

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - BOBASI CONSTITUENCY FOR THE YEAR ENDED 30 JUNE, 2019

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of National Government Constituencies Development Fund - Bobasi Constituency set out on pages 6 to 27, which comprise the statement of assets and liabilities as at 30 June, 2019, and the statement of receipts and payments, statement of cash flows and the summary statement of appropriation - recurrent and development combined 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 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 - Bobasi Constituency as at 30 June, 2019, 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

1. Lack of Ownership Documents for School Buses

The statement of receipts and payments reflects transfers to other Government units expenditure of Kshs.30,679,998. As disclosed at Note 6 to the financial statements, the expenditure includes transfers of Kshs.27,040,000 to secondary schools, out of which an amount of Kshs.19,458,620 was used to purchase three (3) school buses as shown below:

School	Bus Registration No.	Amount (Kshs.)
Emenwa Secondary School	KCP 633K	6,429,310
Naikuru Secondary School	KCT 023Y	6,514,655
Rogongo Secondary School	KCT201Y	6,514,655
Total		19,458,620

However, the log books for the buses were not provided for audit. Further, the buses were purchased through the direct procurement method from a supplier even though the conditions for use of the method, as provided under Section 103 (2) of Public Procurement and Asset Disposal Act, 2015, had not been met.

Consequently, the validity of the expenditure and ownership of the buses, could not be confirmed.

2. Unsupported Budget Adjustments and Unutilized Funds

The summary statement of appropriation - recurrent and development combined reflects budget adjustments of Kshs.88,823,570 and a budget utilization difference of Kshs.96,740,376. However, the details of the projects approved in the prior year for implementation during the financial year 2018/2019 were not provided in support of the adjustments. Further, the budget utilization difference of Kshs.96,740,376 differed with the unutilized fund balance of Kshs.17,229,597 reflected under Note 15.3 to the financial statements by Kshs.79,510,779. The variance was not reconciled neither were the details of the unutilized funds provided under Annex 3 as required. In addition, the comparative balances for the unutilized funds have not been shown.

In the circumstances, the accuracy of the budget adjustments and the unutilized funds as at 30 June, 2019 could not be confirmed.

3. Unexplained Difference in the Total Final Expenditure Budget

The summary statement of appropriation - recurrent and development combined reflects a total final expenditure budget of Kshs.197,864,446 which differs with the amount of Kshs.150,790,259 reflected in the statement of budget execution by programmes and sub-programmes. The resultant difference of Kshs.47,074,187 was not reconciled or explained.

4. Misstatements in the Financial Statements

- i. The statement of assets and liabilities reflects a total financial assets balance of Kshs.17,841,120 which is represented by a net fund balance of Kshs.Kshs.10,711,100 resulting into a variance of Kshs.7,130,020.
- ii. The statement of cashflows shows a cash and cash equivalents balance of Kshs.10,711,100 (2018: Kshs.16,043,687) at the end of the year while the statement of assets and liabilities shows a total cash and cash equivalents balance of Kshs.17,841,120 (2018: Kshs.24,032,087). The resultant difference of Kshs.7,130,020 (2018: Kshs.7,988,400) has not been explained.
- iii. Note 10A to the financial statements reflects a comparative cash and cash equivalents balance of Kshs.4,902,983 which differs with the audited balance of Kshs.24,032,087 by Kshs.19,129,104.
- iv. Although Note 6 to the financial statements reflects transfers amounting to Kshs.3,139,998, Kshs.27,040,000 and Kshs.500,000 to primary schools, secondary schools and tertiary institutions respectively, the balances held in the bank accounts of various Project Management Committees have not been disclosed under Note 15.4 to the financial statements and Annex 5 as required.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the National Government Constituencies Development Fund - Bobasi 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

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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

Budget Performance and Control

The summary statement of appropriation - recurrent and development combined reflects a final receipts budget and actual receipts on comparable basis of Kshs.197,864,446 and Kshs.119,823,570 respectively, resulting into an under-funding of Kshs.78,040,876 or 39% of the budget. Similarly, the Fund spent Kshs.101,124,070 against an approved budget of Kshs.197,864,446 resulting to an under-expenditure of Kshs.96,740,376 or 49% of the budget. The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

In the circumstances, the under collection of receipts and under-expenditure on the approved budget impacted negatively on the efficiency and effectiveness of the service delivery to the constituents.

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. Construction of a Dormitory at Emenwa Secondary School

As disclosed at Note 6 to the financial statements, the transfers of Kshs.30,679,998 to other government units included an amount of Kshs.27,040,000 transferred to secondary schools of which an amount of Kshs.2,000,000 was disbursed for construction of a dormitory at Emenwa Secondary School. However, the bill of quantities and drawings for the dormitory were not provided for audit. Further, examination of available documents revealed that the construction materials were procured in cash although they had exceeded the threshold of Kshs.5,000 per procurement item as provided under the First Schedule of the Public Procurement and Disposal (Amendment), Regulations, 2013.

In addition, the School Administration reallocated Kshs.720,000 to drilling and casing of borehole, Kshs.360,500 to construction of pit latrine and Kshs.60,200 to fencing. No evidence was provided of approval of the reallocation as required under Section 6 (2) of the National Government Constituencies Development Fund Act, 2015, which provides that once funds are allocated for a particular project, they shall remain allocated for that

project and may only be reallocated for any other purpose during the financial year with the approval of the Board.

Audit inspection of the Project on 10 March, 2020 also established that the dormitory construction works at Emenwa Secondary School stalled at foundation level and the work done was not certified.

In the circumstances, the regularity and value for money of the expenditure of Kshs.2,000,000 could not be confirmed.

2. Completion of Nyamagwa Chief's Office

The statement of receipts and payments reflects other grants and transfers of Kshs.52,501,588. As disclosed at Note 7 to the financial statements, the expenditure included security projects amounting to Kshs.800,000. An amount of Kshs.500,000 was disbursed to Nyamagwa Chief's Office of which Kshs.300,000 was paid for roofing, plastering and installation of steel doors while the remaining Kshs.200,000 was meant for construction of three (3) door pit latrines.

However, audit inspection of the project on 10 March, 2020 revealed that plastering had not been done yet it was paid for while the construction of the pit latrines had not commenced.

In the circumstances, the value for money and regularity of the expenditure of Kshs.500,000 could not be confirmed.

3. Delay in Implementation of Innovation Hubs Project

During the financial year 2017/2018, an amount of Kshs.3,507,770 was allocated for establishment of Innovation Hubs in three (3) secondary schools namely; St. Paul's Nyacheki Secondary School, Nyakegogi Secondary School and Rusinga Secondary School. Each secondary school was allocated Kshs.1,169,257.

The scope of the works included installation of satellite antennas, router, digital access kit and digital ruggedized tablets, Wi-Fi with outdoor wireless connectivity device complete with 12u cabinet and information accessories.

However, audit inspection on 10 March, 2020 revealed that the Project had not been implemented. Although Management explained that the delay was due to lack of rooms for installation of the Hubs in the schools and that the Committee was considering construction of specific rooms to host the Hubs or seek re-allocation of the funds, no documentary evidence was provided of the action taken and the funds remained idle.

4. Stalled Construction of a Library at Rogongo Secondary School

An amount of Kshs.1,000,000 was disbursed to Rogongo Secondary School during the financial year 2017/2018 for construction of a library through labour - based contracting. The amount disbursed was used for the construction of sub structure, super structure and roofing. However, no funds were allocated for the Project in the financial year 2018/2019 and finishing works including plastering, painting, fixing of doors and windows, tiling and ceiling were not done.

The failure to finance the Project to completion during the year under review violates the provisions of Section 46(2) of the National Government Constituencies Development Fund Act, 2015 which requires ongoing projects to take precedence over all other projects in funding.

In the circumstances, Management was in breach of the Law and timely completion of the Project could not be confirmed.

5. Irregular Variation of Contract for Construction of Bobasi Constituency Office

The statement of receipts and payments reflects acquisition of assets expenditure of Kshs.6,081,105. The expenditure includes an amount of Kshs.5,068,105 which was allocated for the construction of the National Government Constituencies Development Fund - Bobasi Constituency Office. However, the tender was awarded to a contractor on 3 May, 2019 for a contract period of forty-eight (48) weeks at a contract sum of Kshs.17,387,410 which exceeded the budgeted amount of Kshs.5,918,105 by Kshs.11,469,305. The contract sum was later revised by Kshs.8,142,695 or 47% to Kshs.25,530,105 and the revised works commenced on 14 May, 2019.

The variation was approved on 11 March, 2020, which is a period of 10 months from the date of commencement of the contract and therefore contrary to Section 139 (3) of the Public Procurement and Asset Disposal Act, 2015 which provides that no contract price shall be varied upwards within twelve (12) months from the date of signing the contract. The variation was also in contravention of Section 139 (6) of the Public Procurement and Asset Disposal Act, 2015 which provides that where variations result in an increment of the contract price by more than twenty-five percent (25%), such variations shall be tendered for separately.

In the circumstances, the regularity and value for money of the revised contract sum of Kshs.25,530,105 could not be confirmed.

6. Reallocation of Funds Without Authority

Note 6 to the financial statements reflects expenditure of Kshs.30,679,998 under transfers to other government units which includes Kshs.3,139,998 transferred to primary schools of which Kshs.1,000,000 was disbursed to the Project Management Committee of Nyachogochogo Primary School for the renovation of six (6) classrooms.

However, audit inspection of the Project on 10 March, 2020 revealed that, the funds were reallocated to the construction of two (2) classrooms without the authority of the Board as stipulated in Section 6 (2) of the National Government Constituencies Development Fund Act, 2015.

Consequently, 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 procedures performed, I confirm that, nothing has come to my attention to cause me to believe 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 processes and systems of internal control, 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 control risk management and governance.

In preparing the financial statements, Management is responsible for assessing the ability of National Government Constituencies Development Fund - Bobasi Constituency to sustain services, disclosing, as applicable, matters related to sustainability of services and using the going concern 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 financial reporting process, reviewing the effectiveness of how the Fund 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,

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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 an opinion 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 going concern 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 ability of National Government Constituencies Development Fund - Bobasi Constituency 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 sustaining 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 National Government Constituencies Development Fund - Bobasi Constituency 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.



Nancy Gathungu
AUDITOR-GENERAL

Nairobi

01 October, 2021