

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - NYATIKE 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 - Nyatike Constituency set out on pages 16 to 44, 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 – Nyatike 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

1.0 Unsupported Bursary disbursements

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects other grants and transfers payments of Kshs.53,698,877. Included in this amount are bursary disbursements of Kshs.11,114,600 and Kshs.22,265,337 disbursed to secondary schools and tertiary institutions respectively. However, supporting documents for these payments were not provided for audit.

Consequently, the accuracy, completeness and validity of the bursary expenditure of Kshs.53,698,877 for the year ended 30 June, 2020 could not be confirmed.

2.0 Unsupported Sports Expenditure

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects other grants and other payments amounts of Kshs.53,698,877. Included in this amount is expenditure on sports projects of Kshs.2,500,000. However, the distribution list and acknowledgement from the recipients of the sports items procured was not availed for audit review.

Consequently, the accuracy, completeness and validity of the expenditure of Kshs.2,500,000 spent on sports projects could not be confirmed.

3.0 Unsupported Expenditure on Construction of Twin Laboratory

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects transfers to other government units amount of Kshs.68,300,000. Included in the transfer is expenditure of Kshs.44,050,000 on transfer to secondary schools out of which Kshs.1,000,000 was transferred to Ndiwa Girls Secondary School in respect to completion of a twin laboratory. This project was procured as a labour based contract on 25 July, 2019 at a contract sum of Kshs.768,490.

Records available indicate that a total Kshs.3,000,000 has been disbursed towards the project with Kshs.2,000,000 having been disbursed in the financial 2018/2019. However, the cashbook and payment vouchers for this project were not provided for audit review despite the bank statement revealing that an amount totaling Kshs.1,535,210 had been spent in the period between 20 July, 2019 and 30 June, 2020.

Physical verification of the project on 16 February, 2021 revealed that the project had stalled at the lintel level and the contractor was not on site despite funds allocated for the completion of the project having been disbursed.

Consequently, the validity of the expenditure for the construction of twin laboratories 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- Nyatike 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 are no key audit matters to report in the year under review.

Other Matter

1.0 Budget Control and Performance

The summary statement of appropriation; recurrent and development combined for the year under review reflects total budgeted receipts of Kshs.210,694,044 and actual receipts of Kshs.141,326,320 resulting to underfunding of Kshs.69,367,724 or 33% of the budget. Similarly, The Fund spent Kshs.139,953,500 against total expenditure budget of Kshs.210,694,045 resulting to an overall under expenditure of Kshs.70,740,545 or 33% of the budget. The budget under funding and under absorption affected the planned activities and may have impacted negatively on service delivery to the residents of Nyatike.

Further, there was an over expenditure on other payments by Kshs.4,500,000 no evidence has been availed for audit review to confirm that the over expenditure of Kshs.4,500,000 was approved contrary to Section 52(1)(a) of Public Finance Management (National Government) Regulations, 2015 which states that no public officer can spend or commit funds unless the officer has been authorized by means of an Authority to Incur Expenditure (AIE) to do so.

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 Transfers to Other Government Units

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects transfers to other government units balance of Kshs.68,300,000. Review of expenditure under this item revealed the following unsatisfactory matters,

2.0 Irregular Procurement of Contract for Construction of Tuition Blocks at Rongo University- Macalder Campus

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects transfers to other government units balance of Kshs.68,300,000. Included in this balance is a payment of Kshs.8,000,000 transferred to Rongo University in respect to the construction of tuition blocks at the University's Macalder learning Centre whose contract sum is Kshs.11,554,922. However, a review of the procurement process revealed that the project was not procured through open tender despite the contract sum being above the minimum threshold for class C procuring entities of Kshs.3,000,000 which the Funds fall under.

In the circumstances, Management is in breach of the law and the regularity of the expenditure of Kshs.8,000,000 on the construction of tuition blocks at the University's Macalder learning Centre could not be confirmed.

3.0 Irregular Funding of Construction of a Dormitory at Radienya High School

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects transfers to other government units balance of Kshs.68,300,000. Included in transfer is Kshs.44,050,000 transferred to secondary schools out of which Kshs.1,750,000 was transferred to Radienya Secondary School in respect to the construction of a one storey dormitory.

Review of information provided by the School's Management revealed that the request for counter-part funding of the project by the Parents, Teachers Association (PTA) did not specify the portion which was to be financed by the Fund. This is contrary to the provisions of Section 49 of National Government Constituencies Development Fund Act, 2015 which allows for counter-part funding provided that the part funding for the project availed pursuant to this Act shall go to a defined unit or any part thereof or phase of the project in order to ensure that the particular portion defined in the allocation is completed with the funds allocated under this Act.

Physical verification of the project on 16 February, 2021 revealed that the contractor was not on site. The project had stalled at the first-floor slab level. Further, the workmanship on the completed sections was visibly poor. Valuation certificates for the works done from the department of roads and public works were not provided for audit review.

Consequently, value for money has not been realised in the expenditure of Kshs.1,750,000 and Management was in breach of law in awarding the contract.

4.0 Irregular Procurement of Administration Block Contract at Nyandago Secondary School

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects transfers to other government units amount of Kshs.68,300,000. Included in the transfer is expenditure of Kshs.44,050,000 on transfer to secondary schools out of which Kshs.1,700,000 was transferred to Nyandago Secondary School in respect to construction of the administration block. The contract was procured through restricted tendering procurement method at a contract sum of Kshs.6,317,128. However, the tender documents and evidence of the tender qualifying for the restricted procurement as required by provisions of section 102(1) of the Public Procurement and Asset Disposal Act, 2015 were not provided for audit.

Consequently, the validity of the expenditure of Kshs.1,700,000 disbursed towards the project could not be confirmed.

5.0 Irregular Variation of Contract for the Completion of Classrooms at Ore Primary School

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects transfers to other government units amount of Kshs.68,300,000. Included in the amount is Kshs.16,250,000 relating to transfers to primary schools out of which Kshs.600,000 was transferred to Ore Primary School for the completion of five classrooms, a project which was initiated by the community. However, the scope of the project was later on varied to construction of three classrooms instead of initial five without the approval of the National Government Constituencies Development Fund Board as required by section 6(2) of the National Government Constituencies Development Fund Act, 2015.

Under the circumstances, the variation was irregular and Management was in breach of law.

6.0 Stalled Project at Aneko Primary School

Review of disbursement records for the fund revealed that Kshs.600,000 was transferred to Aneko Primary School during the financial year 2014/2015 for construction of one classroom. Site inspection of the project on 18 February, 2021 revealed that the project has stalled and painting and glazing works still outstanding. Further, the project was not allocated any funds during the year under review contrary to the provisions of Section 46(2) which states that the Constituency Committee shall rank projects in order of priority provided ongoing projects shall take precedence over all the projects.

Consequently, value for money has not been realised in the implementation of this project.

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements, 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 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 applicable basis of accounting unless Management is aware of the intention to abolish the Fund or 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 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 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 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 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

16 February, 2022