

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND – BARINGO CENTRAL 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 (NG-CDF) – Baringo Central Constituency set out on pages 27 to 54, 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 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 the National Government Constituencies Development Fund - Baringo Central 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 National Government Constituencies Development Fund Act, 2015 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1. Unsupported Committee Expenses

The statement of receipts and payments for the year ended 30 June, 2020 reflects expenditure on use of goods and services amounting to Kshs.9,725,137 (2019 - Kshs.11,516,054) also disclosed under Note 5 to financial statements. The expenditure includes Kshs.4,722,700 in respect of committee expenses, out of which, Kshs.417,300 in respect of general expenses lacked supporting documents and analyses containing details and nature of expenditure. Further, committee expenses include Kshs.992,900 paid to non-committee members as provided under Section 43(1) of the National Government Constituencies Development Fund Act, 2015.

Under the circumstances, the accuracy and completeness of committee expenses totalling Kshs.4,722,700 for the year ended 30 June, 2020 could not be confirmed.

2. Cash and Cash Equivalent

The statement of assets and liabilities reflects bank balances amounting to Kshs.33,650,578; (2019- Kshs.832,445) also disclosed under Note 10A to the financial statements. Review of bank reconciliation statements revealed un-presented

cheques amounting to Kshs.26,647,528 as at 30 June, 2020, of which, cheques totalling to Kshs.3,162,421 had become stale but were yet to be written back in the cash book. No explanation was provided for failure to write back the stale cheques, some which date far back to 2015/2016 financial year.

Consequently, the accuracy and completeness of bank balance of Kshs.33,650,578 as at 30 June, 2020 could not be ascertained.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of National Government Constituencies Development Fund - Baringo Central 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 of Kshs.195,208,600 and actual receipts on comparable basis amount of Kshs.125,840,876 resulting in under-funding of Kshs.69,367,724 or 36% of the budget. The underfunding affected planned activities and projects which may have impacted negatively on service delivery to the constituents of Baringo Central Constituency. Further, of the Kshs.125,840,876 receipts amount realized, only Kshs.93,022,743 was absorbed resulting in an under absorption of Kshs.32,818,133 or 26% of the receipts.

This may have caused delays in project implementation which denied the residents of the Baringo Central Constituency the intended benefits negating the values and principles of public service as provided for under Article 232 (1–c) of the Constitution which requires responsive, prompt, effective, impartial and equitable provision of services.

2. Projects

2.1 Projects Implementation Status

The project status report as of 30 June, 2020 compiled by the Fund management indicated that one hundred and eighty-two (182) projects with funding allocation of Kshs.190,134,241 were incomplete as summarized below;

Project Status	Project Count	Allocated Amount (Kshs.)
At Tendering stage	16	13,700,000
Awaiting Funds from NGCDF Board	11	5,450,000
Incomplete	39	35,350,000
Ongoing	116	135,634,241
Total	182	190,134,241

The Management attributed the delay in completing the projects to slow tendering processes and delayed disbursements from the NGCDF- Board.

The delay in completing projects may have impacted negatively on service delivery to the residents of Baringo Central Constituency and value for money may not be realized from the projects.

2.2 Project Verification

Nine (9) projects with an allocation of Kshs.12,200,000 were sampled and inspected during the audit in the month of February, 2021 where following observation were made;

No.	Project Beneficiary and Details	Project Cost (Kshs.)	Verification Remarks
1.	Kapsogo Secondary School - Completion of Dormitory	1,600,000	The project completion date was 30 September, 2020 but physical verification revealed pending works of fixing windows, doors, plastering and painting.
2.	Kapkony Primary School - Construction of 1 classroom	800,000	The project completion date was 30 September, 2020 but verification revealed the works were at the roofing stage with pending works of fixing windows, doors, plastering and painting.
3.	Tabagon Girls High School - Construction of 2 classrooms	1,600,000	The project is ongoing using labor based contracting.
4.	Sigowa Primary School – Completion of administration block	400,000	The completion of the storey building was allocated Kshs.950,000 but only Kshs.400,000 was disbursed. Verification revealed that the ground floor is complete and in use while first floor is under construction with pending finishing works of plastering, ceiling and painting.
5.	Kisoko Primary School - Completion administration block	1,600,000	The funds were to complete the administration block which had earlier been partially funded.

No.	Project Beneficiary and Details	Project Cost (Kshs.)	Verification Remarks
			However, the project had pending works of fixing windows, doors, plastering and painting.
6.	Lelmen Chief Camp - Completion of the office	800,000	The funds were to complete the chief's office which had been previously partially funded. The project is at finishing stages, materials were onsite but construction works had stopped. The Management did not explain this anomaly.
7.	Kapsoit Primary School - Construction of dormitory	800,000	The project was incomplete, with pending works of roofing, plastering fixing windows and doors and painting. There were no materials or contractor on site, a sign of abandonment of the project. The Management did not explain this anomaly.
8.	Kipkaech Mixed Day Secondary School - Construction of multipurpose dining hall	2,100,000	The project was at foundation stage and the construction works were ongoing using labour based contracting.
9	Tenges Primary School - Drilling of borehole	2,500,000	The borehole was drilled but not equipped and therefore, the socio-economic impact of the project may not be realized.
	Total	12,200,000	

No plausible explanations were provided for delays in completing the projects and therefore, value for money on the incomplete projects may take long to be realized.

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

1.0 Unremitted Surpluses for Complete Projects

Annex 5 to the financial statements reflects PMC bank balances as at 30 June, 2020 amounting to Kshs.13,035,819. Included in the balance was Kshs.4,525,775 in respect of thirty (30) completed projects as indicated in the project implementation status report for financial year 2019/2020. However, the funds were not returned to the Constituency bank account. This is contrary to Section 12(8) of the National Government Constituencies Development Fund Act, 2015 which states that all unutilized funds of the Project Management Committee shall be returned to the constituency account.

To this extent, the Fund is in breach of the law.

2.0 Non-Remittance of Statutory Deductions

The statement of assets and liabilities reflects bank balances amount of Kshs.33,650,578; (2019 - Kshs.832,445) and as disclosed under Note 10A to the financial statements. Included in the amount are un-presented cheques amounting to Kshs.26,647,528 which includes Kshs.1,331,095 in respect of unremitted statutory deductions some dating back to 2015.

No explanation was provided for the non-remittance of statutory deductions contrary to underlying laws including Part IV of the Employee Guide to Pay As You Earn (PAYE) of 2017 issued by the Kenya Revenue Authority which provides that an employer is required to remit employees PAYE tax not later than the ninth (9) day of the month following the payroll month.

To this extent, the Fund 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 OVERALL 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 Overall 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

Risk Management Policy

The Constituency Fund did not have a risk management policy in place contrary to the Regulation 165(1) of the Public Finance Management (National Government) Regulations, 2015 which states that the Accounting Officer shall ensure that the national government entity develops a risk management strategies, which include fraud prevention mechanism; and a system of risk management and internal control that builds robust business operations.

Consequently, it was not possible to confirm whether the measures in place are adequate to proactively identify risks and ensure that they are appropriately mitigated before they crystalize.

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 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

31 January, 2022