

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - BORABU 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 - Borabu Constituency set out on pages 7 to 43, 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 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 - Borabu 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 National Government Constituencies Development Fund Act, 2015 and Public Finance Management Act, 2012.

Basis for Qualified Opinion

1. Inaccuracy in the Financial Statements

The statement of receipts and payments for the year ended 30 June, 2020 and as disclosed in Note 1 to the financial statements, reflects an amount of Kshs.74,332,000 in respect of transfer from CDF Board. However, the statement of appropriation - recurrent and development combined reflects an actual on comparable basis amount of Kshs.89,080,725 in respect of transfer from the Board and hence an unreconciled variance of Kshs.14,748,725.

In the circumstances, the accuracy and completeness of Kshs.74,332,000 in respect of transfers from CDF Board could not be confirmed.

2. Unsupported Expenditure - Use of Goods and Service

The statement of receipts and payments reflects an amount of Kshs.9,433,538 in respect of use of goods and services and as disclosed in Note 5 to the financial statements, which includes an unsupported amount of Kshs.2,993,638 relating to utilities supplies and services, routine maintenance, hospitality supplies and services, domestic travel subsistence and printing and advertising.

Consequently, the accuracy and completeness of the expenditure of Kshs.2,993,638 could not be ascertained.

3. Unaccounted Bursaries

The statement of receipts and payments and as disclosed in Note 6 to the financial statements, reflects an amount of Kshs.37,005,573 in respect of other grants and other payments which includes an amount of Kshs.6,351,581 and Kshs.12,474,918 relating to bursary to secondary schools and tertiary institutions respectively. However, the expenditure was not supported by any acknowledgements from the beneficiary schools and institutions.

In the circumstances, it was not possible to ascertain whether the bursaries amounting to Kshs.18,826,499 benefited the intended beneficiaries and whether it was expended as appropriated.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the National Government Constituencies Development Fund - Borabu 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 receipts on comparable basis of Kshs.158,448,449 and Kshs.89,080,725 respectively resulting to an under-funding of Kshs.69,367,724 or 44% of the budget.

Similarly, the Fund spent Kshs.88,976,696 against an approved budget of Kshs.158,448,449 resulting to an under expenditure of Kshs.69,471,753 or 44% of the approved budget.

Under the circumstances, the under-funding may result in some planned activities not being realized thereby affecting delivery of goods and services to the constituents.

Further, the under expenditure of Kshs.69,662,194 or 44% of the total budget allocation translates to equivalent services planned but not delivered to the residents of Borabu Constituency.

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 sections 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 Transfer to Other Government Entities

1.1 Unauthorized Reallocation of Funds

The statement of receipts and payments reflects Kshs.31,480,499 and as disclosed in Note 7 to the financial statements, the amount includes Kshs.9,768,330 relating to transfers to primary schools out of which a disbursement of Kshs.500,000 was made to Ensinyo Primary school for construction of one classroom. However, the scope of works was changed and instead the funds were used to put up a slab for a storey building instead of building a classroom without approval of the National Government Constituencies Development Fund Board contrary to the provisions of Section 6(2) of the National Government Constituencies Development Fund Act, 2012 which requires that; Once funds are allocated for a particular project, they shall remain allocated for that project and may only be re-allocated for any other purpose during the financial year with the approval of the Board.

1.2 Construction of Borabu Teachers Training College

As disclosed in Note 7 to the financial statements, the statement of receipts and payments reflects Kshs.37,005,573 in respect of transfers to other Government institutions which includes transfers to tertiary institutions figure of Kshs.17,873,621 out of which an amount of Kshs.13,894,634 was disbursed for construction of a tuition block at Borabu Teachers Training College at a contract sum of Kshs.37,654,965, and which was later revised by Kshs.4,233,795 to Kshs.41,888,760. The contract period was fourteen months effective from the date of contract agreement of 24 May, 2017. As at 30 June, 2020, the contractor had been paid a total of Kshs.36,748,941 or 87.8% of the revised contract sum. Project verification in the month of February, 2021 revealed that the project was incomplete despite the contract period having had expired in August, 2018. The outstanding works including painting, tiling and fixing of window panes were not done while the contractor was not on site.

In the circumstances, the regularity and value for money of the expenditure of Kshs.13,894,634 could not be confirmed.

2. Irregular Tendering - Construction of Office Block for Borabu Constituency

The statement of receipts and payments for the year ended 30 June, 2020 and as disclosed in Note 8 to the financial statements reflects Kshs.8,896,031 in respect of

acquisition of assets incurred in construction of two storey office block for National Government Constituencies Development Fund- Borabu Constituency. The tender was awarded at a contract sum of Kshs.36,360,026 with the expected completion period of 24 months commencing from 5 February, 2019. However, audit of the contract revealed that works amounting to Kshs.15,654,646 were omitted from the original tender as follows:

- i. Retaining wall whose tender had been separately awarded to a different contractor at a tender sum of Kshs.7,294,189.
- ii. Electrical wiring services estimated at Kshs.2,583,650.
- iii. Mechanical and building services estimated at Kshs.5,776,807.

The omission and separate tendering could have resulted to splitting of the tender contrary to paragraph 54(1) of the Public Procurement and Asset disposal Act, 2015 which states that, no procuring entity may structure procurement as two or more procurements for the purpose of avoiding the use of a procurement procedure except where prescribed.

No explanation was given as to why the items were not included in the tender considering that the building could not have functioned without them.

In the circumstances, the regularity and value for money of the expenditure of Kshs.8,896,031 could not be confirmed.

3.0 Other Grant and Other Payments

3.1 Irregular Expenditure for Opening of Access Roads

The statement of receipts and payments for the year ended 30 June, 2020 and as disclosed in Note 7 to the financial statements, reflects Kshs.31,480,499 in respect of other grants and other payments figure which includes Kshs.6,830,200 for emergency projects out of which an amount of Kshs.5,504,000 was incurred on opening and grading of access roads. Physical verification of the projects revealed that they were not labeled contrary to the provision of Regulation 15(1)(f) of NGCDF Regulations, which requires a project to be labelled and handed over upon completion. Further, the emergency payments did not meet the threshold set for urgent and unforeseen need as prescribed by Section 8(3) of the Act.

In addition, the projects were done contrary to the provisions of Section 24(a) of the National Government Constituencies Development Fund Act, 2015 which stipulates that a project to be undertaken shall, “only be in respect of works and services falling within the functions of the National Government under the Constitution.

Under the circumstances, the regularity of the expenditure of Kshs.5,504,000 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 procedures performed, I confirm that, nothing has come to my attention to cause me to believe that internal controls, risk management and 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 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

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 governance.

In preparing the financial statements, Management is responsible for assessing the Fund's ability to sustain 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 governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibilities for the Audit

Report of the Auditor-General on National Government Constituencies Development Fund - Borabu Constituency for the year ended 30 June, 2020

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 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 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 ability of Fund 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 sustaining 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

14 February, 2022