

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - EMUHAYA CONSTITUENCY FOR THE YEAR ENDED 30 JUNE 2018

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of National Government Constituencies Development Fund - Emuhaya Constituency as set out on pages 9 to 39, which comprise the statement of financial assets as at 30 June 2018, and the statement of receipts and payments, statement of changes in equity, statement of cash flows and statement of comparison of budget and actual amounts 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 Emuhaya Constituency National Government Constituency Development Fund as at 30 June, 2018, 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 Constituency Development Fund Act, 2015 and any other Laws of Kenya.

Basis for Qualified Opinion

1.0 Inaccuracies in the Financial Statements

1.1 Unreconciled Balance of Use of Goods and Services

Included in use of goods and services balance of Kshs.4,926,260 in the financial statements are committee expenses of Kshs.1,688,656 as at 30 June 2018. The schedule made available to support committee expenses amounted to Kshs.1,688,656 however payment vouchers made available for audit examination amounted to Kshs.759,170 thus leading to unsupported and unreconciled expenditure of Kshs.929,486.

1.2 Unsupported Expenditure

Included in use of goods and services balance of Kshs.4,926,259 as disclosed in the financial statements is training expenses figure of Kshs.903,920 for the year ended 30 June 2018. However, included in training figure is expenses of Kshs.57,540 not supported by payment vouchers. Therefore, the accuracy and completeness of training expenses of Kshs.903,902 cannot be confirmed.

1.3 Unsupported Other Operating Expenses

Examination of the payment vouchers made available to support other operating expenses balance of Kshs.463,880 disclosed in the financial statements as at 30 June 2018 amounted to Kshs.223,028 resulting into a difference of Kshs.240,852. No explanation was offered on how the difference arose.

1.4 Failure to Prepare the Trial Balance

The management of Emuhaya NGCDF failed to prepare the trial balance for the year ended 30 June 2018 and it was not possible to confirm the accuracies of balances taken to the financial statements.

1.5 Unexplained Variance between the Notes and Statement of Receipts and Payments Figure

The management under other grants and transfers disclosed a balance of Kshs.26,042,107 on the statement of receipts and payments, while explanatory note 7 on the same reflected a balance of Kshs.25,141,174 thereby creating an unexplained difference of Kshs.900,933.

1.6 Failure to Maintain Constituency's Cash Book

The management of Emuhaya NGCDF failed to maintain cash book for a period of 7 months during the year under review and as such the accuracy and validity of the cash and cash equivalents balance of Kshs.3,456,500 cannot be confirmed. Further, bank reconciliation statements prepared for the months of July 2017 to January 2018 could not be verified. In addition, bank reconciliation statement for the month of September 2017 was not made available for audit review. The list of payments in bank statement attached to the bank reconciliation statement was doubtful since most of the payees were reflected in the form of cheque numbers instead of names of payees. The bank reconciliation statements contained unpresented stale cheques amounting to Kshs.296,229 which had not been reversed in the cash book as shown below;

UNPRESENTED STALE CHEQUES

Date	Chq No.	Payee	Amount (Kshs.)
31/7/2016	3429	Kilingili Secondary	1,300
31/08/2016	3546	Crystal Valuers	28,420
30/09/2016	3612	Value Added Tax (VAT)	259
31/01/2017	3806	Income Tax	2,393
31/01/2017	3823	VAT	2,763
20/04/2017	3932	Hobunaka Sec. School	121,000
20/04/2017	3990	Anestar Premiur High School	3,000
20/04/2017	4021	Chemuchane Secondary	3,000
20/04/2017	4027	Crown of Hope High	6,000
20/04/2017	4125	E.A. Institute of Certified Studies	4,000
20/04/2017	4150	Int. Teaching Training Centre	4,000

Date	Chq No.	Payee	Amount (Kshs.)
20/04/2017	4243	Madui Secondary	3000
20/04/2017	4308	Moi University	5,000
20/04/2017	4367	Tsavo Institute of Technology	4,000
22/06/2017	4707	Moi Girls Vokoli	5,000
27/06/2017	4769	NSSF	12,546
28/06/2017	4509	St. Judes	10,000
28/06/2017	4085	Kaimosi Girls High School	40,673
28/06/2017	4110	Boyani Theology College	4,000
28/06/2017	4486	Karima Sec. School	20,000
28/06/2017	4445	St. Oda School for the Deaf	6,000
28/06/2017	4056	Lwanda Secondary	6,000
28/06/2017	3626	Deliverance Church Kawangware	3,875
		TOTAL	296,229

In the circumstances, the cash and cash equivalents balance of Kshs.3,456,500 as at 30 June 2018 could not be ascertained.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of 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. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Emphasis of Matter

1.0 Budget Implementation Performance

1.1 Non Implementation of Approved Budgeted Projects

Analysis of the approved budget of Emuhaya National Government Constituency Development Fund and the actual expenditure revealed the following,

- i. Three projects although budgeted for were not implemented at all (Sports project Kshs.1,736,206, Strategic Plan Kshs.3,000,000 and Constituency Innovation hub Kshs.4,677,027).
- ii. Committee expenses was overspent by one hundred and twenty-two percent (122%).
- iii. Various projects were not fully implemented as per the approved budget

1.2 Absorption of Budget

Further, during the year under review Emuhaya NG-CDF had a total budget of Kshs.96,845,270 against a total expenditure of Kshs.40,554,287 resulting into 42% budget absorption. In addition, the entity under absorbed the budget on compensation

to employees at 52%, transfer to other government units 79%, other Grants and Transfers 44%.

Audit Component	Budgeted Amount (Kshs)	Actual Amount (Kshs)	Variance (Kshs)	Absorption %
Transfer from CDF Board	98,795,270	44,010,787	54,784,483	45%
Compensation to Employees	3,582,812	1,732,020	1,850,792	48%
Use of Goods and Services	8,859,872	4,926,260	3,933,612	56%
Transfer to other Government Units	37,604,214	7,853,900	29,750,314	21%
Other Grants and Transfers	46,798,372	26,042,107	20,756,265	56%
Total	96,845,270	40,554,287	56,290,983	42%

The under absorption on some items means the citizen of the constituency did not receive the expected value for money due to non-delivery of services.

Key Audit Matters

Key audit matters are those matters that, in our professional judgment, are of most significance in the audit of the financial statements of the current year. These matters were addressed in the context of the audit of the financial statements as a whole, and in forming my opinion thereon, and I do not provide a separate opinion on these matters. For each matter below, a description of how the audit addressed the matter is provided in that context.

I have fulfilled the responsibilities described in the *Auditor's Responsibilities for the Audit* section of the report, including in relation to these matters. Accordingly, the audit included the performance of procedures designed to respond to the assessment of the risks of material misstatement of the financial statements. The results of the audit procedures, including the procedures performed to address the matters below, provide the basis for my audit opinion on the accompanying financial statements.

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. Except for the matter(s) described in the Basis for Qualified Opinion section, I have determined that there are no other key audit matters to communicate in my report.

REPORT ON COMPLIANCE WITH LAWFULNESS AND EFFECTIVENESS IN THE USE OF PUBLIC MONEY

Conclusion

As required by Article 229(6) of the Constitution, based on the audit procedures performed, except for the matter(s) described in the Basis for [Conclusion on Lawfulness and Effectiveness in Use of Public Resources/ Qualified Opinion] 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. Transfer of Funds to Bunyore Teachers Training

Included in transfers to other government entities balance of Kshs.7,853,900 as disclosed in the accounts are transfers to tertiary institutions balance of Kshs.5,305,000.00. In support of the payment voucher were inspection and acceptance report, interim payment certificate number 5 and a letter from Emuhaya National Government Constituency Development Fund reference number EMU/NG-CDFC/CORRES/02/05/18/008 of 2/5/2018.

As at the time of the audit exercise a total of Kshs.18,105,000 had been paid for the project as shown below:

1st payment Certificate- Kshs.4,400,000
2nd Payment Certificate-Kshs.4,400,000
3rd payment Certificate- Kshs.3,000,000
4th Payment Certificate- Kshs.1,000,000
5th Payment Certificate- Kshs.5,305,000

Total **Kshs.18,105,000**

A contract agreement dated 23rd November 2016 was entered into between Emuhaya National Government Constituency Development Fund and M/S Rhonde General Contractors of Post office Box 108, Emuhaya to carry the works of erection and completion of Bunyore TTC at Ilungu in Vihiga County at a contract sum of Kshs.26,438,737. The contract period was 36 weeks from the date of the contract signing.

From the examination of the payment voucher of transfer of funds to Bunyore TTC of Kshs.5,305,000, project returns file and physical verification of the project revealed, an administration block had been completed, four lecture rooms and 2 ablution blocks constructed. Wiring and plumbing works had been carried out. However,

- i. The contract period had long elapsed and no extension period had been requested by the contractor (The contract period was to run for 36 weeks after signing of the contract agreement. It was to run up to 23rd August 2017).
- ii. No approved procurement plan and work plan by the National Government Constituency Development Fund office for the implementation of the project was made available for audit examination as per the requirement of National Government Constituency Development Fund Regulations 2016 section 25 paragraph 1 to 3 stated above.
- iii. The Management did not implement the project through a Project Management Committee (PMC) as per the requirement of the National Government

Constituency Development Fund Act 2015-part VI section 36 paragraph 1 stated above.

- iv. No signed professional opinion by the head of the procurement function of a procuring entity was made available for review as per the requirement of the Public Procurement and Asset Disposal Act, 2015 section 84 paragraph 1 stated above.
 - v. Interim Payment Certificate (IPC) number 5 totaled Kshs.8,000,000 but only Kshs.5,305,000 was paid vide payment voucher number 01 of 21/5/2018. No detailed breakdown was made available for audit examination to establish what were the measured works that totaled Kshs.8,000,000 as per the certificate from the department of Public Works or the paid works of Kshs.5,305,000.
 - vi. As per the Bill of Quantities (BQ), the contractor was to provide a performance bond of five (5) percent of the contract sum totaling Kshs.500,000 before signing of the contract agreement but no evidence was availed as to whether the contractor gave the performance bond.
 - vii. Included in prime cost and provisional sums as detailed in the Bill of Quantities were the following:
 - Allow a prime cost sum of Kenya shillings six hundred thousand (Kshs.600,000.00) only for electrical installation works to be executed by a nominated sub-contractor-Kshs.600,000.
 - Allow for attendance-Kshs.50,000.
 - Allow a provisional sum of Kenya shillings five hundred thousand for contingencies-Kshs.500,000.
 - Allow a provisional sum of Kenya shillings one million two hundred fifty thousand (Kshs.1,250,000) for construction of 2No. pit latrines and drainage works-Kshs.1,250,000.
 - Allow a provisional sum of Kenya shillings one hundred sixty-eight thousand (Kshs.168,000) for project management expenses.
- No detailed breakdown as to how the above provisional and prime sums had been expended was provided for audit scrutiny.
- viii. The contractor was not on site as at the time of physical verification on 08/04/2019 and no works were ongoing.
 - ix. Interim Payment Certificate number 5 had a retention sum of Kshs.800,000, however no evidence was provided to prove the existence of the retention money.

2. Failure to Provide Project Returns

Included in transfers to other government entities balance of Kshs.7,853,900 are transfers to secondary schools of Kshs.2,214,000 which in turn includes a disbursement of Kshs.800,000 to ACK-Bishop Oketch Essunza Secondary School. The transfer of Kshs.800,000 was for the payment for balance towards purchase of land. The funds of Kshs.800,000 were transferred to the school vide payment voucher number 02 of 7/06/2018. In support of the payment voucher was an approved budget, project management committee minutes, and title deed among others. Examination of the payment voucher and physical verification of the project revealed that the land was purchased but no project returns documents were filed in the project file contrary to the requirement of the Act and the regulations.

3. Re-allocation of Funds without Board Approval

Included in transfers to other government entities figure of Kshs.7,853,900 in the financial statements is transfer to primary schools figure of Kshs.334,900. However, included in transfer to primary schools balance of Kshs.334,900 is Kshs.101,600 which relates to purchase of land for Emuhaya divisional police headquarters and therefore the fund is wrongly allocated to security projects.

4. Construction of a Dining Hall and Kitchen at Ebusiloli Secondary

Included in transfer to other government entities balance of Kshs.7,853,900 were transfers to secondary schools balance of Kshs.2,214,000. Further, included in the balance of transfers to secondary schools balance of Kshs.2,214,000 was a transfer of Kshs.1,400,000 to Ebusiloli Secondary School. In support of the payment voucher was an approved budget from the board and unreferenced letter from Ebusiloli Secondary School dated 4/6/2018. The Kshs.1,400,000 was for the construction of dining/kitchen (storied) casting first (1st) floor slab/general finishes at ground level as per the approved budget. From the examination of the payment voucher and physical verification of the project at the school on 08/04/2019, the following were revealed:

- i. The project has gone for four years without any progress being made at all in the project. Only pillars had been constructed and reinforcement bars have started rusting because of exposure to the vagaries of the weather. The project implementation status report was misleading because during 2015/2016 financial year, it stated that the project was complete and in use while in the year under review, the report states that the project will be completed by 31st March 2019. Physical, verification during the audit established that only pillars stood on the ground with exposed rusty reinforcement bars.
- ii. The amount of Kshs.1,400,000 that was transferred to the school for the construction of a dining hall was still lying idle in the project management committee account as was observed from the bank statement for the period starting 01/June/2018 to 10/June/2018.
- iii. No Bill of Quantities (BQ), plans and architectural drawings certified by the ministry of public works for the construction of the dining hall and kitchen were made available for audit verification.

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 INTERNAL CONTROLS EFFECTIVENESS, GOVERNANCE AND RISK MANAGEMENT SYSTEMS

Conclusion

As required by Section 7 (1) (a) of the Public Audit Act, 2015, based on the audit procedures performed, except for the matter(s) described in the Basis for [Conclusion on Effectiveness of Internal Controls, Risk Management and Governance/Qualified Opinion] section of my report, I confirm that, nothing has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

The audit was conducted in accordance with ISSAI 1315 and ISSAI 1330. 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 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 to continue as a going concern/ sustain services, disclosing, as applicable, matters related to **sustainability of services** and using the **cash** basis of accounting unless the **National Government** either intends to liquidate the or to cease operations, or have no realistic alternative but to do so.

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 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 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 to continue as a going concern or 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 to cease to continue as a going concern or 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 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.



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

Nairobi

23 August 2019