

**REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT
CONSTITUENCIES DEVELOPMENT FUND - MALINDI CONSTITUENCY FOR
THE YEAR ENDED 30 JUNE 2017**

REPORT ON THE FINANCIAL STATEMENTS

Disclaimer of Opinion

I have audited the accompanying financial statements of National Government Constituencies Development Fund - Malindi Constituency set out on pages 5 to 25 which comprise the statement of financial assets as at 30 June 2017, and the statement of receipts and payments, statement of cash flows and summary statement of appropriations: recurrent and development combined for the year then ended, and a summary statement 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 do not express an opinion on the accompanying financial statements. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion on these financial statements.

In addition, as required by Article 229(6) of the Constitution, I have not been able to obtain sufficient appropriate audit evidence to confirm that public money has been applied lawfully and in an effective way.

Basis for Disclaimer of Opinion

1.0 Presentation of Financial Statements

Review of financial statements availed for audit revealed the following:

- i. The financial statements page numbers from 1 to 16 have not been indicated. The numbering of pages starts from page 17.
- ii. Page 18 to 20 have no entity name; the financial statements have been indicated as for the year ended 30 June 2014 and the amounts have been indicated as in Kshs."000".
- iii. Pages 21 to 25 have the dates of financial statements as for the year ended 30 June 2015.
- iv. The forward statement by the chairman on un-numbered page at paragraph two states that the total available resources for the year 2016/2017 amounted to Kshs.169,128,925.77 while the statement of receipts and payments reflect an amount of Kshs.103,562,822.60, resulting to an unreconciled variance of Kshs.65,566,103.17.
- v. The financial statements indicate to have been signed on 30th September 2017 yet they were presented to the Auditor - General's office for audit on 29 September 2017.

- vi. Paragraph 2 of significant accounting policies states that values are rounded off to the nearest one shilling, however, the financial statements have been presented in full.

Consequently, the financial statements presented for audit for the year ended 30 June 2017 do not comply with International Public Sector Accounting Standards as prescribed by the Public Sector Accounting Standards Board.

2.0 Inaccuracies of the Financial Statements

2.1. The opening balances reflected in these financial statements and the audited balances for 2015/2016 financial year had absolute variances totaling Kshs.109,691.50 as detailed below:

Item	Note	Opening Balance as Per Financial Statements for 2016/2017 (Kshs.)	Balance as per Audited Financial Statements for 2015/2016 (Kshs.)	Variance (Kshs)
Utilities, Supplies and Services	5	33,631.05	49,939.55	16,308.50
Office Rent and General Supplies	5	2,726,000.00	2,600,000.00	126,000.00
Total		2,759,631.05	2,649,939.55	109,691.50

2.2. The financial statements balances presented for audit varied with support documents availed for audit by Kshs.2,026,789 as follows:

Component	Balance as Per Financial Statements (Kshs.)	Balances as per Support Documents (Kshs.)	Variance (Kshs)
1. Transfers to Other Government Units			
2.3. Transfers to Primary Schools	37,440,000	35,940,000	1,500,000
1.2. Transfers to Secondary Schools	25,200,000	26,700,000	(1,500,000)
3.0 Other Grants and Transfers			
3.1. Bursary Payments	22,142,541	23,396,500	(1,253,959)
3.2. Environmental Projects	1,887,391	2,660,221	(772,830)

Component	Balance as Per Financial Statements (Kshs.)	Balances as per Support Documents (Kshs.)	Variance (Kshs)
Total	24,029,932	26,056,721	(2,026,789)

In consequence, the accuracy, validity and completeness of these financial statements for the year ended 30 June 2017 could not be confirmed.

3.0 Other Receipts

Note 3 to the financial statement for the year ended 30 June 2017 reflects nil balances from other receipts. Scrutiny of the tender register revealed that during the financial year, the Fund sold tender documents to bidders of various projects amounting to Kshs.117,000. However, this amount has not been recognized as a receipt in the financial statements contrary to Section 12(6) of the National Government Constituencies Development Fund Act, 2015 which states that all receipts, savings and accruals to the constituency account and the balances thereof at the end of each financial year shall be returned to the constituency account. Further, examination of the cashbook and bank statements revealed that the amounts were neither banked nor recorded in the cashbook.

In consequence, the accuracy and completeness of other receipts nil balance for the year ended 30 June 2017 could not be ascertained.

4.0 Compensation of Employees

The statement of receipts and payments for the year ended 30 June 2017 reflects compensation of employees' balance of Kshs.2,889,265. Analysis of the payroll revealed that during the year, five (5) employees whose total compensation during the year was Kshs.1,549,371, were employed by the Fund. However, copies of advertisement and interview score sheets were not availed for audit purposes. Further, minutes of the Constituency Committee Meeting approving the recruitment were not availed for audit review.

In the circumstances, the competitiveness, validity and regularity of the recruitment and expenditure of Kshs.1,549,371 on employees compensation could not be confirmed.

5.0 Use of Goods and Services

5.1. Support Schedules

Included in statement of receipts and payments and as disclosed in Note 5 to the financial statements is use of goods and services balance of Kshs.8,798,900. The management did not avail for audit review schedules in support these payments:

5.2. Fuel, Oil and Lubricants

Note 5 to the financial statements for the year ended 30 June 2017 reflects use of goods and services of Kshs.8,798,900. Included in this figure is nil balance for fuel, oil and lubricants. However, review of the vehicles' work tickets and fuel receipts revealed that the vehicles drew fuel amounting to Kshs.51,871 during the year under review.

5.3. Insurance Costs

Note 5 to the financial statements for the year ended 30 June 2017 reflects use of goods and services of Kshs.8,798,900. Included in this figure is nil balance for insurance cost. However, inspection of imprest surrender vouchers revealed that during the financial year under review, motor vehicle insurance payments amounting to Kshs.2,000 were paid to an insurance firm for Policy No. AMD/070/1/071317/2017/03. The vehicle was insured for one month from 18 May 2017 to 17 June 2017. However, the insurance cost of Kshs.2,000 has not been recognized in these financial statements. Further, inspection of the vehicle revealed that the Fund has not yet insured the vehicle since the last policy lapsed on 17 June 2017. Scrutiny of the work ticket revealed that vehicle has made journeys after 17 June 2017 without having been insured.

Consequently, the accuracy and completeness of the payments for use of goods and services of Kshs.8,798,900 could not be ascertained.

5.4. Communication, Supplies and Services

Note 5 to the financial statements for the year ended 30 June 2017 reflects use of goods and services of Kshs.8,798,900. Included in this figure is communication, supplies and services payments Kshs.201,000. However, documents availed for audit review could only support an amount of Kshs.116,000, resulting to an unreconciled variance of Kshs.85,000.

Consequently, the completeness, and accuracy of communication, supplies and services balances amounting to Kshs.201,000 could not be confirmed.

5.5. Other Operating Expenses

Note 5 to the financial statements for the year ended 30 June 2017 reflects other operating expenses balances of Kshs.1,329,100. Included in these balances is Kshs.1,074,000 paid for the development of the Constituency Strategic Plan. However, scrutiny of the PMC project meeting minutes of 7 September 2016 revealed that the committee resolved the amount to be paid directly to the consultant. Payments of Kshs.1,074,000 were made without supporting documents. Further, total payments of Kshs.1,074,000 were made to the

consultant in advance contrary to Section 146 of the Public Procurement and Asset Disposal Act, 2015 that requires no works, goods or services contract shall be paid for before they are executed or delivered and accepted by the accounting officer of a procuring entity or an officer authorized by him or her in writing except where so specified in the tender documents and contract agreement.

In addition, inquiries with management on 16 May 2018 revealed that the Fund does not yet have a strategic plan, despite payments of Kshs.1,074,000 having been made to the consultant.

Consequently, the validity and propriety of other operating expenses amount of Kshs.1,329,100 could not be ascertained.

6.0 Other Grants and Payments

6.1. Bursary

Included in statement of receipts and payments and as disclosed in Note 7 to the financial statements for the year ended 30 June 2017 is other grants and other payments of Kshs.45,058,927.48. Included in this amount is bursary to secondary schools, tertiary and special schools amount of Kshs.22,142,541. However, examination of the minutes showed the committee had not developed a criterion to vet, categorize and identify needy students.

Further, the NG CDF Malindi Constituency made payments to driving schools amounting to Kshs.1,500,000 based on application of Malindi Bodaboda Umbrella Association to sponsor their members to get training. The list availed by the Umbrella had 133 beneficiaries at Kshs.10,000 per person totaling to Kshs.1,330,000 resulting to an unreconciled variance of Kshs.170,000. Further no document was availed to explain how the beneficiaries were identified.

In the circumstances, the accuracy, propriety and value for money for the bursary payments of Kshs.22,142,541.08 could not be confirmed.

6.2. Sports Projects

Note 7 to the financial statements for the year ended 30 June 2017 reflects other grants and other payments of Kshs.45,058,927.48. Included in this figure is sports projects of Kshs.5,264,829. Review of payment vouchers and PMC files for transfers amounting to Kshs.3,964,829.40 to various sports projects for procurement of sport kits and facilities. However, support documents such as invoices, procurement documents, PMC minutes and bank's statements were not availed for audit, and therefore it was not possible to confirm compliance to Section 10 of the National Government Constituencies Development Fund Act, 2015 that states that all expenses shall be properly accounted for and proper books of accounts shall be kept and returns made to the Constituency Committee for that constituency on how the disbursements have been used. Further, some of the PMC Members were observed to be CDF Staff contrary to Section 41 (2) of the National Government Constituencies Development Fund Act, 2015.

Consequently, the regularity, accuracy of lawfulness of sports projects amount of Kshs.3,964,829 could not be ascertained.

6.3. Emergency Projects

Note 7 to the financial statements for the year ended 30 June 2017 reflects other grants and other payments of Kshs.45,058,927.48. Included in this figure is emergency projects of Kshs.8,787,785. Review of the supporting documents revealed that payments amounting to Kshs.3,987,785 were made to various projects as follows:

PV. No	Payee	Amount	Description
105	Maduguni Primary School	1,500,000	Renovation of 2 classrooms: Roofing of 2 No. Classroom at Maduguni Primary School.
106	Mariakano Primary School	1,000,000	Proposed renovation of 2 Classrooms at Mariakano Primary School
107	HGM Malindi Primary School	1,000,000	Renovation of Administration Office at HGM Primary School
150	St. Marys Takaye Secondary School	487,785	Construction of 1 No. Classroom at St. Marys Takaye Secondary School Tender No. MLD/NG-CDF/16/2015-2016
	Total	3,987,785	

However, contrary to Section 8 (3) of the National Government Constituencies Development Fund Act, 2015, these projects activities were not observed to be emergency projects in nature and scope. The above projects involved construction or repair of classrooms which could all have been planned for, resources allocated and completed as per contract agreement.

Under the circumstances, the propriety, validity and legality of the emergency projects amounting to Kshs.3,987,785 for the year ended 30 June 2017 could not be confirmed.

7.0 Acquisition of Assets

The statement of receipts and payments reflects a figure of Kshs.7,225,600 in respect to acquisition of assets for the year ended 30 June 2017. However, verification of project files revealed the following anomalies: -

7.1. Acquisition of Assets

As previously reported, the NG CDF Malindi Constituency spent a total of Kshs.6,050,000 in acquisition of land broken down as: - Kshs.5,000,000 paid to

land vendor and Kshs.1,050,000 paid to a single sourced consultant to verify the land details. However, records availed for audit did not provide information on how the piece of land and the vendor were identified. Perusal of payment details revealed that the land was acquired and paid for before valuation. Further, records availed for audit further revealed that the land acquired was formerly a road reserve which had been alienated through allotment letter dated 17 June 1999. The vendor had not processed ownership documents and as at the time of the audit, the NG CDF Malindi Constituency had not acquired ownership documents and the matter was under investigation by Ethics and Anti-Corruption Commission (EACC). In addition, construction of the office had commenced even before land sale agreement was signed and no taxes were withheld when making payments as per Income Tax Act Cap 470 and VAT Act, Cap 476.

Consequently, the ownership of the asset and validity and propriety of the expenditure of Kshs.15,000,000 for the year ended 30 June 2016 could not be ascertained.

7.2. Purchase of Vehicles and Other Transport Equipment

Note 8 to the financial statements for the year ended 30 June 2017 reflects acquisition of assets of Kshs.7,225,600. Included in this figure are payments amounting to Kshs.5,225,000 in respect of purchase of vehicles and other transport equipment. The payment was for acquisition of a nine - seater passenger vehicle for the NG CDF Malindi Constituency. However, examination of documents availed for audit revealed the following:

7.2.1. The NG CDF Malindi Constituency did not have a procurement plan contrary to Section 53 (2) of the Public Procurement and Asset Disposal Act, 2015 that requires an accounting officer to prepare an annual procurement plan.

7.2.2. Inspection of the advertisement and procurement documents revealed that the Fund did not request bidders to submit tender security contrary to Regulation 41 (1) of the Public Procurement Regulations 2006 that states that the amount of any tender security under Section 57 (2) of the Act shall be expressed either as a fixed amount or as a percentage of the estimated value of the contract and shall not in either case exceed two percent of the estimated value of the contract.

7.2.3. The professional opinion document was not availed for audit review and thus it was not possible to confirm compliance to Section 84 (1) of the Public Procurement and Asset Disposal Act, 2015, that states that the head of procurement function of a procuring entity shall, alongside the report to the evaluation committee as secretariat comments, review the tender evaluation report and provide a signed professional opinion to the accounting officer on the procurement or asset disposal proceedings.

In the circumstances, the lawfulness, ownership and completeness of purchase of vehicles and other transport equipment balances of Kshs.5,225,000 for the year ended 30 June 2017 could not be ascertained.

7.3. Purchase of Office Furniture and General Office Equipment

The statement of receipts and payments for the year ended 30 June 2017 reflects acquisition of assets of Kshs.7,225,600. Included in this figure and as disclosed in note 8 to the financial statements are payments of Kshs.2,000,600 in respect of purchase of office furniture and general equipment. Examination of records revealed that the Fund used request for quotation procurement method rather than open tender in awarding the contract for supply of office furniture contrary to the first schedule (Threshold Matrix of Procuring entities) of the Public Procurement Regulations, 2006 that requires procuring entities that are classified under Class C as per the Gazette Notice No. 719 of 24 January 2007, to use Request for Quotation procurement method where the maximum level of expenditure for goods does not exceed Kshs.500,000. As per the Gazette Notice, Fund has been categorized under Class C procuring entity.

The management was therefore in breach of the law and in consequence, the propriety and regularity of payments amounting to Kshs.2,000,600 for the purchase of office furniture and equipment could not be ascertained.

8.0 Cash Balance

The statement of financial assets as at 30 June 2017 reflects nil cash balance. However, the Board of Survey certificates was not availed for audit verification.

Consequently, the accuracy and completeness of nil cash as at 30 June 2017 could not be ascertained.

9.0 Bank balance

The statement of financial assets as at 30 June 2017 reflects bank balance of Kshs.3,040,494.68. However, the bank reconciliation statement as at 30 June 2017 presented for audit revealed the following:-

- i. Unpresented cheques amounting to Kshs.1,814,755.73 out of which the sum of Kshs.267,254.05 relates to stale cheques not reversed in cash book as at the year end.
- ii. Subsequent bank statements were not availed for audit to confirm when cheques amounting to Kshs.1,547,501.68 outstanding as at 30 June 2017 cleared.
- iii. Payments amounting to Kshs.200,129.32 were not recorded in the cash book.
- iv. Bank confirmation certificate of balance as at 30 June 2017 was not availed for audit review.

In the circumstances, the accuracy and completeness of the bank balance of Kshs.3,040,494.68 could not be confirmed.

10.0 Outstanding Imprest

The statement of financial assets as at 30 June 2017 reflects nil balance of outstanding imprest. However, note 11 to the financial statements reflect an opening balance of Kshs.468,000. Payment vouchers used to surrender the imprest were not availed for audit review and no explanation was availed for the audit on how the imprest of Kshs.468,000 for the financial year 2015/2016 was cleared.

In the circumstances, the accuracy and completeness of nil outstanding imprest could not be ascertained.

11.0 Budget Control and Performance

During the year under review, the NG CDF Malindi Constituency had a final budget of Kshs.177,223,752.72 and had actual expenditure of Kshs.133,234,983, resulting to an under absorption of Kshs.43,988,766.76 or 25% as summarized below:

Receipt/ Expense Item	Final Budget	Actual on Comparable Basis	Under Absorption in Kshs.	% of Utilization	Under Absorption - %
Compensation of Employees	3,590,142	2,889,265	700,877	80%	20
Use of goods and services	10,071,510	8,798,900	1,272,610	87%	13
Transfers to Other Government Units	93,581,036	69,262,291	24,318,744	74%	26
Other grants and transfers	61,928,137	45,058,927	16,869,209	72%	28
Acquisition of Assets	8,052,928	7,225,600	827,328	89%	11
Total	177,223,753	133,234,983	43,988,767	75%	25

The under management indicated that absorption was attributed to non-disbursement of Kshs.40,948,275.86 by National Government CDF Board.

12.0 Projects Verification

Project verifications in the month of May 2018 for 14 projects costing Kshs.19,225,841 revealed following:

	Payee	Amount (Kshs.)	Description of project	Observations
Item No.	Primary schools			

	Payee	Amount (Kshs.)	Description of project	Observations
1	Milimani Primary School	2,700,000.00	Construction of 2 classrooms	The two classrooms were completed and in use and paid for. Electrical work billed at Kshs.87,540 was not done. Signage contracted at Kshs.30,000 were also not done. The two classrooms were in use.
2	Viriko Primary School	3,000,000.00	Construction of 2 classrooms	The two classrooms were completed and paid for. The floor had damages/chipped off. The painting as only done undercoat plus one coat instead of two coats. The classrooms were being used by St. Catherine Makobe High School Form 1 and 2.
3	Airport Primary School	1,300,000.00	Construction of 1 classroom	1 classroom constructed and in use - Electrical works billed at KShs.63,900 was not done although fully paid for.
4	Mkunguni Primary School	2,700,000.00	Construction of 2 classrooms	The two classrooms were completed and in use. However, there were no desks and the pupils were found to be sitting on the floor at the time of inspection.
5	Karima Primary School	400,000.00	Supply of 100 desks	The deputy head teacher informed the audit team only 50 desks were received. No store card was availed.
	Secondary Schools			
6	St. Marys Takaye Secondary School	1,300,000.00	Construction of 1 classroom	Electrical work not done, no signage. Painting not done as per specifications. Fully paid
7	Baguo Secondary School	1,000,000.00	Construction of 1 classroom	Project incomplete. Done up to roofing. Contractor not on site.
	Water Projects			
8	Sosobora Girimacha Water Project	200,841.00	Water project	No evidence of work done. Fully paid
9	Kijiwetanga Water Project	1,000,000.00	Water project	No evidence of work done. Fully paid

	Payee	Amount (Kshs.)	Description of project	Observations
10	Galana Water Project	2,000,000.00	Water project	No evidence of work done. Fully paid
	Security Project			
11	Kakuyuni AP Posts	1,000,000	Ongoing project from 2015 - 16Construction of Administration police posts. Office and staff houses	A block of 2 staff houses incomplete/stalled. The rest in use but no power connected. Only KShs.3 million NG CDF Malindi Constituency was availed so far for total project cost of Kshs. 7,992,625. Units in use has not been connected to power.
12	Langobaya Chiefs Camp	1,000,000	Chief's Office	Building incomplete. Project file not availed
	Road Project			
13	Kazuju Pata-Mkondoni Road	625,000.00	Grading	No evidence of work done. Fully paid
	Sport Project			
14	Msabaha Sports Center	1,000,000	Rehabilitation	No evidence of work done. BQ not availed also. Fully paid
	Total	19,225,841		

Responsibilities of Management and Those Charged with Governance for the Financial Statements

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 such 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.

In preparing the financial statements, management is responsible for assessing the National Government Constituency Development Fund- Malindi Constituency's ability to continue as a going concern/ sustain services, disclosing, as applicable, matters related to sustainability of services and using the going concern basis of accounting.

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.

Those charged with governance are responsible for overseeing the Fund's financial reporting process.

Auditor-General's Responsibilities for the Audit of the Financial Statements

My responsibility is to conduct an audit of the National Government Constituency Development Fund - Malindi Constituency's financial statements in accordance with International Standards of Supreme Audit Institutions (ISSAIs) 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. However, because of the matter described in the Basis for Disclaimer of Opinion section of my report, I was not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion on these financial statements.

I am independent of National Government Constituency Development Fund - Malindi Constituency in accordance with ISSAI 30 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.



FCPA Edward R. O. Ouko, CBS
AUDITOR-GENERAL

Nairobi

06 July 2018