

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND – BARINGO NORTH CONSTITUENCY FOR THE YEAR ENDED 30 JUNE, 2020

REPORT ON THE FINANCIAL STATEMENTS

Adverse Opinion

I have audited the accompanying financial statements of the National Government Constituencies Development Fund - Baringo North Constituency set out on pages 17 to 48, which comprise the statement of assets and liabilities as at 30 June, 2020, and 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, because of the significance of the matters discussed in the Basis of Adverse Opinion paragraph, the financial statements do not present fairly, the financial position of the National Government Constituencies Fund - Baringo North 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 do not comply with the National Government Constituencies Development Fund Act, 2015 and the Public Finance Management Act, 2012.

Basis for Adverse Opinion

1.0 Inaccuracies in the Financial Statements

The financial statements prepared and presented for audit had the following inaccuracies;

- 1.1 The statement of assets and liabilities reflects fund balance brought forward of negative Kshs.3,417,990 while Note 13 reflects Kshs.362,138 resulting to unexplained nor reconciled variance of Kshs.3,780,128;
- 1.2 The statement of appropriation - recurrent and development combined reflects budget utilization difference for transfers from the CDF board at Kshs.69,367 instead of Kshs.69,729,862;
- 1.3 The statement of appropriation - recurrent and development combined reflects total receipts under budget utilization difference of Kshs.69,367,724 while cross casting revealed Kshs.69,729,862 resulting to unexplained nor reconciled variance of Kshs.362,138;

Consequently, the accuracy and completeness of the above balances included in these financial statements for the year ended 30 June, 2020 as prepared and presented could not be confirmed.

2.0 Unsupported Prior Year Adjustment

Disclosed under Note 14 to the financial statements, the statement of assets and liabilities and statement of cash flows reflects prior year adjustment amount of Kshs.8,000. This amount is described as relating to reversed cheques. However, the presentation is not in line with IPSAS cash Par 1.5.1 which requires all prior year adjustments to be effected by restating comparative information unless its impracticable to do so.

Consequently, the accuracy and completeness of prior year adjustment of Kshs.8,000 for the year ended 30 June, 2020 could not be confirmed.

3.0 Use of Goods and Services

The statement of receipts and payments and Note 5 to the financial Statements reflects use of goods amount of Kshs.7,561,475; (2019 - Kshs.9,559,234). Examination of records provided for audit review revealed the following unsatisfactory matters were observed;

3.1 Unsupported Domestic Travel and Subsistence

The use of goods and services balance includes Kshs.432,800 incurred on domestic travel and subsistence but the schedule provided for audit did not indicate the details of the officers or members of staff who travelled, the nature of activities undertaken, the number of days, the rates paid and category of expenditure.

3.2 Unsupported Training Expenses

The use of goods and services balance includes training expenses of Kshs.1,308,820, however, the schedule provided did not contain details of the specific Project Management Committees (PMCs) members that were trained, the number of participants and the rates paid were not disclosed.

3.3 Irregular Payment of Committee Allowance

The use of goods and services balance also includes Kshs.1,942,400 incurred on committee allowance. However, the schedule presented for audit did not indicate the actual dates of meetings and included payments amounting to Kshs.761,500 to non-committee members. Further review revealed, payments amounting to Kshs.454,900 were paid in respect to more than one meeting held in a day.

3.4 Unsupported Other Committee Expenses

Included in the use of goods and services balance is other committee expenses of Kshs.2,388,700. The schedule indicates the dates of verifications but does not give details of the projects visited and the categories of expenditure as either travelling, subsistence allowance, or general expenses. Further, payments amounting to Kshs.530,000 are narrated as paid on various dates instead of specific dates.

Under the circumstances, the accuracy and completeness of other committee expenses of Kshs.2,388,700 for the year ended 30 June, 2020 could not be confirmed.

3.5 Unsupported Office and General Supplies and Services

Use of goods and services includes office and general supplies and services expenditure of Kshs.504,000 procured through imprest advanced to the Fund Manager instead of the provider of the services. Further, the imprests issued for facilitation of office operation was expensed upon issuance instead of after surrender. This is contrary to Regulation 93(5) of the Public Finance Management (National Governments) Regulations, 2015 which states that a holder of a temporary imprest shall account or surrender the imprest within seven (7) working days after returning to duty station.

Under the circumstances, the accuracy and completeness of the use of goods amount of Kshs.7,561,475 for the year ended 30 June, 2020 could not be confirmed.

4.0 Irregular Bursary Disbursements

The statement of receipts and payments reflects other grants and transfer payments of Kshs.32,590,373;(2019-Kshs.38,142,770) as disclosed under Note 7 to the financial statements. Included in the amount are bursary to secondary school of Kshs.17,923,796 and tertiary institutions of Kshs.8,962,427. However, bursary payments totaling Kshs.114,000 was paid to eight (8) students from the same institutions who shared registration numbers. Further, bursary payment schedules provided indicate ten (10) beneficiaries received multiple bursaries totaling to Kshs.388,545.

Consequently, the accuracy and completeness of bursary to secondary school of Kshs.17,923,796 and tertiary institutions of Kshs.8,962,427 for the year ended 30 June, 2020 could not be confirmed.

5.0 Inaccuracy of Cash and Cash Equivalent

The statement of assets and liabilities reflects bank balances of Kshs.19,811,861; (2019-Kshs.362,138) as disclosed under Note 10A to the financial statements. Included in this balance are un-presented cheques amounting to Kshs.3,389,367 out of which Kshs.144,161 were stale cheques and not reversed in the cashbook. No explanation was provided for failure to write back the stale cheques. In addition, as previously reported in 2018/2019, withdrawals amounting to Kshs.1,748,100 during the 2017/2018 financial year lacked supporting documentation.

Consequently, the accuracy and completeness of bank balance of Kshs.19,811,861 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 the National Government Constituencies 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 adverse 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

1.0 Budgetary Control and Performance

The summary statement of appropriation: recurrent and development combined reflects final receipts budget Kshs.191,477,086 and actual receipts on comparable basis of Kshs.121,747,224 resulting to an under-funding of Kshs.69,729,862 or 36% of the budget. Similarly, the Fund expended Kshs.103,891,839 against an approved budget of Kshs.191,477,086 resulting to an under-expenditure of Kshs.87,585,247 or 46% of the budget.

The underfunding and under performance affected the planned activities and projects which may have impacted negatively on delivery of goods and services to the constituents of Baringo North Constituency.

2.0 Project Implementation

2.1 Project Implementation Status

The project status report provided for audit included seventy-one (71) projects with funds allocation of Kshs.179,140,438 that were at various stages of implementation. However, only four (4) projects worth Kshs.18,800,000 were complete, eleven (11) projects worth Kshs.33,600,600 were ongoing while eight (8) projects with a budget allocation of 36,054,231 were not started, out of which one project had not received funding as at 30 June, 2020 .

Further, The project implementation status report revealed forty-eight (48) projects with cumulative funding allocation of Kshs.90,686,207 were rolled over from previous years and have been ongoing for periods exceeding three (3) years but were not prioritized. This is contrary to Section 11(1) j of National Government Constituency Fund Regulations, 2016 which states that - Constituency Committee shall ensure projects receive adequate funding and are completed within three (3) years.

Delayed implementation of projects greatly affects delivery of services to the constituents.

2.2 Projects Verification

Eleven (11) projects with funding allocation of Kshs.37,745,728 were sampled for inspection in the month of February 2021, 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. Consequently, it was not possible to confirm if and when the constituents will get value for money on the incomplete projects.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, because of the significance of the matters discussed in the Basis for Advance Opinion and the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources sections of my report based on the audit procedures performed, I confirm public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

1.0 Errors in Presentation of Financial Statements

The financial statements prepared and presented for audit did not include a Note to the financial statements on other important disclosure which include pending accounts payable, pending staff payables, unutilized funds and project management committee bank account balances in addition to the annexes attached to the financial statements.

Consequently, the annual report as prepared and presented does not comply with the templates prescribed by the Public Sector Accounting Standards Board.

2.0 Irregular Variation for Office Construction Contract

The statement of receipts and payments reflects acquisition of assets amount of Kshs.13,579,257 (2019 – Kshs.33,094,153) as disclosed under Note 8 to the financial statements. Included in this balance is Kshs.4,000,000 paid to a contractor towards the completion of the CDF office building whose tendering had been done earlier at a contract sum of Kshs.37,801,268. This payment increased the cumulative payment for project to Kshs.41,801,268 which is above the contract price of Kshs.37,801,268. This is contrary to the Public Procurement and Asset Disposal Act, 2015 section 139 which states that an amendment or a variation to a contract resulting from a procurement proceeding is effective only if - (a) the variation or amendment has been approved in writing by the respective tender awarding authority within a procuring entity. No approval for variation of the contract was provided for audit review.

Project verification in February 2021 revealed that the project is incomplete despite lapse of the revised completion date of 30 April, 2020 with external paintings, mechanical works, ramp, drainage and paving slabs works still pending.

Further, 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.

Under the circumstances, the Fund was in breach of the Law.

3.0 Irregular Procurement of Construction of Works

Disclosed under Note 8 to the financial statements, the statement of receipts and payments reflects acquisition of assets amount of Kshs.13,579,257 (2019 – Kshs.33,094,153). Included in the balance is Kshs.13,147,266 for construction of buildings out of which Kshs.4,839,161 was a payment for external civil works of NG-CDF building whose contract sum is Kshs.7,400,000. A review of the contract documents for this project revealed that the duration of contract was not specified and that it was procured through a request for quotations method despite being above the maximum threshold allowed for use of request for quotations of Kshs.5,000,000.

This is contrary to the Public Procurement and Asset Disposal Act, 2015 section 105 which gives guidance on when an entity may use a request for quotations..

Physical verification in February 2021 revealed laying of cabro works, drainage and walkways were pending.

Under the circumstances, the Fund was 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 because of the significance of the matters discussed in the Basis for Adverse Opinion and the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Overall Governance sections of my report based on the audit procedures performed, I confirm that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

Risk Management Policy

The Fund does not have a risk management policy in place contrary to the provisions of Section 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 (b) a system of risk management and internal control that builds robust business operations.

Consequently, it has not been 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 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 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

APPENDIX I

No	Project Beneficiary and Details	Allocation (Kshs)	Observations
1.	Mormorio Primary School - Construction of 5NO classrooms to completion	4,282,670	Project received funding on 20 November, 2019. Physical verification revealed that 4 classrooms were complete and in use but not branded. One (1) classroom was incomplete pending plastering windows, doors and painting 15 months after the disbursement.
2.	Kinyach Primary School - Plastering, fixing of windows, doors, ceiling board and painting of administration block	1,263,058	This was funding is for the completion of the previous partly funded project. The project is complete and in use but not branded/labelled contrary to National Government Constituencies Development Regulations, 2016 Section 11 (1)(CC) which requires the constituency committee to ensure all projects are labelled.
3.	Kureschun Primary school - Construction of 4NO classrooms to completion	3,200,000	Project received funding on 11 May, 2020. Physical verification revealed that two (2) classrooms were complete and in use but not branded. The remaining two (2) classroom were at finishing stage pending windows, doors, plastering and painting nine (9) months after disbursement. No construction work was on going and there were no materials on site.
4.	Rosondonin Primary School - Construction of 5NO classrooms to completion	4,000,000	The project received funding on 21 may, 2020. Physical verification revealed that no construction work was ongoing and the project is at roofing stage nine (9) month after disbursement.
5.	Kapkomon Primary School - Construction of 5NO classrooms to completion	4,000,000	The project received funding on 21 May, 2020. Physical verification revealed that no construction work on going and four (4) classrooms were at finishing stage while one (1) classroom is roofing stage nine (9) months after disbursement.
6.	Maramar Primary School - Construction of 5NO classrooms to completion	4,000,000	The project received funding on 21 May, 2020. Physical verification revealed that no construction work on going and the project is at lintel stage nine (9) month after disbursement.

No	Project Beneficiary and Details	Allocation (Kshs)	Observations
7.	Katibel Secondary School - Part plastering, fixing of windows, doors, ceiling board and painting of administration block	800,000	The funding was for completion of previously partly funded project. The project received funding on 24 September, 2019 and it remained incomplete seventeen (17) months after disbursement.
8.	Loruk Police post - Fixing of ceiling board, window glasses and painting of 11No police residential units.	1,1000,000	Painting works was poorly done. Most of the houses had not been occupied and some had broken windows and door panes making the houses inhabitable.
9.	Kampi Ya Samaki Secondary School - Completion of laboratory, administration block and 2 No classrooms	700,000	The school had been submerged by raising water levels in Lake Baringo. However, at the time of project verification in February 2021, the funds had not been utilized.
10.	Akoroyan Primary School - Plastering, wiring, fixing of windows, doors, ceiling board and painting of administration block	500,000	The funding was for completion of previously partly funded project with a contact sum of Kshs.1,400,000. The building had stalled with pending works in plumbing, plastering, windows, doors and painting. There were no materials on site.
11.	Embu-Rutto primary school - Construction of 6NO classrooms to completion	4,000,000	The supplier had declined to supply construction materials and therefore the project being labour based construction work had stopped. The project had stalled and only three (3) classrooms had been roofed with pending works in plastering, fixing windows, doors and painting. The other three (3) classes were at lintel level.
Total		37,745,728	