

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - MAKADARA 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 - Makadara Constituency set out on Pages 21 to 59, which comprise the statement of assets and liabilities as at 30 June, 2020, 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 effects 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 - Makadara Constituency as at 30 June, 2020, 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

Cash and Cash Equivalents

The statement of assets and liabilities reflects a bank balance of Kshs.131,792 as at 30 June, 2020. However, the bank reconciliation statement for the month of June, 2020 reflected unrepresented cheques totaling to Kshs.335,081 for which records showing the dates that the cheques were subsequently cleared were not provided. Further, cheques amounting to Kshs.7,070 were already stale as at 30 June, 2020 and had not been reversed in the cashbook.

In the circumstances, the accuracy of the reported bank balance of Kshs.131,792 as at 30 June, 2020 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the National Government Constituencies Development Fund - Makadara 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 combined reflects final receipts budget and actual receipts on comparable basis of Kshs.151,416,909 and Kshs.116,049,185 respectively, resulting into an under-funding of Kshs.35,367,724 or 23% of the budget. Similarly, the Fund expended Kshs.115,917,393 against an approved budget of Kshs.151,416,909 resulting into an under-expenditure of Kshs.35,499,516 or 23% of the budget.

Consequently, the under-funding and under-absorption may have impacted negatively on service delivery to the constituents of Makadara.

2.0 Unresolved Prior Year Audit Matters

As disclosed under the progress on follow up of auditor recommendations section of the financial statements, some of the prior year audit issues remained unresolved as at 30 June, 2020.

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 not been applied lawfully and in an effective way.

Basis for conclusion

1.0 Construction of Perimeter Wall at Joseph Apudo Primary School

Note 6 to the financial statements reflects transfers of Kshs.74,165,769 to other government entities of which Kshs.63,359,793 was transferred to primary schools. An

amount of Kshs.7,838,584 was disbursed for the construction of a 450-metre perimeter wall at Joseph Apudo Primary School. The Project commenced on 4 June, 2019 and was completed on 7 December, 2019. In spite of the fact that the contractor was fully paid as at 22 April, 2020, the certificate of completion issued in accordance with Section 150(3) of the Public Procurement and Asset Disposal Act, 2015 was not provided.

In the circumstances, value for money from the expenditure on the Project could not be confirmed.

2.0 Delayed Completion of Project at Star of Hope Primary School

The Project for construction of thirty-two (32) classrooms at Star of Hope Primary School – Viwandani Ward at contract sum of Kshs.108,928,060 commenced on 13 November, 2018 and was due for completion on 11 May, 2019. During the financial year 2019/2020, interim certificates Numbers 04 and 05 were issued for which payments amounting to Kshs.24,088,992 and Kshs.31,524,083 respectively, were paid. However, audit inspection carried out on 5 February, 2021 revealed that, although the structure and roofing were complete and forty-four (44) steel doors fitted, plastering, floor and painting were yet to be done, the contractor was not on site and the Project appeared to have stalled.

It could therefore not be confirmed when and whether value for money would be obtained from the Project. In addition, delayed completion of the project may lead to loss of public funds through price variations and poor workmanship.

3.0 Failure to Account for Stadium Hire Charges - Camp Toyoyo Stadium

As previously reported, the Makadara National Government Constituencies Development Fund spent over Kshs.72,246,842 to construct and rehabilitate Camp Toyoyo Stadium between financial years 2013/14 to 2017/18. The facility was handed over to the local Community-Based Management (CBM) called Camp Toyoyo Project Management Committee after its completion. This was done to enable the local people deal with the unique social, political and economic issues within the Constituency. The Camp Toyoyo Project Management Committee (PMC) was to hire the facility out for practice sessions or full matches to various teams at a fee. The charges were fixed at Kshs.10,000 per match and/ or practice sessions for division one or premier league teams and Kshs.5,000 for other teams. All teams based in Makadara would play or practice for free.

The fee was to be used for maintaining the facility to ensure that it was in a good working condition for the users. The Management opened a bank account at a local bank for the Project. However, even though several teams had hired and used the facility since its handover, no bank records were provided for audit.

The Fund Management explained that the Camp Toyoyo PMC was fully in charge of the Project with the Fund remaining with a peripheral role of advisory and monitoring the sustainability of the Project. The Project was experiencing management challenges including court cases and freezing of the bank account and the matters were under investigations.

4.0 Unconfirmed Supply of Furniture to Schools

As previously reported, information available at the Fund's Constituency Office indicated that some merchants claimed to have supplied furniture to schools within the Constituency for the period between July, 2009 and December, 2012 at a cost of Kshs.54,067,454. However, it was not clear how the contracts were awarded and on what basis the items were supplied to the public schools in Makadara Constituency without adequate documentation and instructions.

The Fund Manager had sent a letter to thirty-three (33) schools on 4 January, 2016 requesting confirmation of receipt of the furniture. However, only twelve (12) schools responded. The Makadara District Education Officer through a letter Ref: MAK/EDU/5/10/11 of 28 November, 2011 provided details of the lockers and chairs supplied to the schools. However, delivery notes, inspection and acceptance committee reports, contract documents, tender documents, and Local Purchase Orders were not attached to the letter.

There was no budgetary allocation for the supplies in the respective financial years when the contracts were purportedly awarded. It was further noted that several law suits on the matter had since been filed against the Fund by the merchants and a Garnishee Order Nisi issued against the Fund's bank account held at a local bank.

Management explained that the Attorney General had advised the Fund to write to all claimants requesting for more documentation which would be forwarded to the Attorney General for a final determination.

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 standard requires 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

The Management are 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, the Management is responsible for assessing the Fund's ability to sustain services, disclosing, as applicable, matters related to sustainability of services and using the going concern basis of accounting unless Management is aware of the intention to terminate the Fund or to cease operations.

The 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, the 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 manner.

Those charged with governance are responsible for overseeing the Fund's 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 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 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' 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 ability of Fund 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 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 the 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

10 December, 2021