

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - KAPENGURIA CONSTITUENCY FOR THE YEAR ENDED 30 JUNE, 2019

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of National Government Constituencies Development Fund - Kapenguria Constituency set out on pages 7 to 39, which comprise the statement of financial assets and liabilities as at 30 June, 2019, 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, 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- Kapenguria Constituency as at 30 June, 2019, 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 Public Financial Management Act, 2012 and the National Government Constituencies Development Fund Act, 2015.

Basis for Qualified Opinion

1.0 Cash and Cash Equivalent

1.1 Unsupported Bank Reconciliation Statements

The statement of financial assets as at 30 June, 2019 reflects bank balances of Kshs.10,739,004. Examination of bank reconciliation statement for the month of June, 2019 revealed payments in the cash book not yet recorded in bank statement in respect of unrepresented cheques amounting to Kshs.25,331,058. However, no bank statements or schedules were provided for audit reflecting the dates when the unrepresented cheques were subsequently cleared in the bank.

Consequently, the accuracy, validity and completeness of the bank balance figure of Kshs.10,739,004 as at 30 June, 2019 could not be confirmed.

2.0 Unsupported Project Management Committee Bank Balances

Annex 5 to the financial statements reflect project management committee (PMC) bank balances totalling Kshs.540,555 as at 30 June, 2019. However, cash books, closing bank balance confirmation certificates, bank statements and bank reconciliation statements were not provided for audit.

Consequently, the existence, accuracy, validity and completeness of the Project Management Committee bank balance of Kshs.540,555 as at 30 June, 2019 could not be confirmed.

3.0 Unsupported Expenditure

The statement of receipts and payments reflects transfers to other government units figure of Kshs.47,620,000 relating to funds disbursed to various Project Management Committees. However, actual expenditure returns and acknowledgement letters from institutions that received the funds were not provided for audit. This is contrary to Section 15(1)(d) of the National Constituency Development Fund Regulations, 2016 which states that the Project Management Committees shall prepare returns and file them with a Constituency Committee.

Consequently, the validity and accuracy of the transfers to other government units totalling Kshs.47,620,000 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 – Kapenguria Constituency Management in accordance with ISSAI 130 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.

Other Matter

1.0 Budgetary Control and Performance

The summary statement of appropriation - recurrent and development reflects final receipts budget and actual on comparable basis of Kshs.123,832,838 and Kshs.120,420,186 respectively resulting to an under-funding of Kshs.3,412,652 or 3%. Similarly, the Fund spent Kshs.113,093,835 against an approved budget of Kshs.123,832,938 resulting to an under-expenditure of Kshs.10,739,003 or 9% of the budget. The under-performance affected the planned activities and may have impacted negatively on service delivery to the residents of Kapenguria Constituency.

2.0 Projects Implementation

According to the Project Implementation status report for 2018/2019 financial year provided, National Government Constituency Development Fund - Kapenguria Constituency had an approved budget of Kshs.61,322,606.65 to be spent on sixty four (64) projects out of which an amount of Kshs.39,570,000.00 was disbursed to thirty-two

(32) projects excluding emergency, environment and sports projects. Thirty-one (31) projects with a total budget of Kshs.21,100,000.00 were not funded during the year, ten (10) projects with a budget of Kshs.25,450,000.00 were completed and in use while twenty-three (23) projects with a budget of Kshs.7,720,000.00 were indicated as ongoing though the percentages of completion were not provided Failure to fund or complete the projects casts doubt on their implementation and may deny the people of Kapenguria Constituency the benefits of the projects.

3.0 Projects Verification

During the year under review, sixteen (16) projects with total disbursements of Kshs.29,050,000 were verified. Six (6) projects with a total disbursements amounting to Kshs.4,050,000 were found to be complete and in use, two (2) projects with a total disbursements amounting to Kshs.4,500,000 were complete but not in use, five (5) projects with a disbursement of Kshs.2,800,000 were partially completed and three (3) projects with a total disbursement of Kshs.17,700,000 had received buses.

Under the circumstances, the incomplete projects have not achieved the intended objectives and no value for money was obtained from the expenditure on those projects.

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 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

1.0 Compensation of Employees

1.1 Unsupported Recruitment of New Staff

The statement of receipts and payments reflects compensation of employees amount of Kshs.3,648,743. During the year under review, four (4) new staff members were hired. However, a copy of the advertisement for the posts, list of shortlisted candidates and minutes of the interviews were not availed for audit review, contrary to Section 18(1) of Constituency Development Fund Regulations 2016 which state that Constituency Committee may engage staff in Constituency Committee in accordance with Section 45 of the Act through a transparent and competitive process.

Consequently, the Management of the Fund is in breach of the law.

2.0 Use of Goods and Services

2.1 Irregular Cash Procurement

Included in the use of goods and services expenditure of Kshs.5,911,395 reflected in Note 5 of the financial is expenditure amounting to Kshs.1,636,640 which was incurred by use of cash which exceeded the low value cash purchase limit of Kshs.5,000 for entities in class 'C' in which National Government Constituency Development Funds falls contrary to Section 107 of the Public Procurement and Asset Disposal Act, 2015 on low value procurements and Section 63 of the Public Procurement and Disposal Regulations, 2006 which states that a procuring entity may use a low value procurement procedure if the estimated cost of the goods, works or services being procured per item is less than or equal to the prescribed maximum value as set out in the First Schedule to the regulations.

Consequently, the Management is in breach of the law and the validity of the expenditure totalling to Kshs.5,911,395 for the year ended 30 June, 2019 could not be confirmed.

3.0 Transfers to Other Government Units

3.1 Change of Scope in Construction of Dormitory

Included in the transfers to other government units' figure of Kshs.47,620,000 reflected in the statement of receipts and payments is transfer to secondary school's figure of Kshs.27,570,000 out of which Kshs.600,000 was disbursed to Mtembur Secondary School through cheque number.7686 dated 26 April, 2019 for the slabbing and walling of a dormitory. However, physical verification of the project revealed that the funds were used for the construction of a temporary dormitory with iron sheet walling and roofing.

Consequently, validity and value for money on the expenditure of Kshs.27,570,000 for the year ended 30 June, 2019 could not be confirmed.

3.2 Over Funding of School Bus Projects

The statement of receipt and payments reflects transfers to other government units figure of Kshs.47,620,000 which according to Note 6 to the financial statements include transfers to secondary school's figure of Kshs.27,570,000 and transfers to primary school's figure of Kshs.16,050,000. Examination of expenditure records and approved code list provided for audit review revealed that an amount of Kshs.16,800,000 was disbursed to two schools towards completion of funding for purchase of school buses. However, the approved total allocation as per the code list is Kshs.9,500,000 thereby leading to an over funding of Kshs.7,300,000 as shown below:

Date	Cheque Number	Payee	Details	Amount Allocated (Kshs)	Amount Disbursed (Kshs.)	Over-Funding (Kshs.)
25/02/2019	7514	Nasokol Girls Secondary School	Completion of Funding for the 67 Seater Bus	3,000,000	3,800,000	800,000
26/06/2019	8618/8108	St Francis Special Primary School	Purchase of a 51 Seater School Bus	6,500,000	13,000,000	6,500,000

			Total	9,500,000	16,800,000	7,300,000
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No evidence was provided for audit to confirm that the over funding of Kshs.7,300,000 was authorized by Constituency Development Fund Board.

Under the circumstances, the validity of the over expenditure of Kshs.7,300,000 for the year ended 30 June, 2019 could not be confirmed.

3.3 Funding of Un Approved Projects

The statement of receipt and payments reflects transfers to other government entities figure of Kshs.47,620,000 reflected in Note 6 to the financial statements includes transfers to secondary school's figure of Kshs.27,570,000, transfers to primary school's figure of Kshs.16,050,000 and transfer of Kshs.4,000,000 to tertiary institutions.

Examination of expenditure records and approved code list provided for audit revealed that three projects with a total disbursement of Kshs.5,450,000 were funded during the 2018/2019 financial year but were not in the approved project code list.

Consequently, the legality, validity of the expenditure of Kshs.5,450,000 for the year ended 30 June, 2019 could not be confirmed.

4.0 Other Grants and Transfers

4.1 Unsupported Award of Bursaries

Included in other grants and transfers balance of Kshs.55,528,741 reflected in the statement of receipts and payments are bursary disbursements totalling Kshs.40,468,831 which included secondary school's disbursements of Kshs.19,821,855, tertiary institutions of Kshs.17,273,278 and special schools of Kshs.3,373,698 as disclosed under Note 7 to the financial statements.

However, minutes of the bursary subcommittee indicating how the beneficiaries were identified and confirming two co-opted members one from the area education office seconded by the Ministry of Education as required by Constituency Development Fund circular reference No. Voll 1/111 dated 13 September, 2010, were not provided for audit.

Acknowledgement letters by the schools and tertiary institutions were also not provided for audit review. Further, the schedules provided in support of the bursary expenditure were not categorized as tertiary and secondary institutions as presented in the financial statement.

Under the Circumstances, the Management breached the law and the accuracy and validity of the bursary disbursements of Kshs.40,468,831 for the year under review could not be confirmed.

4.2 Irregular Expenditure in Emergency Projects

The statement of receipts and payments reflects other grants and transfer amount of Kshs.55,528,741 which included emergency payments amounting to Kshs.5,726,550 out of which expenditure totalling to Kshs.3,050,000 were normal projects and did not therefore qualify to be funded under emergencies vote.

This is contrary to Section 8(3) of the National Government Constituencies Development Fund Act, 2015 which states that emergency shall be construed to mean an urgent, unforeseen need for expenditure for which it is in the opinion of the committee that it cannot be delayed until the next financial year without harming the public interest of the constituents.

Under the circumstances, the Management breached the law and the validity and value for money of the emergency disbursements of Kshs.5,726,550 for the year under review could not be confirmed.

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, based on the audit procedures performed, I confirm that, nothing has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. 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 overall 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.

In preparing the financial statements, Management is responsible for assessing the Fund's ability to continue to sustain its services, disclosing, as applicable, matters related

to sustainability of services and using the applicable basis of accounting unless Management is aware of the intention to terminate the Fund or cease operations.

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 money is applied in an effective manner.

Those charged with governance are responsible for overseeing the Fund financial reporting process, reviewing the effectiveness of how the Management 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 review is planned and performed to express a conclusion with limited assurance as to 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 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. The nature, timing and extent of the compliance work is limited compared to that designed to express an opinion with reasonable assurance on the financial statements.

Further, in planning and performing the audit of the financial statements and review of compliance, I consider internal control in order to give an assurance on the effectiveness of internal controls, risk management and overall 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 fund 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 applicable 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 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.



CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

20 December, 2021