to completion instead of the administration block as per the approved code list. This was contrary to Section 6(2) of the National 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, Management was in breach of the law.

### **3. Unsatisfactorily Implemented Projects**

During projects inspection done in March, 2023, fourteen (14) projects with a total funding of Kshs.14,350,000 were verified. However, the inspection revealed various unsatisfactory issues including cases of works not done, non-labelling of projects, under-deliveries of goods and incomplete works.

In the circumstances, value for money on the expenditure of Kshs.14,350,000 for the projects implemented during the year may not have been realized.

### **4. Non-Emergency Project**

The statement of receipts and payments reflects an expenditure of Kshs.105,470,423 under other grants and transfers which, as disclosed in Note 7 to the financial statements, includes an amount of Kshs.7,192,000 incurred on emergency projects. The latter balance includes an amount of Kshs.3,500,000 transferred to Ngawa Primary School for

an office construction. However, physical verification of the project in the month of March, 2023 and review of the project's file revealed that the project was not emergency in nature. No satisfactory explanation was provided by the Management on why emergency funds were utilized for a non-emergency project. This was contrary to Section 8(3) of the National Government Constituencies Development Fund Act, 2015 which states that "emergency" shall be construed to mean an urgent, unforeseen need for expenditure for which it is in the opinion of the committee that it cannot be delayed until the next financial year without harming the public interest of the constituents.

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

## **5. Delay in Project Implementation**

The expenditure of Kshs.105,470,423 under other grants and transfers also includes an amount of Kshs.5,400,000 incurred on sports projects. The latter balance includes an amount of Kshs.300,000 transferred to Pondo Secondary School for construction of beach volleyball pitch to completion. However, physical verification of the project in the month of March, 2023 revealed that the volleyball pitch was incomplete.

In the circumstances, the public did not get value for money on Kshs.300,000 incurred on the project that was not fully implemented.

## **6. Non-Compliance with National Cohesion and Integration Act, 2008 and Employment of Excess Staff**

Review of the personnel records indicated a staff population was eight (8) employees. However, all members of staff were from the dominant ethnic community contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which states that no public establishment shall have more than one third of its staff from the same ethnic community. Further, the Fund exceeded the recommended staff establishment of five (5) employees contrary to the National Government Constituencies Development Fund Board Circular Ref. No. CDF Board/ Circular/ Vol 166 dated 24 June, 2013 that directed Funds not to employ more than five (5) employees in the constituency offices.

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

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 overall governance were not effective.

## **Basis for Conclusion**

### **1. Lack of a Constituency Oversight Committee**

During the year under review, the Fund did not constitute a Constituency Oversight Committee contrary to Section 53(1) of the National Government Constituency Development Fund Act, 2015 which requires that a Constituency Oversight Committee be appointed for projects undertaken under this Act.

In the circumstances, the effectiveness of the identification, implementation and monitoring of the projects could not be confirmed.

### **2. Lack of an IT Service Continuity and Disaster Recovery Plan**

Review of IT processes and preparedness in case of any unforeseen eventualities established that the Fund did not have a data recovery strategy plan. Further, there was no offsite back up storage facility. In addition, the Fund lacked an IT officer and IT Strategic Committee to steer the Fund forward on the IT systems in place.

In the circumstances, the effectiveness of the IT resource service continuity and disaster recovery during the year under review could not be confirmed.

### **3. Lack of a Risk Management Policy**

The Fund did not have in place a Risk Management Policy to guide the Management on risk assessment and formulation of risk mitigation strategies in the year under review. This was contrary to Section 165(1)(a) and (b) of the Public Finance Management Act (National Government) Regulations, 2015 which requires the Accounting Officer to develop risk management strategies which include fraud prevention mechanism and internal control that builds robust business operations.

In the absence of a risk management, it has not been possible to confirm whether the internal controls built within the financial and operational systems were functioning as intended during the year under review.

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether effective processes and systems of internal control, risk management and overall governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

## **Responsibilities of Management and those Charged with Governance**

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Cash Basis) and for maintaining effective internal control as Management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal control, risk management and 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 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 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 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**

**13 June, 2023**