

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

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## **REPORT ON THE FINANCIAL STATEMENTS**

### **Adverse Opinion**

I have audited the accompanying financial statements of National Government Constituencies Development Fund - Mandera South Constituency set out on pages 6 to 27, 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 South 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. Bank Reconciliation Statement**

##### **1.1 Payments in Cash Book not in Bank Statement (Unrepresented Cheques)**

The cash and cash equivalents balance reflects Kshs.20,147,678 as at 30 June 2018. However, the bank reconciliation statement presented for audit review reflects payment in the cash book not yet recorded in bank statement (unrepresented cheques) amounting to Kshs.1,187,045. However, the audit analysis showed that the actual amount of un-presented cheques is Kshs.1,317,045 resulting to an unreconciled variance of Kshs.130,000. Further, out of the Kshs.1,317,045 unrepresented cheques, an amount of Kshs.1,247,045 were stale cheques, some dating back to August 2016. In addition, it was noted that board of survey was not carried out at the closing of the financial year ended 30 June 2018.

##### **1.2 Payment in Bank Statement not in Cash Book**

Review of the bank statements and the cash book revealed that payments amounting Kshs.55,764 were reflected in the bank statement but not in the cash book. This amount related to Kshs.36,764 for bank charges and cheques books purchased and

Kshs.19,000 for stamp duties. Some of the bank charges dated back to January 2017 and have not been cleared.

In the circumstances, the accuracy, completeness and validity of the cash and cash equivalents balance of Kshs.20,147,678 in the statement of assets as at 30 June 2018 could not be ascertained.

## **2. Transfer to Other Government Entities**

### **2.1 Transfer to Primary School Projects**

Included in transfer to other Government entities balance of Kshs.49,112,872 reflected under note 6 to the financial statements is an expenditure of Kshs.39,812,872 relating to transfers to primary schools which in turn includes Kshs.35,450,000 spent on projects which were mainly construction of class rooms, administration blocks and fencing in various primary schools. However, the following anomalies were noted in respect of several projects:

- i. The tender notices and tender documents for the projects did not set the standard criteria to be used for the evaluation of tenders.
- ii. No tender advertisements were done for some projects.
- iii. There were no project files maintained for projects worth Kshs.19,500,000 contrary to Section 68 (6) of the Public Procurement and Assets Disposal Act, 2015.
- iv. The payments were not supported with bills of quantities, evaluation reports and minutes of tender opening and tender notices.
- v. Some payments were made as final payments, without deducting of 10% retention money and 3% withholding tax from the contract sum, hence it was difficult to establish whether the procurements were competitively and fairly carried out.

It was further noted that projects totaling to Kshs.15,950,000 were contracted to various companies without certificates of incorporation, valid KRA PIN as well as tax compliance certificates. Out these, an amount of Kshs.11,950,000 spent in the financial year 2017/2018 related to amounts carried forward from 2016/2017. However, the approved project code list for the financial year 2016/2017 was not availed for audit review hence it was not possible to establish whether these projects were approved by the National Government Constituency Development Fund Board.

Under the circumstances, the probity and validity of the expenditure of Kshs.35,450,000 as at 30 June 2018 could not be ascertained.

### **2.2 Transfer to Secondary Schools**

Included in the transfer to other Government entities balance of Kshs.49,112,872 reflected under note 6 to the financial statements is an expenditure of Kshs.9,300,000 relating to transfer to secondary schools. The Fund transferred an amount of Kshs.9,300,000 as grants to various Project Management Committees for construction of classes and dormitories in various secondary schools within the Constituency. However, a review of the expenditure revealed that project files and other tender records had no vital tender documents such as bills of quantities, tender evaluation minutes, inspection and acceptance committee minutes and the contract agreements. It was also noted that 10% retention, 16% VAT and 3% withholding taxes was not deducted from the contract sums.

In the circumstances, the propriety and value for money for the expenditure on these projects costing Kshs.9,300,000 could not be confirmed.

### **3. Other Grants and Other Payments**

#### **3.1 Unaccounted Bursary Expenses**

Included in the other grants and other payments balance of Kshs.36,897,810 reflected under note 7 to the financial statements is an expenditure of Kshs.20,856,410 being amount of bursaries disbursed to various learning institutions. However, bursaries worth Kshs.11,647,183 had not been acknowledged through official receipts or acknowledgement letters by the beneficiary institutions.

The expenditure were also not supported with minutes of the vetting committee hence it was not possible to ascertain the criteria used in vetting the beneficiaries. Further, cheque dispatch register with records of cheques issued out to learning institutions was also not availed for audit review.

In view of the foregoing, it was not possible to confirm that money was spent for the intended purposes and accounted for as at 30 June 2018.

#### **3.2 Award of Contracts for Security Projects**

Included in the other grants and other payments balance of Kshs.36,897,810 reflected under note 7 to the financial statements was Kshs.8,000,000 spent on security projects. These projects relates to completion and constructions of AP staff houses as well as fencing of the Elwak AP camp. However, a review of the project files revealed that there was lack of vital documents such as certificate of incorporation, tax compliance certificate, approved work plans, letter of acceptance of offer by the contractors, letter of award of contracts as well as contract agreements. In addition the original bills of quantities for some of the projects had cancellation and adjustment of figures. However, these were not counter signed by the bidders.

In view of the foregoing, it was not possible to ascertain the probity of the expenditure of Kshs.8,000,000 as at 30 June 2018.

#### **3.3 Irregular Emergency Projects**

Included in the other grants and other payments balance of Kshs.36,897,810 is an expenditure on emergency projects amounting to Kshs.4,569,000. However, a review of the expenditure and other supporting documents revealed that the entire amount was paid to a local company to provide emergency water trucking services to five (5) villages in Shimbir Fatuma and Kutulo wards. However, it was observed that the minutes of the NGCDFC meeting authorizing the emergency, the needs assessment on water trucking requirements and subsequently the report to the Board on utilization of the emergency reserve were not maintained. Further, the temporary work ticket and the water trucking schedule for Kutulo Ward were not availed for audit review.

In the circumstances, it has not been possible to ascertain the probity of the expenditure of Kshs.4,569,000 as at 30 June 2018.

#### **4. Use of Goods and Services**

##### **4.1 Other Committee Expenses**

Included in the use of goods and services balance of Kshs.9,471,893 reflected under note 5 to the financial statements is an expenditure on other committee expenses amounting to Kshs.1,500,000 which in turn includes Kshs.1,460,000 relating to monitoring and evaluation of projects. However, a review of the records for the same revealed that the payments did not have supporting documents such as temporary work tickets for the hired vehicle for a period of 60 days. Further, there was no contractual agreement specifying the period for the hire of vehicles. In addition, there was no list of prequalified suppliers maintained to prove that the contracted company was indeed a prequalified contractor for hire of motor vehicles.

In the circumstances, it was not possible to ascertain the probity of the expenditure of Kshs.1,460,000 as at 30 June 2018.

##### **4.2 Supply and Delivery of Office Furniture**

Included in the use of goods and services balance of Kshs.9,471,893 reflected under note 5 to the financial statements is an expenditure on utilities, supplies and services amounting to Kshs.1,471,893, which in turn includes Kshs.1,200,000 relating to supply and delivery of office furniture and stationeries paid to a local supplier. However, although the goods were received vide S13 counter receipt voucher No.9343705, there was no record to confirm that the items were taken on charge in the stores ledger and were subsequently issued out vide SII as required.

Further, the expenditure was not supported with inspection and acceptance committee report. In addition, the nature or type of the furniture and stationeries were not specified and were not recorded in the asset register.

In view of the foregoing, the expenditure of Kshs.1,200,000 on office furniture could not be confirmed.

#### **5. Unvouched Expenditure**

A review of the financial statements, ledgers and the cash book availed revealed that the Fund did not avail payment vouchers and other supporting documents for expenditure amounting Kshs.18,183,699 for audit review.

In the absence of such vital documents, the validity and genuineness of the expenditure of Kshs.18,183,699 as at 30 June 2018 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of National Government Constituencies Development Fund - Mandera South 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 significant 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 (PMC) 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 PMCs accounts.

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

#### **2. Summary of Fixed Assets**

Annex 4, a summary of fixed asset register attached to the financial statements discloses the value of fixed assets as Kshs.1,500,000. However, the Fund did not include office furniture worth Kshs.1,200,000 as additions during the year under review hence understating the fixed assets by the same amount. Further, the Fund did not maintain permanent fixed assets register to record the assets maintained contrary to Section 136 (1) of the Public Finance Management (National Government) Regulations, 2015.

In the absence of the fixed asset register, it was not possible to ascertain the validity, completeness and accuracy of the fixed assets balance of Kshs.1,500,000.

#### **3. Budget and Budgetary Control**

### 3.1 Budget Performance Analysis

Review of summary statement of appropriation: recurrent and development combined revealed that during the year under review, the Fund had a final budget of Kshs.130,050,803. Out of the amount budgeted, Kshs.43,240,458 was unspent balance for the from the previous financial year 2016/2017. Budget utilization on receipts and expenditure was as follows:

Item	Budget Kshs.	Actual Kshs.	Difference Kshs.	% of Utilisation
Receipts	130,050,803	118,258,619	11,792,184	9%
Expenditure	130,050,803	98,523,848	31,526,955	24%

In view of the above a number of programmes may not have been carried out for the benefits of the constituents.

### 3.2 Project Implementation and Management

During the year under review, the Fund allocated Kshs.44,249,440 to 29 projects in various sectors including Education, Security, Sport, Environment and others.

Analysis as per Project Implementation Status (PIS) presented for audit review revealed that twenty-seven (27) projects were completed, one (1) had not started and one (1) was ongoing as analyzed in the table below:

Sector	Project Status	Project Cost Kshs.	No. of Projects
Sports	Complete	1,736,206	5
	Ongoing	0	0
	Not Started	0	0
Environment	Complete	1,736,206	4
	Ongoing	0	0
	Not Started	0	0
Security	Complete	2,000,000	1
	Ongoing	0	0
	Not Started	0	0
Education	Complete	30,100,001	17
	Ongoing	0	0
	Not Started	0	0
Others	Complete	0	0
	Ongoing	4,000,000	1
	Not started	4,677,027	1

Sector	Project Status	Project Cost Kshs.	No. of Projects
<b>Total</b>		<b>44,249,440</b>	<b>29</b>

#### **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 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 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**

**30 May 2019**