

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND – NYALI 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 - Nyali Constituency set out on pages 13 to 37, which comprise the statement of financial assets and liabilities as at 30 June 2018, and the statement of receipts and payments, statement of cash flows and a 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 effect 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 National Government Constituencies Development Fund - Nyali Constituency 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 Constituencies Development Fund Act, 2015.

Basis for Qualified Opinion

1.0 Other Grants and Transfers

The statement of receipts and payments for the year ended 30 June 2018 reflects other grants and transfers balance of Kshs.38,723,751 as detailed in note 7. Included in this amount is security expense of Kshs.5,482,091 which includes Kshs.582,091 being transfers to Nyali Police Station project management committee for renovation of Nyali Police Station. This resulted to cumulative transfers to project management committee bank account totaling Kshs.8,581,141 as at 30 June 2018.

A review of the records availed for audit revealed the following anomalies.

- 1.1** A contract agreement dated 23 June 2017 was signed by both parties but contract period was not indicated.
- 1.2** On 19 July 2017 the contractor was paid Kshs.6,820,150 based on, two sets of Project Management Committee minutes. However, the payment was not

supported with a signed certificate of actual works undertaken by the contractor from the supervising technical department.

- 1.3** On 26 September 2017 a payment of Kshs.700,000 was made without supporting minutes of the project management committee minutes.

Further, site visit in the month of January 2019 revealed that the contractor was not on site yet the following works had not been carried out as per the BQ:

BQ	Quantity	Rate	Amount	Remarks
OCS House: Allow Kshs.50,000 for other repairs to windows			50,000	Not done
Painting: Exterior painting two coats permaplast	125 SM	300	37,500	Not done. Works later done by a donor
Dep. OCS House: Allow Kshs.50,000 for other repairs to windows			50,000	Not done
Painting: Exterior painting two coats permaplast	155 SM	300	46,500	Not done. Works later done by a donor
4 Blocks MOMB/LG/227.H/CAT/G; Prepare surfaces & apply 2 coats 1 st grade gloss paint to – Surface of timber 200 – 300mm girth	500 LM	90	45,000	Not done. Works later done by a donor
Toilet block – 2No: Prepare surfaces & apply 2 coats 1 st grade gloss paint to – Surface of timber 200 – 300mm girth	52 LM	90	4,680	Not done. Works later done by a donor
Total			233,650	

Under the circumstances, the propriety of expenditure of Kshs.582,091 for the year ended 30 June 2018 and previous year balance of Kshs.6,820,150 for renovation of Nyali police station could not be confirmed.

2.0 Transfer to Other Government Entities

The statement of receipts and payments for the year ended 30 June 2018 reflect a transfer to other government entities balance of Kshs.53,128,613 as detailed in note 6 to the financial statements. Included in this amount is Kshs.31,953,585 being transfers to primary school out of which Kshs.8,800,000 was transferred to a project management committee for refurbishment works at Kongowea Primary School. Records availed for audit revealed the following;

- 2.1** The contractor was paid Kshs.6,661,940 supported by three certificate of work done. However, examination of the certificates revealed that they were not signed by the project supervising officer from the public works.

- 2.2** The projects Bill of Quantities included provisional sums amounting to Kshs.500,000 for plumbing and drainage works, which could have been itemized to

allow for competitive bidding. Further, the provisional amount was utilized but there was no evidence of what contingency the funds were applied to contrary to Section 139 (2)(c) and (e) of the Public Procurement and Assets Disposal Act, 2015 which requires that the procuring entity shall justify the use of contingencies and provisional sums.

Under the circumstances, the propriety of expenditure of Kshs.7,161,940 transferred to other government entities for refurbishment of Kongowea primary school for the year ended 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 - Nyalı 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 qualified 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 matters described in the Basis for Qualified Opinion section, I have determined that there are no other key audit matters to communicate in my report.

Other Matter

1. Budgetary Control and Performance

The summary statement of appropriation recurrent and development combined reflects a final budget of Kshs.166,179,855 and actual expenditure was Kshs.126,145,396 resulting to under absorption of Kshs.40,034,459 as summarized below;

Expense Item	Final Budget	Actual Expenditure	Under Utilization Kshs.	Over utilization Ksh.	Utilization %
Compensation of Employees	4,447,110	2,839,406	1,607,704		64%
Use of goods and services	10,296,426	6,160,966	4,135,460		60%
Transfers to Other Government Units	61,821,183	53,128,613	8,692,570		86%
Other grants and transfers	54,121,432	38,723,751	15,397,681		72%
Acquisition of Assets	24,032,605	25,292,660		1,260,055	105.2%
Other Payments	11,461,099		11,461,099		0.0%
Total	166,179,855	126,145,396	41,294,514	1,260,055	76.1%

The underutilization of Kshs.41,294,514 or 24 % is an indication that the residents of Nyali constituency did not receive the planned goods and services. Although the management has indicated that the unutilized funds were received at the close of the financial year, there is need for the management to review the budget mechanism with a view to speeding the project implementation time for better delivery of service. Further, approval for the over expenditure of Kshs1,260,055 on acquisition of assets was not availed for audit review.

2. Project implementation

According to the project implementation status report as at 30 June 2018, the fund budgeted for twenty (21) projects with a total budget of Kshs.59,214,656.19 as detailed in the table below;

	Financial Year	Project Name	Project Activity	Period Ended	Amount Allocated	Status
1	2017/2018	Azhar Shariff Primary School	Extension of existing classrooms into a storey block consisting of 5 classrooms(additional)	30-Jun-18	3,355,335	Complete
2	2017/2018	Azhar Shariff primary school	Purchase of 200 two(2) seater desks	30-Jun-18	1,100,000	Ongoing
3	2017/2018	Kengeleni Primary School	Extension of existing classroom block by strengthening it into a storey building consisting of 5 classrooms and toilets	30-Jun-18	11,000,000	Ongoing
4	2017/2018	Maweni Secondary School	Construction of dining hall and kitchen (additional funds) to completion	30-Jun-18	4,194,120	Complete
5	2017/2018	Maweni Secondary School	Construction of four (4) classrooms (additional funds) - a storey building to completion	30-Jun-18	1,355,908	Complete
6	2017/2018	Maweni Secondary School	Purchase of 200 lockers and chairs	30-Jun-18	1,250,000	Not started
7	2017/2018	Mlaleo Primary School	Renovation of staffroom and administration blocks by replacing the roof, putting up of ceiling, floors ,doors, windows, extension of staffroom and painting of the buildings	30-Jun-18	7,256,646	Ongoing
8	2017/2018	Mlaleo Primary School	Purchase of 100 two(2) seater desks	30-Jun-18	550,000	Not started
9	2017/2018	Fathil Adhim Primary School	Purchase of 100 two(2) seater desks	30-Jun-18	550,000	Not started

	Financial Year	Project Name	Project Activity	Period Ended	Amount Allocated	Status
10	2017/2018	Ziwa La Ng'ombe Primary School	Purchase of 150 lockers and chairs	30-Jun-18	937,500	Not started
11	2017/2018	Kadzandani Primary School	Purchase of 120 three(3) seater desks	30-Jun-18	690,000	Not started
12	2017/2018	Freretown Primary School	Purchase of 221 three(3) seater desks	30-Jun-18	1,270,750	Not started
13	2017/2018	Freretown Secondary School	Purchase of 500 lockers and chairs	30-Jun-18	2,875,000	Not started
14	2017/2018	Pentrose Community Primary School	Construction of four classrooms and Administration Block	30-Jun-18	9,786,206.89	Not started
15	2017/2018	Nyali Police Station	Additional funds for painting and toilets tiling in the OCS's and Deputy OCS's houses, fascia board replacement, replacement of ceiling covers in the OCS's office.	30-Jun-18	582,091	Not started
16	2017/2018	Kongowea Assistant County Commissioner's Office	Executive table, Secretary's table, two (2) executive chairs, four (4) visitors chairs, two (2) tables , 50 conference chairs & one (1) cupboard	30-Jun-18	1,000,000	Not started
17	2017/2018	Ziwa La Ng'ombe Social Hall	Construction of a social hall(additional funds)	30-Jun-18	311,660	Complete
18	2017/2018	Strategic Plan	Charges involved in consultative and validation forums, consultation fees, fact sheet data collection ,printing and launching	30-Jun-18	3,000,000	Not started
19	2017/2018	Constituency Innovation Hub	Installation of satellite antenna, router, digital access kit and digital ruggedized tablets, Wi-Fi with outdoor wireless device complete with 12 U-cabinet	30-Jun-18	4,677,027	Not started
20	2017/2018	Constituency sports	Purchase of sports uniforms, balls and balls and kits for Kadzandani, Freretown, Mkomani, Ziwa La Ng'ombe and Kongowea teams @ Kshs.347,241.20 each	30-Jun-18	1,736,206	Not started

	Financial Year	Project Name	Project Activity	Period Ended	Amount Allocated	Status
21	2017/2018	Environment	Purchase and installation of two (2) solar panels and their accessories (5.0 KVA inverter/charger, 4 batteries 200 AH, AVS 30, 2 racks) to back up power for NGCDFC office @ Kshs.860,000 and Mombasa Secondary School for Physically Handicapped @ Kshss. 876,206.	30-Jun-18	1,736,206	Not started
	Total				59,214,656.19	

A review of the project status report indicated that:

- i) Four (4) projects of Kshs.9,217,023.30 were complete and in use
- ii) Three (3) projects with a total allocation of Kshs.19,356,646 were ongoing
- iii) Thirteen (14) projects allocated Kshs.30,640,987.89 had not been started despite funding.

The above state of affairs is an indication of lack of proper planning and prioritizing citizens' needs in the budget making process mechanism.

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 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. Construction of Kadzandani Mwatamba Chiefs Office/Police Post

The statement of receipts and payments for the year ended 30 June 2018 reflect other grants and payments of Kshs.38,723,751. Included in this amount is Kshs.5,482.091 being transfers to security projects out of which Kshs.4,900,000 was transferred towards Constructing of Kadzandani Mwatamba Chiefs Office/Police Post. Although the

management has availed a letter from the district land adjudication and settlement officer, it was not possible to confirm ownership of the parcel of land where the project was put up as the title deed was not availed to confirm the same was public land contrary Section 2. 11(k) of the National Government Constituency Development Fund Regulations which require that where a project involves purchase of a parcel of land or a building, ensure that the ownership thereof is duly verified.

Site visit to the project revealed that the project was complete and in use by the National Police Service as a police Post.

Consequently, the management was in breach of the law.

2. Project Fund Activities

Annex 5 to the financial statements for the year ended 30 June 2018 reflects Project Management Committees Bank balances of Kshs.75,183,813 out of which Kshs.5,517,544 relate to water and health projects. These services have since been devolved and are not eligible for funding in terms of Section 24 of the National Government Constituencies Development Fund Act 2015 and Section 11(j) which requires that all project receive adequate funding and are completed within 3 years.

Consequently, the management breached 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 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 matters described in the Basis for 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.

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 National Government Constituency development Fund – Nyali constituency ability to sustain services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless the management either intends to liquidate the National Government Constituency development Fund – Nyali constituency 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 National Government Constituency development Fund – Nyali constituency 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 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 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 National Government Constituency development Fund – Nyali constituency 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 National Government Constituency development Fund - Nyali constituency 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 National Government Constituency development Fund – Nyalı 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.



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

Nairobi

05 April 2019