

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - KIBWEZI WEST CONSTITUENCY FOR THE YEAR ENDED 30 JUNE, 2020

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of National Government Constituencies Development Fund - Kibwezi West Constituency set out on pages 18 to 78, which comprise of the statement of assets and liabilities as at 30 June, 2020, statement of receipts and payments, statement of cash flows and the 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 effects of the matter described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of the National Government Constituencies Development Fund - Kibwezi West Constituency as at 30 June, 2020, and of its financial performance and its cash flows for the year then ended, in accordance with the International Public Sector Accounting Standards (Cash Basis) and comply with the National Government Constituencies Development Fund Act, 2015 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1. Inaccuracies in Bank Balances

As disclosed in Note 10A to the financial statements, the statement of assets and liabilities reflects bank balances totalling to Kshs.16,103,386. The bank reconciliation statement for June, 2020 showed payments in the bank statement which were not recorded in the cashbook totalling to Kshs.810,600. However, Management did not provide details of these payments or reasons for not updating the cashbook.

Further, the bank reconciliation statement reflected un-presented cheques totalling to Kshs.9,112,994 out of which cheques amounting to Kshs.641,369 were stale as at 30 June, 2020. However, the Management did not explain why the cheques were not presented to the bank for payment in time and failure to write them back into the cashbook.

Consequently, the accuracy, completeness and validity of the bank balances totalling to Kshs.16,103,386 reflected in the statement of assets and liabilities as at 30 June, 2020 could not be confirmed.

2. Inaccuracies in Comparative Balances

Note 17.3 to the financial statements reflects Unutilized Fund comparative balance totalling to Kshs.71,023,677 whereas the prior year audited financial statements reflected

an amount of Kshs.70,995,677. In addition, supporting Annex 3 to the financial statements reflects Unutilized Fund amount of Kshs.6,283,620 under 2018/19 column.

Further, Note 17.4 to the financial statements reflects Project Management Committee account comparative balance totalling to Kshs.17,359,331 whereas the prior year audited financial statements reflected an amount of Kshs.17,480,355 resulting to variance amounting to Kshs.121,024.

The Management did not correct and explain the anomalies.

Consequently, the accuracy of the above balances reflected in the Notes 17.3 and 17.4 to the financial statements as at 30 June, 2020 could not be confirmed 30 June, 2020.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the National Government Constituencies Development Fund – Kibwezi West 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

Budgetary Control and Performance

The summary statement of appropriation - recurrent and development combined reflects final receipts budget and actual on comparable basis totalling to Kshs. 208,391,401 and Kshs.139,200,677 respectively, resulting to an under-funding amounting to Kshs.69,190,724 or 33% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis totalling to Kshs.208,391,401 and Kshs.123,097,291 respectively, resulting to an under expenditure amounting to Kshs.85,294,110 or 41% of the budget. The payments had an error amounting to Kshs.177,000.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

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. Non-compliance with the Public Sector Accounting Standards Board Requirements

The annual reports and financial statements table of contents excluded entries after notes to the financial statements such as, other important disclosures and Annexes, page 2 is missing, forward by the Chairman NGCDF Committee on page 5 contradicts information in the summary statement of appropriation - recurrent and development combined as it reflects allocation for the year totalling to Kshs.137,367,724 instead of the total of Kshs.208,391,401 shown in the statement. In addition, the report shows awarded bursaries for the year totalling to Kshs.41,048,000 instead of an amount of Kshs.42,723,000 reflected in Note 7 to the financial statements. In addition, page 17 erroneously refers to 2018/2019 audit report in the bank page meant for the independent auditors 2019/2020 audit report.

This is contrary to Public Sector Accounting Standards Board (PSASB) reporting template.

In the circumstances, the presentation of the financial statements for the year under review is not in accordance with the prescribed (PSASB) format.

2. Delay in Project Implementation

Review of the records revealed that the Fund allocated an amount of Kshs.137,367,724 for implementation of one hundred and thirty-two (132) projects during the year out of which fifty-six (56) projects amounting to Kshs.36,892,987 were completed, fifty-seven (57) projects amounting to Kshs.90,324,737 were ongoing while the remaining nineteen (19) projects with a combined allocation totalling to Kshs.10,150,000 had not commenced.

In the circumstances, I am unable to confirm whether the public obtained value for money for the delayed projects.

3. Projects Implemented without Public Participation

The Management approved projects for implementation in 2019/2020 financial year totalling to Kshs.15,654,836. However, Management did not provide evidence of public participation in identification and prioritization of the projects as detailed in **Appendix I**. This a contravention of Section 27(1) of National Government Constituency Development (NGCDF) Act, 2015 that requires the Chairperson of the Constituency Committee within the first year of the commencement of a new parliament and at least once every two years

thereafter, to convene open public forum meetings in every ward in the constituency to deliberate on development matters in the ward and in the constituency. Documents provided to support public participation were for projects implemented in 2017/2018 and 2018/2019 financial years which were not relevant to the current years audit.

Consequently, the Management is in breach of the law.

4. Lack of Prequalified List of Contractors and Suppliers

The Fund did not have a prequalified list of Suppliers and Contractors. This is a contravention of the provisions of Section 95 (3) of the Public Procurement and Asset Disposal Act, 2015 which stipulates that a procuring entity shall only invite tenders from the approved persons who have been prequalified.

Consequently, the Management is in breach of the law.

5. Projects Constructed on Land Without Ownership Documents

Review of Project Management Committee documents and physical inspection of projects revealed that eight (8) projects valued at Kshs.11,065,540 were implemented on parcels of land whose ownership could not be confirmed as shown in **Appendix II**.

In the circumstances, I am unable to confirm whether the public funds were effectively management on the projects.

6. Unutilized Projects

The Management spent an amount of Kshs.11,592,577 on the construction of five (5) Information Communication Technology (ICT) Hubs, renovation of a Hall to form an ICT Working Class and on installation of ICT equipment and networking. However, physical verification of the projects on 3 February, 2021 confirmed that out of the ICT Hubs constructed and equipped, only one at Emali Chiefs Office costing Kshs.1,500,000 was functioning.

In the circumstances, I am unable to confirm whether the public will obtain value for money for the unutilized projects.

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, except for the matter described in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance 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

Lack of an Approved Bursary Award Criteria

As disclosed in Note 7 to the financial statements, the statement of receipts and payments and reflects other grants and transfers totalling to Kshs.60,091,563. Included in the expenditure is expenditure totalling Kshs.42,723,000 transferred to secondary schools, tertiary institutions and special schools as bursary disbursements. However, the Fund did not have an approved criterion for selection and award of bursaries to the beneficiaries.

In the circumstances, it has not been possible to confirm existence of effective internal controls in the issue of bursaries.

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, risk management and overall governance.

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 to 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 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 Fund 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 overall 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 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 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 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.

Nancy Gathungu

AUDITOR-GENERAL

Nairobi

15 November, 2021

Appendices

Appendix I: Projects Implemented Without Public Participation

No.	Project Name	Amount (Kshs.)
1	Masumba ACC's Office	915,541
2	Makindu GNCA Primary School	2,000,000
3	Kisayani Chief's Office ICT	1,500,000

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4	Kwakakilu Primary School	806,388
5	Katulani Primary School	326,907
6	Kiboko Ass Chief's Office	1,500,000
7	Kiboko Police Post	100,000
8	Kibwezi DCC Office ICT Hub	1,500,000
9	Kalungu Assistant Chief's Office	550,000
10	Emali Chief's Office	1,500,000
11	Mbukani Primary School	920,000
12	Mithumoni Assistant Chief's Office	300,000
13	Mwashangombe Primary School	3,000,000
14	Ng'etha Chief's Office	450,000
15	Nguu Secondary School	260,000
16	Ndulu Primary School	26,000
	Total	15,654,836

Appendix II: Projects Constructed on Land Lacking Ownership Documents

Project	Project Description	Amount Paid (Kshs.)
Kiboko Assistant Chief's Office	Construction an office, pit latrine, Installation of power, Purchase of furniture	1,500,000
Kathyaka Ass. Chiefs Office	Construction of toilet and fencing with concrete posts and chain link	650,000

Project	Project Description	Amount Paid (Kshs.)
Makindu Chief's Office	Construction of latrine	300,000
Kisayani Chief's Office	Construction of a permanent ICT Working room, Installation of power, working tables and seats	1,500,000
Nthongoni Sec. School	Construction of a science lab	3,500,000
Masumba Assistant County Commissioners Office	Renovation of a hall to create working centre for users of WIFI, Installation of power, working	915,541
Emali Chief's Office (CIH)	Construction of a permanent ICT Working room, Installation of power, working tables and seats	1,500,000
Masumba Chief's Office	Construction of latrine, fencing with concrete posts and chain link Renovation of ACC'S Office (Floor, Wall, Door, Windows and painting)	1,200,000
Total		11,065,541



Nancy Gathungu
AUDITOR-GENERAL

Nairobi