

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND – MSAMBWENI 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 – Msambweni Constituency set out on pages 7 to 42, which comprise of the statement of assets and liabilities as at 30 June, 2019, 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 – Msambweni 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 National Government Constituencies Development Fund Act, 2015 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

Inaccuracies in Cash and Cash Equivalents

As disclosed in Note 10A to the financial statements, the statement of assets and liabilities reflects cash and cash equivalent totalling to Kshs.6,126,129. However, the supporting bank reconciliation statement reflected unrepresented cheques amounting to Kshs.2,615,925, out of which cheques amounting to Kshs. 269,770, as at 31 December, 2019, were stale. The stale cheques had not been replaced or written back in the cashbook.

Further, as reported in 2017/2018, the statement of assets and liabilities as at 30 June, 2018 reflects nil cash at hand and the cash count certificate provided indicated a nil balance. However, official receipts indicated that Kshs.29,000 was collected in cash from sale of tender documents. The Management did not provide evidence that this amount was banked.

Consequently, the accuracy, completeness and validity of cash and cash equivalents totalling Kshs.6,126,129 reflected in the statement of assets and liabilities 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 the National Government Constituencies Development Fund – Msambweni 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.137,053,761 and Kshs.82,012,886 respectively resulting to an under-funding of Kshs.55,040,875 or 40% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.137,053,761 and Kshs.75,886,757 respectively resulting to an under expenditure of Kshs.61,167,004 or 45% of the budget. Management has this to delayed disbursement of funds from the NGCDF Board.

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

2. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised. However, the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circular Ref: PSASB/1/12 Vol.1(44) of 25 June, 2019.

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. Projects Implementation Status

1.1. Unimplemented Projects

The projects implementation status report as at 30 June, 2019, indicated that nine (9) projects with a total budget of Kshs.30,161,007 had not been completed as detailed in **Appendix I**.

1.2. Unsatisfactory Implementation of Projects

Physical verification of eleven (11) development projects with total disbursements of Kshs.21,782,758 was undertaken in December, 2019, out of which eight (8) projects costing Kshs.17,641,379 had unsatisfactory observations as detailed in **Appendix II**.

Although the Management has availed site instruction minutes by the Engineer for above variations, there is no evidence that the Tender Committee met and approved the changes to form the basis for Engineer's instructions. This is contrary to Section 139(1) of the Public Procurement and Asset Disposal Act, 2015 which states that, "an amendment or a variation to a contract resulting from a procurement proceeding is effective only if the variation or amendment has been approved in writing by the respective tender awarding authority within a procuring entity".

In the circumstances, the Management was in breach of the law and the public may not get value for money from the above projects.

2. Irregular Youth and Opportunity Centre Project

As previously reported, the Management awarded a contract of Kshs.60,125,880 for the construction of Msambweni Youth and Opportunity Centre from 07 December, 2016 to be completed in June, 2017. Review of records showed that a total of Kshs.48,000,000 had been disbursed to the project but the works were still ongoing in December, 2019, a delay of two (2) years. However, the Management did not provide evidence to confirm that the contract was extended, the bidder placed a performance bond of 10% of contract price as per the contract agreement and ownership documents for the land on which the centre sits in the name of the Fund.

This is Section 11(k) of the National Government Constituencies Development Fund Regulations, 2016 which states that "where a project involves purchase of building or land ensure that the ownership is duly verified".

In the circumstances, the regularity and value for money from the project could not be ascertained for year ended 30 June, 2019.

3. Irregular Bursary Committee

As disclosed in Note 7 to the financial statements, the statement of receipts and payments reflects other grants and other payments balance of Kshs.27,319,743. The balance includes bursaries totalling to Kshs.24,247,800. However, it was observed that the area Education Officer was not incorporated in the Bursary Committee. This is contrary to NGCDF Board's Circular Ref. CDF Board Circulars/Vol 1/111 dated 13 September, 2010 which provides for the inclusion of the area Education Officer in Bursary Committees.

As a result, the Management is 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, 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

Delayed Banking of Revenue

During the period under audit, the Management collected a total of Kshs.62,000 from sale of tenders between the months of July, 2018 and February, 2019. However, verification of the bank statements revealed that the revenue was banked in June, 2019.

In the circumstances, I am unable to confirm existence of effective internal controls on revenue.

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.



CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

22 September, 2021

Appendix I: Stalled and Ongoing Projects

No.	Activity	Project Activity	Start Date	Completion Date	Project Cost (Kshs.)	Status
1.	Mwananga Primary School	Renovation of 3 No. classroom	July, 2018	June, 2019	1,500,000	Not started

2.	Herman Primary School	Construction of chain link for school compound	July, 2018	June, 2019	1,000,000	Not started
3.	Mkwambani Primary School	Construction of 2 No. classrooms	July, 2018	June, 2019	2,400,000	On-going
4.	Galu Primary School	Renovation of computer room	July, 2018	June, 2019	500,000	On-going
5.	Mwakigwena Primary School	Renovation of 3 No. classrooms	July 2018	June, 2019	1,500,000	On-going
6.	Vingujini Secondary School	Construction of new secondary school	July, 2018	June, 2019	15,000,000	On-going
7.	Msambweni Teachers Training college	Construction of Teachers Training Centre	July, 2018	June, 2019	5,000,000	Not started
8.	Diani Location	Renovation of chief's office	July, 2018	June, 2019	261,007	Not started
9.	Mwabungo social hall	Construction of new community social hall	July, 2018	June, 2019	3,000,000	Not started
	Total				30,161,007	

Appendix II: Unsatisfactory Implemented Projects

No.	Project	Amount Disbursements (Kshs.)	Observations
1.	Magutu Primary School - Renovation of four (4) classrooms	1,800,000	Project complete and in use though there was evidence of cracks on the floor of two (2) classes
2.	Kilulu Primary School - Renovation of three (3) classrooms	1,500,000	Project was complete. However, steel pipes for verandah were five (5) instead of seven (7) as per bills of quantities. Further, windows were twelve (12) instead of fifteen (15) as per bills of quantities
3.	Fahamuni Primary School - Renovation of three (3) classrooms	1,000,000	Project was complete. However, there was evidence of termite infestation.
4.	Vingujini Primary School - Renovation of three (3) classrooms	1,441,379	Project was complete. However, doors were three (3) instead of six (6) as per bills of quantities
5.	Ganja La Simba Primary School - Renovation of 4 no. classroom and 1 No.4 doors pit latrine	2,400,000	The four (4) classrooms were complete and in use. However,

No.	Project	Amount Disbursements (Kshs.)	Observations
			steel pipes for verandah were ten (10) instead of fifteen (15) as per bills of quantities
6.	Madago Primary School - Renovation of five (5) classrooms;	2,500,000	Project was complete and in use. However, fourteen (14) reinforced concrete columns were erected instead of 2500MM long steel pipes for verandah.
7.	Mvinden Primary School - Renovation of four (4) classrooms	2,000,000	Project was complete and in use. However, three (3) door locks were destroyed. There was also evidence of major cracks on the floors of the three (3) classrooms and verandah
8.	Dori Girls Secondary School - Construction of two new classrooms	5,000,000	Project was complete but not in use.
	Total	17,641,379	