

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - OLKALOU 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 - OlKalou Constituency set out on pages 9 to 31, which comprise the statement of assets as at 30 June 2018, the statement of receipts and payments, statement of cash flows, 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 - OlKalou 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 Constituency Development Fund Act, 2015.

Basis for Qualified Opinion

1. Inaccuracies in the Financial Statements

1.1. Bank Balance

The statement of assets reflects bank balance of Kshs.35,182,808 (2017-Kshs.9,554,115) and as disclosed under Note 11A to the financial statements. Examination of bank reconciliation statement in support of the balance revealed unrepresented cheques amounting to Kshs.14,680,539 of which cheques totaling to Kshs.212,563 are stale. These cheques were date back to 2015 and are yet to be reversed in the cash book. Management has not rendered satisfactory explanations for failure to reverse. Further, the reported bank balance of Kshs.35,182,808 has not incorporated project management committee bank balances as at 30 June 2018 and for which the balances could not be established. Included also in the bank balance is Bursary Fund amount of Kshs.4,118,308 as per the bank statement. However, there was no reconciliation nor bank balance certificate in support.

In the circumstance, the accuracy and validity of the reported bank balance of Kshs.35,182,808 as at 30 June 2018 could not be confirmed.

1.2. Summary Statement of Appropriation: Recurrent and Development Combined

The Fund statement of appropriation: recurrent and development combined reflects final budget and actual expenditure of Kshs.107,748,770 and Kshs.61,186,651 respectively resulting into under absorption of Kshs 46,562,119 or 43.2%. Contrary to the provisions of section 137 2 (c) of the Public Finance Management National Government Regulations 2015, the Fund has not rendered explanations for the variances which exceed 10%. In the circumstance, the summary statement of appropriation: recurrent and development combined is not compliant with International Public Sector Accounting Standards (Cash Basis) reporting framework.

Further, transfers reported as received from National Government Constituency Development Fund Board in the statement of appropriation: recurrent and development combined differs from the amount in the statement of receipts and payments by Kshs.9,559,114. Management has not satisfactorily explained reasons for the difference.

In the circumstances, I am unable to confirm the accuracy of the reported receipts amount.

1.3. Other Grants and Other Payments

The statement of receipts and payments reflects payments of Kshs.28,701,018 on account of other grants and transfers and as disclosed under Note 7 to the financial statements. Included in this amount is Kshs.12,121,047 on account of bursary to secondary schools. Verification of records revealed actual bursary to secondary amounted to Kshs.6,773,000 resulting an overstatement of Kshs.5,348,047. The records also revealed bursary disbursements to tertiary institutions of Kshs.2,028,000 but undisclosed in the financial statements. Of the total disbursements of Kshs.8,801,000 to the secondary schools and tertiary institutions only Kshs.775,000 was acknowledged by the beneficiary institutions leaving a balance of Kshs.8,026,000 unconfirmed. In the circumstance, the reported payments of other grants and transfers of Kshs.28,701,018 cannot be confirmed as fairly stated.

1.4. Summary of Fixed Asset Register

The summary fixed asset register annex 4 reflects asset historical cost of Kshs.40,352,724 (2017- Kshs.46,352,724). However, verification revealed an omission of ICT Equipment, Software and other Assets opening balance of Kshs.1,037,030. Further, comparison between asset historical cost opening and closing balances for the year revealed a reduction of Kshs.6,000,000. However, this was as a result of transposing the two balances. In the circumstance, the summary of fixed assets register is not accurately stated.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of National Government Constituencies Development Fund - OI Kalou 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. There were no key audit matters to report in the year under review.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, based on the audit procedures performed, except for the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources section of my report, I confirm that, nothing else has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

1. Construction project without Agreement and Variation in Excess of Threshold

The Fund on 10 May, 2016 awarded the construction of its offices at a sum of Kshs.15,537,710. Records availed indicate that no contract was signed with the contractor for the works. Instead, the contractor was only issued with Local Service Order (LSO) for the works. Consequently, the contract terms and conditions were not documented.

Note 9 to the financial statements discloses additional payment of Kshs.6,000,000 to the contractor for office block construction during the year bringing total payments over and above the LSO price by Kshs.6,017,913 or 38.7% which exceeds the variation limit of twenty-five percent (25%) without subjecting to tender as set out under section 139 (4) (e) of the Public Procurement and Asset Disposal Act, 2015. Further and contrary to section 139 (5) of the same Act, the Fund did not submit quarterly reports of the varied or procurement contract to the Public Procurement Regulatory Authority. Despite the variation and the payments having been made to the contractor, the project had not been completed as at the time of the audit.

Subsequently, on 10 October 2018, the Fund management advertised for completion of the offices and awarded the contract for the remaining scope to the previous contractor at a contract sum of Kshs.2,999,740. The additional works tendered for were not specified in the tender documents. Site visits carried out on 29 March 2019, revealed no activity on site and work progress could not be established as no documentation were made available for our review. Under the circumstances, I am unable to confirm if and when the project will be completed and whether value for money will be realized from the procurement.

2. Unsupported Payment

Examination of bursary bank account statement held at OIKalou Equity bank branch revealed payment of Kshs 513,000 vide cheque number 5829 to a firm on 8 March 2018. The payment was unsupported by way of payment voucher. Consequently, the purpose of the payment could not be established. I am unable to confirm the lawfulness of the above expenditure.

3. Non-Implemented Projects

The Fund budget for the year reflects an amount of Kshs.4,677,027 for the establishment of four (4) innovation hubs in the constituency. The budget was to cover supply, installation, testing, and commissioning of equipment in line with the signed agreement with the Ministry of Information, Communication and Technology. The objective was to configure and operationalize internet access bandwidth in the constituency. In the year under review, Wi-Fi was only installed at Kaimbaga ward but was yet to be commissioned due to digital access kit costing Kshs.505,000 not having supplied by the service provider. In the circumstance, the intended objective has not been realized and the constituents continue to be denied access services.

4. Unsupported Cash Withdrawals

Cash withdrawals amounting to Kshs.558,000 but unsupported by way of payment vouchers were made on two occasions. Consequently, the purpose of the withdrawals and its rightful use could not be established.

5. Emergency Projects

Expenditure of Kshs.520,000 was incurred on account of emergency projects. However, no documents were made available in support. Consequently, I am unable to confirm whether the expense is in line with the provisions of National Government Constituency Development Fund Act, 2015 section 8 and 10 and proper charge on the Fund.

6. Security Projects

Expenditure of Kshs. 2,160,000 was incurred on account of security projects. However, no documents were made available in support. In the circumstance, I am unable to confirm whether the expense is a proper charge on the Fund.

7. Road Projects

Included in other grants and transfers payments amount of Kshs.28,701,018 is Kshs.5,750,000 on account of roads projects paid to OIKalou subcommittee account for project implementation. However, no supporting documents by way of tender documents and award letters, the public works cost estimates, contractual agreements and the project's completion certificates were made available for audit review to confirm usage of the funds for the intended purpose. Under the circumstances, I am unable to confirm the if the roads budget has been applied for the intended purposes.

8. Remittance of Statutory Deductions

During the year under review, there was no evidence of remittance of statutory deductions to NSSF, NHIF and PAYE as it couldn't be evidenced by way of acknowledgement receipts. The Fund is not in compliance with the law.

9. Unpaid Employee Gratuity

Contrary to the labour laws provisions on payment of employee gratuity at the end of contract term, the Fund continues to withhold the dues resulting in liability of Kshs.1,080,118 as at 30 June 2018.

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 Conclusion on Effectiveness of Internal Controls, Risk Management section of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

1. Effectiveness of the Internal Audit Function

There is no evidence of the sub-county internal auditor having undertaken reviews on the Fund during the period under review. Consequently, the effectiveness of the Fund internal controls cannot be assured.

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 to sustain services, disclosing, as applicable, matters related to sustainability of services and using the International Public Sector Accounting Standards (Cash Basis) of accounting unless the management of the National Government Constituency Development Fund OlKalou 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 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 Fund's ability 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 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 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

26 August 2019