

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - BARINGO NORTH 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 - Baringo North Constituency set out on pages 10 to 40, which comprise 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 National Government Constituencies Development Fund - Baringo North 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. Cash and Cash Equivalents

The statement of assets and liabilities reflects bank balances of Kshs.362,138;(2018-Kshs.33,631,193). However, bank reconciliation statement in support of the balance reflected payment of Kshs.417,401 in the bank but not recorded in the cash book.

Further, and as previously reported, the comparative bank balance of Kshs.33,631,193 included stale cheques amounting to Kshs.218,256 which had not been written back into the cash book. Similarly, withdrawals amounting to Kshs.1,748,100 during the 2017/18 financial year lacked the supporting documentation.

In addition, the statement of cash flows reflects comparative cash and cash equivalent as at the end of the year of Kshs.33,631,193 while the beginning for the current year reflects balance of Kshs.32,395,555 resulting to a variance of Kshs.1,235,638 which has not been reconciled.

Consequently, the accuracy and completeness of bank balance of Kshs.362,138 as at 30 June, 2019 could not be confirmed.

2. Irregular Bursary Payments

The statement of receipts and payments reflects other grants and transfer payments of Kshs.38,142,770;(2018-Kshs.22,327,600) and as disclosed under Note 7 to the financial statements. However, the bursary listing provided indicated that some beneficiary students from the same institution shared registration numbers for amounts totaling to Kshs.114,000 as detailed below.

| No. | Institution | Name | Reg. No. | Year | Amount (Kshs.) |
|--------------|-----------------------------|---------------------|----------|------|----------------|
| 1 | Yatia Secondary School | Collins K. Koros | 70 | IV | 8,000 |
| 2 | Yatia Secondary School | Cherop J. Tracy | 70 | IV | 15,000 |
| 3 | Kuikui Secondary School | Isabella Toroitich | 391 | II | 15,000 |
| 4 | Kuikui Secondary School | Duncan C. Kokwon | 391 | IV | 8,000 |
| 5 | Moigutwo Secondary School | Nicholas C. Chesang | 463 | IV | 10,000 |
| 6 | Moigutwo Secondary School | Gladwel J. Kimosop | 463 | II | 8,000 |
| 7 | Moi High School, Kabartonjo | Henry K. Chelimo | 4263 | III | 15,000 |
| 8 | Moi High School, Kabartonjo | Sherry J. Chebon | 4263 | IV | 15,000 |
| 9 | Kapkiamo Secondary School | Kisa Desmond | 1030974 | | 10,000 |
| 10 | Kapkiamo Secondary School | Edmond K. Cheptirim | 1030974 | III | 10,000 |
| Total | | | | | 114,000 |

Further, the bursary schedules indicated that, thirty-five (35) beneficiaries received multiple bursaries totaling to Kshs.881,900.

In addition, out of the total bursary disbursements of Kshs.30,842,770, only bursaries amounting to Kshs.8,705,785 were acknowledged by the receiving institutions leaving Kshs.22,136,985 as unconfirmed.

Consequently, the regularity and validity of other grants and transfer payments of Kshs.38,142,770 for the year ended 30 June, 2019 could not be confirmed.

3. Irregular Payment of Allowances

The statement of receipts and payments reflects use of goods and services amount of Kshs.9,559,234, which includes other committee expenses of Kshs.3,266,500 as disclosed under Note 5 to the financial statements. Included in other committee expenses is an amount of Kshs.485,000 paid to national government officers for office construction site meetings as detailed out below:-

| PV No. | Date | Voucher Amount (Kshs.) | Amount Paid to National Government Officers (Kshs.) |
|--------|------------|------------------------|---|
| 131 | 17.01.2019 | 67,000 | 45,000 |
| 8274 | 28.06.2019 | 62,000 | 40,000 |
| 251 | 24.05.2019 | 57,000 | 40,000 |
| 223 | 24.05.2019 | 62,000 | 40,000 |

| PV No. | Date | Voucher Amount (Kshs.) | Amount Paid to National Government Officers (Kshs.) |
|---------------|-------------|-------------------------------|--|
| 194 | 13.08.2019 | 54,000 | 35,000 |
| 94 | 23.11.2018 | 57,000 | 45,000 |
| 281 | 29.06.2019 | 62,000 | 40,000 |
| 35 | 29.08.2019 | 62,000 | 45,000 |
| 161 | 14.02.2019 | 62,000 | 50,000 |
| 142 | 28.09.2018 | 52,000 | 45,000 |
| 286 | 29.06.2019 | 60,000 | 10,000 |
| 47 | 11.09.2018 | 52,000 | 35,000 |
| 52 | 28.09.2018 | 52,000 | 15,000 |
| 57 | 28.09.2018 | 62,000 | 10,000 |
| 69 | 17.10.2018 | 57,000 | 45,000 |
| Total | | 880,000 | 485,000 |

The Management has not rendered a satisfactory explanation as to why the officers were paid allowances they were not entitled to.

Under the circumstances, the validity and regularity of other committee expenses of Kshs.485,000 for the year ended 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 - Baringo North 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

Budget Control and Performance

The summary statement of appropriation: recurrent and development reflects final receipts budget and actual on comparable basis of Kshs.201,578,162 and Kshs.147,837,286 resulting to underfunding of Kshs.53,740,876 or 26.9% of the budget. The underfunding affected the execution of planned activities and projects which may have negatively impacted on service delivery to the constituents of Baringo North.

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. Project Management Committee Bank Accounts

Eleven (11) PMC bank accounts for projects indicated as complete in the implementation status report of 30 June, 2019 continue to remain active and had balances totaling to Kshs.4,195,332 as detailed out below: -

| Project | PMC Account | Balance (Kshs.) |
|----------------------------|-------------|------------------|
| Kalabata Primary School | 1111222185 | 198,883 |
| Kapkirwok Secondary School | 1109780230 | 772,882 |
| Kapluk Primary School | 1139117130 | 3,721 |
| Koroto Primary School | 1110726953 | 300,749 |
| Kosile Primary School | 1113738448 | 793 |
| Lekepchun Primary School | 1252054521 | 14,825 |
| Loruk Primary School | 1168270049 | 399,944 |
| Ossen Secondary School | 1114525731 | 77,777 |
| Poi Secondary School | 1116021072 | 17,968 |
| Sibilo Primary School | 1110870248 | 804,051 |
| Siboo Primary School | 1110651120 | 1,603,740 |
| Total | | 4,195,332 |

This is contrary to Section 12(8) of the National Government Constituencies Development Fund Act, 2015 which requires all unutilized funds of the Project Management Committee to be returned to the constituency account.

The PMC bank account balances are not supported by bank statements, certificate of bank balances, cash books and bank reconciliation statements.

Consequently, the accuracy and completeness of PMC bank balance of Kshs.47,552,307 as at 30 June, 2019 could not be confirmed.

2. Unapproved Variation for Office Construction Contract

The statement of receipts and payments also reflects acquisition of assets cost of Kshs.33,094,153;(13,083,013) and as disclosed under Note 8 to the financial

statements. During the year under review, the Fund continued to implement the contract for the construction of Fund offices which was contracted at a cost of Kshs.37,801,268 through open tender process. However, the project which was to be completed on 30 April, 2018 was incomplete as at February, 2020, ninety-three (93) weeks behind schedule.

Further, during the 14th site meeting between officers of Baringo County works office, architectural section, the Management and the contractors, it was reported that pending works would be undertaken at an incremental cost of Kshs.11,394,806 raising the contract sum to Kshs.49,196,074. Thus, translating to variation 30.14% contrary to the provisions of Section 139 (4) of Public Procurement and Disposal Act 2015 .

In addition, as reported previously, and contrary to the provisions of Section 96(2) of the Public Procurement and Asset Disposal Act 2015, the tender had only been advertised in one daily newspaper instead of at least two daily newspapers of nationwide circulation.

3.0 Projects Implementation

Annex 4-Project Management Committee (PMC) bank balances as at 30 June, 2019 discloses project bank balances of Kshs.47,553,307;(2018 - Kshs.6,058,202) for fifty-six (56) projects funded during the year. The following unsatisfactory observations were made;

3.1 Projects not Started or Delayed

The project implementation status report as of 30 June, 2019 reflected 105 projects with funds allocation of Kshs.166,174,410 at various stages of completion as detailed below;-

| Project Status | Count | Funds Allocation (Kshs.) |
|--|--------------|---------------------------------|
| Complete and in use | 6 | 2,600,000 |
| Ongoing | 19 | 29,900,000 |
| Funds released to PMCs but not started and were at tendering stage | 7 | 9,600,000 |
| Not been started due to delay in release of Funds | 15 | 22,700,000 |
| Prior years ongoing projects – Not prioritized | 58 | 101,374,410 |
| Total | 105 | 166,174,410 |

Contrary to Section 46(2) of National Government Constituencies Development Fund Act, 2015 which requires ongoing projects to be prioritized, 58 projects with cumulative funding allocation of Kshs.101,374,410 have been ongoing for periods exceeding three (3) years but were not prioritized. Further, fifteen (15) other projects with a funding of Kshs.22,700,000 have not been started due to delay in release of funds.

3.2 Incomplete Projects

Fifteen (15) projects with a funding allocation of Kshs.49,281,908 were sampled for verification during the month of January, 2020. The projects were at various stages of completion as detailed in Appendix 1. No satisfactory explanation has been rendered for delays in completing the 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, 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 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 liquidate 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 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 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

11 January, 2022

Appendix 1 – Incomplete Projects

| Project Name | Details | Cost (Kshs) | Observations |
|------------------------------|--|-------------|---|
| 1. Kilingot primary school | Construction of 8 classrooms to completion | 6,400,000 | Project received funding on 28 February, 2019 but the project is incomplete, 11 months after the disbursement. Labour based contracting was adopted contrary to section 27 of NGCDF regulations 2016 which requires Project Management Committee to apply Public Procurement and Assets Disposal Act 2015 in the procurement. |
| 2. Kalel Primary School | Construction of 7 classrooms to completion and installation of electricity on 8 classrooms | 5,600,000 | The project is incomplete and was at roofing level; Kshs.700,000 allocation for the electrification remained unutilized. |
| 3. Kasisit Primary school | Construction of 4 classrooms and an administration block to completion | 5,474,138 | Administration block was at lintel level; Four (4) classrooms were at finishing level; there were no materials on site nor the contractor. |
| 4. Katibel Primary School | Construction of 6 classrooms to completion | 4,800,000 | Three (3) classrooms were at lintel level while the other three (3) were at foundation level eleven (11) months after disbursement; Labour based contracting was used contrary to section 27 of NGCDF regulations 2016 which requires project management committee to apply Public Procurement and Assets Disposal Act 2015. |
| 5. Embo-Ruto Primary School | Construction of 6 classrooms to completion | 4,800,000 | Not started despite receiving funds on 28 February, 2019 |
| 6. Terik Primary School | Construction of 6 classrooms to completion | 4,800,000 | Not started despite receiving funds on 28 February, 2019 |
| 7. Ngaratuko Primary School | Construction of 4 classrooms and 10 doors pits latrines to completion | 4,107,770 | Not started despite receiving funds on 21 February, 2019 |
| 8. Kipsaraman Primary School | Construction of 3 classrooms to completion | 2,400,000 | Not started despite receiving funds on 21 February, 2019 |
| 9. Kipkaren Primary School | Construction of 2 classrooms to completion | 1,800,000 | Not started despite receiving funds on 21 February, 2019 |

| Project Name | Details | Cost (Kshs) | Observations |
|---------------------------------------|---|--------------------|---|
| 10.Siboo Primary School | Construction of 2 classrooms to completion | 1,600,000 | Not started despite receiving funds on 21 February, 2019 |
| 11.Kapkoivo Primary School | Construction of 2 classrooms to completion | 1,600,000 | Not started despite receiving funds on 21 May, 2019 |
| 12. Litein Primary School | Construction of 2 classrooms to completion | 1,500,000 | Project is at foundation level, fourteen (14) months after funding. The contractor was not on site and the Project appeared abandoned. |
| 13.Kapluk Secondary School | Construction of school library block | 1,000,000 | The Project received Kshs.2,000,000 and Kshs.800,000 in 2014/2015 and 2017/2018 financial years respectively. This contravenes section 11(J) of NG-CDF Regulation 2016 which requires project to be completed within three (3) years. The Project was at roofing stage but appeared abandoned. Water seepage between the foundation and walls, posing risk to the users. |
| 14.Katorin Resource centre | Plastering, keying wiring and painting | 1,500,000 | Project incomplete and Stalled; no contractor on site. |
| 15.Muchukwo Chiefs Office and AP Camp | fixing doors and windows, Construction of pit latrine and bathrooms | 1,900,000 | <ul style="list-style-type: none"> • Painting works for the three (3) one-bedroom AP Units incomplete; • Construction of both the pit latrine and the bathrooms not done; and • Electrical wiring of the Chiefs office and the AP Units had not started |
| Total | | 49,281,908 | |