

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

REPORT ON THE FINANCIAL STATEMENTS

Adverse Opinion

I have audited the accompanying financial statements of National Government Constituencies Development Fund - Mandera East Constituency set out on pages 8 to 38, which comprise the statement of assets as at 30 June 2018 and the statement of receipts and payments, statement of cash flows and 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, because of the significance of the matters discussed in the Basis for Adverse Opinion section of my report, the financial statements do not present fairly, the financial position of National Government Constituencies Development Fund - Mandera East Constituency as at 30 June 2018 and its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Cash Basis) and do not comply with the National Government Constituencies Development Fund Act, 2015.

Basis for Adverse Opinion

1. Cash and Cash Equivalents

1.1 Bank Reconciliation Statement

The Fund's bank reconciliation statement for the month of June 2018 reflected cash book bank balance of Kshs.41,095,732 while the financial statements indicated Kshs.41,206,858 as at 30 June 2018 resulting in an unreconciled and unexplained variance of Kshs.111,126.

1.2 Receipts in Bank Statement not Recorded in the Cash Book

Bank reconciliation statement reflected an amount of Kshs.61,680 as receipts in bank statement not recorded in cash book as detailed below: -

Date	Details	Amount Kshs.
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01 September 2015	Egerton	41,480
01 September 2015	Egerton	20,000
23 February 2016	Unpaid Cheque No.2129	200
	Total	61,680

It is not clear how cheques dating back to 2015 and 2016 have not been cleared from the books of account.

1.3 Variance between Statement of Cash Flows and the Statements of Assets

The cash flow statement reflects cash and cash equivalents balance of Kshs.41,157,412 as at 30 June 2018. However, an audit examination of the same revealed an amount of Kshs.37,562,213 as cash and cash equivalents and therefore resulting into an unreconciled variance of Kshs.3,595,199 between the balance in the statement of cash flows and the re-computed balance which.

Further, the statement of assets, cash book and note 10A to the financial statements disclosed cash and cash equivalents balance amounting to Kshs.41,206,858 as at 30 June 2018. However, the statement of cash flows reflected an amount of Kshs.41,157,412 as cash and cash equivalents resulting to unreconciled variance of Kshs.49,446 between the two statements.

1.4 Statement of Cash Flows and Statement of Receipts and Payments Variances

The statement of receipts and payments reflected an amount of Kshs.60,768,836 as other grant and transfers. However, the statement of cash flows on the same item reflected an amount of Kshs.61,189,743 as other grants and transfers resulting in an unreconciled variance of Kshs.420,907.

In the circumstances, it has not been possible to confirm that the cash and cash equivalents balance amounting to Kshs.41,206,858,732 as at 30 June 2018 is fairly stated.

2. Statement of Assets and Liabilities

The statement of financial assets as at 30 June 2018 reflects net financial assets amounting to Kshs.42,554,858 and a corresponding net liability of Kshs.41,157,412 instead of a net financial position of Kshs.42,554,858. Further, prior year adjustment of Kshs.3,595,200 was reflected in the statement of assets for the year ended 30 June 2018. However, the same was not disclosed in the statement of assets for the year ended 30 June 2017.

Consequently, the accuracy, validity and completeness of the net liabilities amounting to Kshs.41,157,412 as at 30 June 2018 could not be confirmed.

3. Outstanding Imprest

Note 11 to the financial statement reflects outstanding imprest of Kshs.1,348,000 as at 30 June 2018 held by the Fund's accounts manager. However, it was noted that there were no schedules availed to confirm the date the imprest was taken, the purpose for the imprest and due date for surrender. No reason was given why the imprest remained un-surrendered.

Consequently, the accuracy, completeness and validity of cash and cash equivalents balance of Kshs.41,206,858 as at 30 June 2018 could not be ascertained.

4. Other Grants and Other Payments

4.1 Unaccounted Bursary Expenses

Included in the other grants and other payments balance of Kshs.60,768,836 reflected under note 7 to the financial statements is an expenditure on bursary of Kshs.28,196,424 towards secondary schools and tertiary institutions. However, out of these, an amount of Kshs.19,295,924 had not been acknowledged through official receipts or acknowledgement letters by the beneficiary institutions. The payments were also not supported with minutes of the vetting committee and it was therefore not possible to ascertain the criteria used in vetting the beneficiaries. Further, details of the admission numbers and the level of studies for some students were missing.

In view of the foregoing, the probity of the expenditure of Kshs19,295,924 as at 30 June 2018 could not be confirmed.

4.2 Unvouched Expenditure

Audit review of the financial statements, ledgers and cash books availed for audit revealed that an expenditure worth Kshs.8,244,376 was not supported with payment vouchers and the supporting documents for the expenditure. In the absence of such vital documents, the validity and the genuineness of the expenditure is not clear.

Consequently, the probity of the expenditure of Kshs.8,244,376 as at 30 June 2018 could not be confirmed.

4.3 Irregular Implementation of Roads Projects

Included in other grants and other payment balance of Kshs.60,768,836 under note 7 to the financial statements is an expenditure of Kshs.14,500,000 spent on roads. However, an audit review of the expenditure and other supporting documents revealed the following anomalies;

- i. The projects under taken by the Fund in respect of roads were not a function of the Fund but rather of the County Government, thereby contravening the 4th schedule of the Constitution of Kenya 2010 and Section 11(e) of the National Government Constituency Development Fund Regulations, 2016.
- ii. The projects were awarded by the PMC tender opening committee without carrying out tender evaluation contrary to Section 80 of the Public Procurement and Asset Disposal Act, 2015.
- iii. The Board's project approval for the khalalio-darusalam road and the bills of quantities were not made available for audit review.
- iv. Full payments were made without engineer's certificate of practical completion and without inspection and acceptance committee report.

4.4 Emergency Reserve Fund

Included in the other grants and other payments balance of Kshs.60,768,836 reflected under note 7 to the financial statements is an expenditure on emergency projects amounting to Kshs.6,000,000. However, a review of the expenditure and other supporting documents revealed that payment of Kshs.6,000,000 was in respect to provision of water trucking services to Libahiya ward by a local company but the Fund had not reported to the Board the utilization of the emergency funds within 30 days as required in the regulations. Further, it was also observed that the National Constituencies Development Fund Board had approved Kshs.4,568,965 for emergency projects in the financial year under review. However, the Fund spent Kshs.6,000,000 on the same item thereby overspending the budgetary allocation for emergency projects by Kshs.1,431,035.

Further, tender documents including tender opening register, quotations, tender evaluation minutes, and contract agreement were all not maintained.

There was no water trucking schedule availed for audit review to confirm how the water was distributed across the ward and there was no invoice or delivery notes attached to the payment voucher.

Under the circumstance, the probity of the expenditure of Kshs.6,000,000 as at 30 June 2018 could not be confirmed.

5.0 Transfer to Other Government Entities

5.1 Transfer to Secondary School Projects

Included in the transfer to other Government entities balance of Kshs.35,700,000 reflected under note 6 to the financial statement is an expenditure of Kshs.20,900,000 relating to transfer to secondary schools which in turn includes an amount of Kshs.15,500,000 in

respect of construction of classrooms and dormitories in various secondary schools. It was however, observed that tender opening registers availed for audit review lacked vital information such as the names of the bidders, amount each bidder quoted, names of their representative and their signatures. Further, the successful tenderers were required to submit 5% performance security but the winning bidder did not submit the performance security as required by the tender documents. In addition, most of the payments were made as full payments and the 10% retention money was not deducted from the contract sum.

The tender documents required the bidders to submit evidence of prior years' experiences in construction works. However, audit review of bills of quantities and company profiles indicated that some of the winning bidders did not had prior experience in construction despite this being a requirement in the tender evaluation criteria. In addition, review of the bill of quantities revealed that the form of agreement, form of tender security and performance of bank guarantee were not filled, not signed and not stamped as required by the tender documents.

Some payments were also not supported with valid Tax Compliance Certificates and it was therefore not possible to confirm whether the companies were registered and were tax compliant.

In the circumstances, the probity of the expenditure of Kshs.15,500,000 as at 30 June 2018 could not be confirmed.

5.2 Transfer to Primary School Projects

Included in the transfer to other Government entities balance of Kshs.35,700,000 reflected under note 6 to the financial statement is an amount of Kshs.14,800,000 relating to grants to various primary schools project management committees in respect of construction of class rooms and toilets. However, a review of project files, payment vouchers among other tender documents revealed that tender notices as well as the bid documents did not specify mandatory bid requirements which could form basis for preliminary and technical evaluations criteria. Further, tender registers, tender evaluation reports, inspection and acceptance reports and certificates of practical completion were all not maintained.

In addition, some winning bidders were awarded contracts without certificate of registration from National Construction Authority (NCA) which was a mandatory requirement while in some instances there was no contract agreement signed between the PMCs and the contractors.

Under the circumstances, the probity and validity of the expenditure of Kshs.14,800,000 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 National Government Constituencies Development Fund - Mandera East 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. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my adverse opinion.

Key Audit Matters

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

Other Matter

1. Non-Maintenance of Financial and Accounting Records for the Project Management Committee Bank Accounts

Records of the bank accounts held by the various Project Management Committees and quarterly reports to the constituency committee were not maintained by the Fund. No PMC's bank statements and cash books were maintained and subsequently no reconciliations were carried out for the PMC's accounts.

In view of the foregoing, it was not possible to ascertain whether the funds or grants disbursed to the PMCs were properly managed.

2. Summary of Fixed Asset Register

Annex 4 a summary of fixed asset register attached to the financial statement discloses the value of fixed assets as Kshs.12,097,959. However, the asset register availed for audit review was incomplete as there were no columns for accumulated depreciation and net book values making it difficult to link the information in the asset register and that of annex 4 to the financial statements as per requirements of IPSAS 17.

In the absence of proper fixed asset register, it was not possible to ascertain the validity, completeness and accuracy of the fixed assets balance of Kshs.12,097,959.

3. Budget and Budgetary Control

3.1 Budget Performance Analysis

Review of summary statement of budget appropriation: recurrent and development combined revealed that during the year under review the Fund had an approved budget amounting to Kshs.147,706,367 out of which Kshs.8,568,437 was unspent balance from

the financial year 2016/2017. Budget utilization on receipts and expenditure was as detailed below:

Item	Budget Kshs.	Actual Kshs.	Difference Under Kshs.	Difference as % of Budget
Receipts	147,706,367	136,684,479	11,021,888	7.4%
Expenditure	151,206,366	107,690,703	43,515,663	28.7%

The above analysis reflects actual receipts of Kshs.136,684,479 against budgeted amount of Kshs.147,706,367 resulting in a short fall of Kshs.11,021,888 representing 7.4% of undisbursed funds from the Constituencies Development Fund Board. The summary statement of appropriation: recurrent and development combined discloses total final budget expenditure of Kshs.147,706,366 but the total budget expenditure of line items is Kshs.151,206,366 resulting to un-explained difference of Kshs.3,500,000. Further, the Fund incurred an under expenditure of Kshs.107,690,703 against budget expenditure of Kshs.151,206,366 resulting to a difference of Kshs.43,515,663 representing 28.7%.

3.2 Under Expenditure on Overall Budget

The Fund recorded an overall 28.7% under expenditure during the year under review as follows: -

Item	Approved Budget Kshs.	Actual Expenditure Kshs.	Under Expenditure Kshs.	% Under-Expenditure
Compensation of Employees	4,510,753	3,699,095	811,658	17.9
Use of Goods and Services	6,812,930	4,022,772	2,790,158	40.9
Transfer to Other Government Units	55,211,703	35,700,000	19,511,703	35.3
Other Grants and Transfers	81,170,980	60,768,836	20,402,144	25
Acquisition of Assets	0	0	0	0
Other Payments	3,500,000	3,500,000	0	0
Total	151,206,366	107,690,703	43,515,663	28.7

From the analysis above the Fund realized under expenditure in four (4) out of the five (5) items during the year under review.

3.3 Project Implementation and Management

During the financial year under review, the Fund allocated Kshs.78,027,253 to thirty (33) projects in various sectors including Education, Security and Sport, Environment, Emergency, Roads, Fund's offices and others.

Analysis as per Project Implementation Status(PIS) presented for audit review revealed that twenty-five (25) projects were completed, four (4) had not started and four (4) projects were on going as analyzed in the table below:

Sector	Project Status	Project Cost Kshs.	Number of projects
Sports	Complete	1,736,206	1
	Ongoing	0	0
	Not started	0	0
Environment	Complete	1,736,206	1
	Ongoing	0	0
	Not started	0	0
Security	Complete	3,050,000	3
	Ongoing	1,300,000	2
	Not Started	0	0
Education	Complete	35,786,206	17
	Ongoing	4,000,000	1
	Not started	0	0
Emergency	Complete	0	0
	Ongoing	0	0
	Not started	5,216,045	1
Others	Complete	0	0
	Ongoing	0	0
	Not started	2,453,451	3
Roads	Complete	8,500,000	2
	Ongoing	0	0
	Not started	0	0
Strategic Plan	Complete	4,000,000	1
CDF- Offices	Ongoing	10,249,139	1

Total	78,027,253	33
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Failure to complete projects in the envisaged timeline may have had negative impact on service delivery to constituents of Mandera East.

3.4 Constituency Oversight Committee

The Fund had not appointed Constituency Oversight Committee as required by Section 53(1) of the National Government Constituency Development Fund Act, 2015. No proper explanation was given for not appointing the committee as required by the Act.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

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

Basis for Conclusion

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities that govern them.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

As required by Section 7(1)(a) of the Public Audit Act, 2015 because of the significance of the matters discussed in the Basis for Adverse Opinion section of my report, based on the audit procedures performed, I confirm that internal controls, risk management and governance were not effective.

Basis for Conclusion

The audit was conducted in accordance with ISSAI 1315 and ISSAI 1330. The standard requires 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 Fund's ability to sustain services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless the fund either intends to liquidate the Fund 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 statement 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 noncompliance. 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 judgment 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 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 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 Fund in order 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

09 August 2019