

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND – LIKONI 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 – Likoni Constituency set out on pages 12 to 46, which comprise of the statement of assets and liabilities as at 30 June, 2019, and the 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 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 the National Government Constituencies Development Fund – Likoni 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 Finance Management Act, 2012 and the National Government Constituencies Development Fund Act, 2015.

Basis for Qualified Opinion

1.0 Inaccuracies in the Financial Statements

Note 15.3 to the financial statements reflects unutilized funds balance of Kshs.54,981,385. However, Annex 3 supporting the balance reflects a balance of Kshs.57,662,202 resulting to a variance of Kshs.2,680,817 which has not been explained or reconciled.

Further, the statement of assets and liabilities as at 30 June, 2019 reflects total financial assets of Kshs.54,981,385 and nil total financial liabilities. However, the statement incorrectly reflects a net liabilities position of Kshs.54,981,385 instead of a net financial position as per the guidelines issued by the Public Sector Accounting Standards Board.

Consequently, the accuracy of the financial statements as at 30 June, 2019 could not be confirmed.

2.0 Unconfirmed Bank Balance

The statement of assets and liabilities as at 30 June, 2019 reflects a bank balance of Kshs.54,981,385 as disclosed in Note 10A to the financial statements. However, audit review of the supporting bank reconciliation as at 30 June, 2019 revealed payments in cash book not yet recorded in bank statements (un-presented cheques) amounting to Kshs.3,465,874, out of which payee names and dates for twelve (12) cheques amounting to Kshs.97,159 were not indicated.

Under the circumstances, the accuracy of the bank balance of Kshs.54,981,385 as at 30 June, 2019 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 – Likoni 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. Budgetary Control and Performance

The summary statement of appropriation; recurrent and development combined reflects final receipts budget and actual on comparable basis of Kshs.166,941,270 and Kshs.164,260,452 respectively resulting to an under-funding of Kshs.2,680,818 or 1.6% of the budget.

Similarly, the Fund expended Kshs.109,279,067 against an approved budget of Kshs.166,941,270 resulting to an under-expenditure of Kshs.57,662,203 or 34.5% of the budget. The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the constituents.

2. Projects Implementation

The Fund's projects implementation status report as at 30 June, 2019 provided for audit review showed cumulative disbursements of Kshs.59,980,213 for sixteen (16) projects. A cumulative expenditure amounting to Kshs.46,969,148 or 78% of the disbursements had been incurred, resulting to unspent balance of Kshs.13,011,065 or 22%.

In addition, the report revealed that, thirteen (13) out of the sixteen (16) projects with a total cumulative disbursement of Kshs.47,594,957 were indicated as complete. However, the report did not indicate whether the projects were in use as at 30 June, 2019.

Further, three (3) projects with a total cumulative disbursement of Kshs.12,385,256 were in progress, while the Project Management Committees were holding unspent disbursements amounting to Kshs.14,470,808 as at end of the financial period. The management attributed the non-implementation of these projects to late receipt of funds.

Failure to implement projects as planned may have negatively impacted on delivery of goods and services to the residents of Likoni Constituency.

3. Projects Verification

During the year under review, six (6) projects which received Kshs.21,374,831 were verified in the month of November 2019, out of which two (2) Projects valued at Kshs.7,000,000 had inconsistencies as detailed below;

Project Name	Activity	Amount (Kshs)	Remarks
Puma Primary School	Construction of eight (8) toilets	2,000,000	The bills of quantities provided for T&G doors but physical verification revealed that flush doors were used while the painting work was poorly done and was peeling off.
Consolata Primary School	Asbestos roof removal and replacement.	5,000,000	The project is complete and in good condition. However, no signboard to show that the works were funded by the National Government Constituencies Development Fund – Likoni Constituency was seen.
Total		7,000,000	

Under the circumstances, value for money for Kshs.7,000,000 spent on construction of eight (8) toilets at Puma Primary School and on removal of asbestos roof and its replacement at Consolata Primary School could not be confirmed.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, based on the 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 been applied lawfully and in an effective way.

Basis for Conclusion

1.0 Contract Awarded Above the Budgeted Amount

1.1 Shika Adabu Chief's Office

The statement of receipts and payments for the year ended 30 June, 2019 reflects other grants and transfers of Kshs.45,355,395, out of which Kshs.9,090,000 is in respect of security projects. Included in the security expenditure is Kshs.4,500,000 disbursed to Shika Adabu Chief's Office Project Management Committee for construction of 180m long perimeter wall, precast paving slabs, roof caves covering, borehole drilling and related plumbing works at Shika Adabu Chief's Office. However, the approved budget for the project was Kshs.3,500,000 while the Fund awarded the contract at a contract sum of Kshs.5,062,100, contrary to Section 53(8) (9) of the Public Procurement and Asset Disposal Act, 2015. The Management did not explain the source of funding of the excess expenditure of Kshs.1,562,100 on the project.

Further, records availed for audit review indicated that the works were procured through open tender, where six (6) firms participated. Evaluation minutes indicated that one (1) bidder was disqualified for failure to provide 2% bid bond while four bidders were eliminated for failure to have eligibility documents. However, the committee minutes did not indicate the eligibility documents not provided to disqualify the bidder as required by Section 16(9)(10) of the Public Procurement Regulations, 2016. The Fund management did not provide explanation as to why the lowest bid of Kshs.3,655,613 was disqualified.

Under the circumstances, the legality and validity of security expenditure of Kshs.5,062,100 for the year ended 30 June, 2019 could not confirmed

1.2 Perimeter Wall - Deputy County Commissioner's Office

The statement of receipts and payments for the year ended 30 June, 2019 reflects other grants and transfers of Kshs.45,355,395. Included in the figure is Kshs.9,090,000 in respect of security projects, out of which Kshs.2,080,576 was disbursed to Deputy County Commissioner's Office Project Management Committee for construction of 120 metres long perimeter wall at the Deputy County Commissioner's office. However, the approved budget for the project was Kshs.1,600,000 while the Fund awarded the contract at a contract sum of Kshs.2,080,576, contrary to Section 53(8) (9) of the Public Procurement and Asset Disposal Act, 2015. The Management did not explain the source of funding of the excess expenditure of Kshs.480,576 on the project and was therefore in breach of the Law.

Further, records availed for audit review indicated that the works were procured through open tender, where thirteen (13) firms participated. Evaluation minutes indicated that three (3) bidders were disqualified at the preliminary evaluation while nine (9) bidders were eliminated for failure to have eligibility documents. However, the committee minutes did not indicate the eligibility documents to disqualify the bidder as required by Section 16(9)(10) of the Public Procurement Regulations, 2006. Reasons for rejection of the lowest bid of Kshs.2,051,460 were not availed for audit verification. The management was therefore in breach of the Law.

Under the circumstances, the legality and validity of construction of the Deputy County Commissioner's office at a cost of Kshs.2,080,576 for the year ended 30 June, 2019 could not be confirmed.

2.0 Unconfirmed Reallocation of Other Grants and Transfers

The statement of receipts and payments reflects other grants and transfers of Kshs.45,355,395 as disclosed in Note 7 to the financial statements. Included in the figure is Kshs.9,312,253 in respect to emergency projects, out of which Kshs.4,485,253 was used to complete projects which were budgeted for in votes other than emergency.

However, no approval of the re-allocation by the Constituency Development Fund Board was availed as required by Section 6(2) of the National Government Constituencies Development Fund Act, 2015.

Further, records availed for audit review indicated that an additional Kshs.497,000 was paid to a former Fund Manager vide payment voucher No.25. However, the payment voucher and the purpose of payment were not provided for audit review.

Consequently, the propriety of expenditure totalling Kshs.4,982,253 for the year ended 30 June, 2019 could not be confirmed.

3.0 Contracts Awarded Contrary to Waste Management Act

The statement of receipts and payments reflects transfers to other government units of Kshs.47,642,303 as disclosed in Note 6 to the financial statements. Included in the figure is Kshs.29,075,558 in respect of transfers to primary schools, out of which Kshs.22,414,753 was disbursed to three (3) primary schools for removal and disposal of asbestos and reroofing.

Records availed for audit review indicated that National Environment Management Authority (NEMA) condemned the roofing of Consolata Primary School following an inspection conducted on 22 November, 2017 and issued guidelines for removal and disposal of the asbestos roofing. The guidelines required undertaking of an Environmental Impact Assessment, registration with NEMA and capacity to handle hazardous material by the contractor undertaking the works.

However, the Fund did not include the Authority's requirements in the procurement contract for removal of asbestos roofing material in the three schools.

Further, evidence to confirm that the projects were implemented with assistance of National Environment Management Authority was not availed for audit review. This is contrary to Section 36 (1) of the National Government Constituencies Development Fund Act No. 30 of 2015 .

Consequently, value for money and validity of transfers to primary schools of Kshs.22,414,753 for the year ended 30 June, 2019 as well as the safety of the environment of the three schools could not be confirmed.

4.0 Lack of Ownership Documents - Mishi Mboko Primary and Secondary Schools

The statement of receipts and payments reflects transfers to other government units of Kshs.47,642,303, out of which Kshs.9,968,966 was transferred to Mishi Mboko Primary and Secondary Schools for construction of new schools out of a budget of Kshs.25,750,000. Available records indicated that the projects were identified through public participation. However, the Fund Management did not avail ownership documents for the land on which the new schools are built. This is contrary to Section 25(3) of the National Government Constituencies Development Fund Act, No. 30 of 2015.

Consequently, the National Government Constituencies Development Fund – Likoni Constituency is in breach of the Law.

5.0 Unutilized Project Fund Balances Not Refunded

Annex 5 to the financial statements for the year ended 30 June, 2019 reflects thirty (30) project management committee bank accounts holding a total balance of Kshs.16,363,980. However, records availed for audit review indicated that out of the thirty (30) project management committee bank account balances, eleven (11) bank accounts with a total balance of Kshs.54,511 were in respect of completed projects as at 30 June, 2019. However, the unutilized funds had not been returned to the National Government Constituencies Development Fund – Likoni Constituency's bank account, contrary to Section 12(8) of the National Government Constituencies Development Fund Act, 2015.

Under the circumstances, the National Government Constituency Development Fund – Likoni Constituency was in breach of 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 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, 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 the 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 Fund's 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 Fund's 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 National Government Constituencies Development Fund – Likoni Constituency'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 National Government Constituencies Development Fund – Likoni Constituency 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 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

17 September, 2021