

# **REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND – HOMA BAY TOWN CONSTITUENCY FOR THE YEAR ENDED 30 JUNE, 2020**

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## **REPORT ON THE FINANCIAL STATEMENTS**

### **Qualified Opinion**

I have audited the accompanying financial statements of National Government Constituencies Development Fund - Homa Bay Town Constituency set out on pages 19 to 61, which comprise the statement of financial 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 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 the National Government Constituencies Development Fund - Homa Bay Town 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**

#### **1. Variance between Financial Statements and Supporting Documents**

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects expenditure of Kshs.38,116,397 relating to other grants and transfers. Included in this amount is Kshs.6,092,050 in respect of emergency projects whose supporting documents and schedules reflected Kshs.5,687,232 leading to an unexplained and unreconciled variance of Kshs.404,818.

Consequently, the accuracy and completeness of the expenditure of Kshs.6,092,050 on the emergency projects could not be confirmed.

#### **2. Unsupported Bursary Disbursements**

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects Kshs.38,116,397 in respect to other grants and other payments. Included in this amount is Kshs.24,674,939 and Kshs.2,772,000 in respect of bursaries disbursed to secondary schools and tertiary institutions respectively. However, Kshs.2,804,026 out of the total disbursed amount of Kshs.27,446,939 was un-acknowledged by the beneficiary schools and institutions. In addition, there was no evidence that the constituents were involved in the process of bursary allocation contrary

to the provisions of Regulation 73(3) of the Public Finance Management Regulations (National Government) 2015 which requires that during the project identification and design, the intended beneficiaries shall be involved through public participatory approach for planning.

In the circumstance, it has not been possible to confirm whether the bursaries amounting to Kshs.2,804,026 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 - Homa Bay Town 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 Performance and Controls**

The statement of comparative budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.193,300,188 and Kshs.190,300,188 respectively resulting to an under-funding of Kshs.3,000,000 or 94% of the budget. Similarly, the Fund expended Kshs.146,944,898 against an approved budget of Kshs.193,300,188 resulting to an under-expenditure of Kshs.46,355,290 or 24% of the budget. The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

## **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 Irregular Compensation of Employees**

The statement of receipts and payments and as disclosed in Note 4 to the financial statements reflects expenditure of Kshs.5,338,999 relating to compensation of employees. The expenditure includes an amount of Kshs.2,437,500 which was spent on payment of wages to thirty-four casual employees. However, the recruitment process did not adhere to the provisions of Circular No. CDF BOARD/CIRCULARS/VOL.II/166 dated 2 June, 2013 which stipulates that all recruitments of CDF staff shall be competitive. Advertisement for the positions was not done before the appointments were made. Further, job specifications and job descriptions of the casual workers were not provided.

In the circumstances, the validity of the expenditure of Kshs.2,437,500 could not be confirmed.

### **2.0 Irregular Procurement Process**

#### **2.1 Lack of Public Participation**

During the year under review the Fund implemented six (6) primary school projects at a cost of Kshs.11,828,200. However, there was no evidence of all the six (6) projects ever being subjected to public participation process for identification purposes. This was contrary to the provisions of Regulation 73(3) of the Public Finance Management Regulations (National Government) 2015 which requires that during the project identification and design, the intended beneficiaries shall be involved through public participatory approach for planning. In addition, the contracts agreements for all the six (6) projects lacked specified contract duration.

In the circumstances, the Fund is in breach of the law.

#### **2.2 Re-allocation of Funds Without Board's Approval**

- i. The statement of receipts and payments and as disclosed in Note 6 to the financial statements reflects transfers to other government units balance of Kshs.88,348,200. Included in this amount is Kshs.37,448,200 relating to transfers to primary schools. This amount further includes a transfer of Kshs.800,000 to Maguje Primary School for the completion of three (3) classrooms. However, the Project Management Committee diverted the funds to construction of a new administration block. Records provided indicated that the new project for administration block was initiated by the Project Management Committee yet there was an earlier similar funding for construction of administration block in the financial year 2016/2017. The audit noted that the administration block has been constructed up to the lintel level and has since been abandoned.

- ii. Included in transfers to other government units balance of Kshs.88,348,200 is an expenditure of Kshs.50,900,000 relating to transfers to secondary schools. Of this amount is a transfer of Kshs.2,000,000 to Homa Bay High School for construction of a library which is being co-funded by PTA and the National Government Constituencies Development Fund - Homa Bay Town Constituency. However, the Project Management Committee reallocated the funds to renovation of four classrooms.
- iii. A transfer of Kshs.1,500,000 to Nyakahia Mixed Secondary School in respect of construction of administration block was reallocated by the school's Project Management Committee to construction of two (2) classrooms.
- iv. The Fund tendered for construction of administration block at the cost of Kshs.2,046,450 at Ndiru Mixed Secondary School. However, the scope of the original project was changed and resulted in an upward variation of the project cost by Kshs.3,490,895 to Kshs.5,537,345. This translates to 59% variation of the contract sum contrary to provisions of Section 139(6) of the Public Procurement and Asset Disposal Act, 2015, which states that where variation results in an increment of the contract price by more than twenty five percent (25%), such variation shall be tendered for separately.

Management did not obtain Board approvals for these projects contrary to Section 6(2) of the National Government Constituencies Development Fund Act, 2015 which states 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.

In the circumstances, the Fund is in breach of the Act.

### **3.0 Unlabelled Road Projects**

The statement of receipts and payments for the year ended 30 June, 2020 and as disclosed in Note 7 to the financial statements reflects other grants and other payments balance of Kshs.38,116,397. Included in this amount are expenditures totaling Kshs.6,092,050 relating to emergency projects out of which an expenditure totaling Kshs.2,600,000 was incurred in construction of access roads.

Further, physical verification of the access roads projects revealed that the projects were not labelled contrary to the provision of Regulation 15(1)(f) of the National Government Constituencies Development Fund (NGCDF) Regulations, 2016 which requires the project management committee to undertake project closure, labelling and handover upon completion.

In addition, the construction works for access road to Ruga Primary School has been claimed by a different entity through a publicity signboard. The audit also observed that the emergency payments did not meet the threshold set for urgent and unforeseen need

as prescribed by Section 8(3) of the Act, which states that "Emergency" shall be construed to mean an urgent, unforeseen need for expenditure for which it is in the opinion of the committee that it cannot be delayed until the next financial year without harming the public interest of the constituents.

Under the circumstances, the value for money and the regularity of Kshs.2,600,000 for the year ended 30 June, 2020 could not be confirmed.

#### **4.0 Delay in Completion of Projects**

##### **4.1 Primary Schools Projects**

Included in transfer to other governments units balance of Kshs.88,348,200 are payments totaling Kshs.37,448,200 relating to transfers to primary schools. The amount also includes payments amounting to Kshs.11,828,200 to six (6) primary schools for various projects. As at the time of audit in January, 2021 all the projects were incomplete 18 months the project funds/cheques were released on 11 July, 2019.

##### **4.2 Secondary Schools Projects**

Included in transfer to other governments units balance of Kshs.88,348,200 are payments totaling Kshs.50,900,000 relating to transfers to secondary schools. This amount includes disbursements totaling Kshs.19,930,504 to six (6) secondary schools for implementation of various projects which remain incomplete.

The slow pace of implementation of projects may negatively affect service delivery to the constituents of Homa Bay Town and the intended purpose of the projects may not be actualized.

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 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 abolish 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 Fund's financial reporting process, reviewing the effectiveness of how the Management 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 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 noncompliance. 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 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**

**14 February, 2022**