

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - EMUHAYA 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 - Emuhaya Constituency set out on pages 19 to 38, which comprise the statement of assets and liabilities as at 30 June, 2020, and the statement of receipts and payments, statement of cash flows, summary statement of appropriation: recurrent & 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 do present fairly, the financial position of the National Government Constituencies Development Fund - Emuhaya 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 National Government Constituencies Development Fund Act, 2015.

Basis for Qualified Opinion

1. Errors in Annual Reports and Financial Statements

The annual report and financial statements prepared and presented for audit had the following presentation and disclosure errors;

- i. The annexures in the financial statements are not included under table of contents.
- ii. The progress on follow up of auditors' recommendations is not signed by the Accounting Officer.
- iii. The pages in the financial statements are not serially numbered and page 30 is blank.
- iv. Section ix of the financial statements under significant accounting policies reflects the year ended 30 June, 2019 under external assistance, budget and subsequent events segments instead of 30 June, 2020.
- v. The pie chart for the 2019-2020 financial year budget under forward by the chairman NGCDF committee is not well defined since it is not possible to relate the component with the amount indicated in the pie charts.

- vi. Note 17.4 to the financial statements under other important disclosures reflects PMC account balances of Kshs.14,857,053 for 2018/2019 financial year, however, annex 5 to the financial statements reflects PMC account balances of Kshs.14,902,053 for 2018/2019.
- vii. Note 17.3 to the financial statements under other important disclosures reflects unutilized fund of Kshs.56,837,830 for 2018/2019 financial year, however, annex 3 to the financial statements reflects nil balance for unutilized fund for 2018/2019.
- viii. Note 17.3 to the financial statements under other important disclosures and annex 3 to the financial statements reflects unutilized fund figure of Kshs.89,434,063. However, a casting error of Kshs.224,056 was noted resulting to correct unutilized fund figure of Kshs.89,658,119.
- ix. The summary statement of appropriation: recurrent and development combined reflects total payments under final budget and budget utilization difference columns of Kshs.193,709,554 and Kshs.87,734,848 respectively. However, the budget execution by programmes and sub-programmes reflects total payments under final budget and budget utilization difference columns of Kshs.195,409,554 and Kshs.89,434,063 respectively.
- x. The budget execution by programmes and sub-programmes reflects total payments under adjustments column of Kshs.56,837,830. However, a casting error of Kshs.1,200,000 was noted resulting to correct total payments under adjustments column of Kshs.58,037,830.

Consequently, the accuracy, completeness, presentation and disclosure of the annual report and financial statements could not be confirmed.

2. Unexplained Variances for Transfers from CDF Board

The summary statement of appropriation: recurrent and development combined reflects transfers from CDF Board under actual on comparable basis column of Kshs.123,807,830 which differs with the actual transfers from CDF Board of Kshs.121,840,875 shown under the statement of receipts and payments resulting to unreconciled variance of Kshs.1,966,955.

In the circumstances, the accuracy and completeness of the transfers from CDF Board figure of Kshs.121,840,875 could not be confirmed.

3. Unsupported Prior Year Adjustments

As disclosed under Note 14 to the financial statements, the statement of assets and liabilities reflects prior year adjustments of Kshs.1,173,066 which was explained as relating to retention deducted but not disclosed in the previous financial statements. However, there is no documentary evidence provided in support of the balance.

In the circumstances, the accuracy and disclosure of prior year adjustments could not be confirmed.

4. Unsupported and Understated Training Expenses

As disclosed under Note 5 to the financial statements, the statement of receipts and payments reflects use of goods and services of Kshs.8,669,178 which includes training expenses of Kshs.1,493,183. However, included in the training expenses of Kshs.1,493,183 are payments of Kshs.109,000 that were not supported by payment vouchers. In addition, the annual expenditure returns provided for audit reflect a figure of Kshs.1,884,250 for capacity building that was not disclosed as part of training expenses.

Consequently, the accuracy and completeness of training expenses figure of Kshs.1,493,183 could not be confirmed.

5. Unexplained Variance under Committee Allowances

As disclosed under Note 5 to the financial statements, the statement of receipts and payments reflects use of goods and services of Kshs.8,669,178 which includes committee allowances of Kshs.3,385,551.

However, included in the committee allowances figure of Kshs.3,385,551 are payments for goods and services of Kshs.2,424,050 that were included as committee allowances in the annual expenditure returns. Further, the expenditure returns reflect committee allowances of Kshs.2,620,500 which differs with the committee allowances figure of Kshs.3,385,551 shown in the financial statements resulting to unexplained variance of Kshs.765,051.

Consequently, the accuracy and completeness of committee allowances of Kshs.3,385,551 could not be confirmed.

6. Unsupported and Unexplained Expenditure under Use of Goods and Services

As disclosed under Note 5 to the financial statements, the statement of receipts and payments reflects use of goods and services of Kshs.8,669,178 which includes unsupported payments for various items amounting to Kshs.3,790,444.

Further, the expenditure returns provided for audit reflects payments amounting to Kshs.4,164,728 for use of goods and services for the various items which differs with the financial statements amount of Kshs.3,790,444 resulting to unexplained variance of Kshs.374,284.

Consequently, the accuracy and completeness of use of goods and services of Kshs.8,669,178 could not be confirmed.

7. Unsupported Sports payments

As disclosed under Note 7 to the financial statements, the statement of receipts and payments reflects other grants and transfers of Kshs.48,793,093 which includes payments for sports of Kshs.2,667,150. However, included in the sports expenditure of Kshs.2,667,150 are payments amounting to Kshs.503,020 which were not supported by payments vouchers.

Consequently, the accuracy and completeness of sports payments of Kshs.2,667,150 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 - Emuhaya 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

1.1 Budget Shortfall

The summary statement of appropriation: recurrent and development combined reflects final receipts budget and actual on comparable basis of Kshs.193,179,554 and actual receipts of Kshs.123,807,830 resulting to an under-funding of Kshs.69,371,724 or 35.9% of the budget. The underfunding affected the planned activities and projects which may have impacted negatively on service delivery for the constituents of Emuhaya Constituency.

1.2 Under Absorption of Budgeted Funds

The summary statement of appropriation: recurrent and development combined reflects final payments budget and actual on comparable basis of Kshs.193,709,554 and actual payments of Kshs.105,974,705 resulting to an under expenditure of Kshs.87,734,848 or 45.3% of the budget.

The under expenditure of Kshs.87,734,848 or 45.3% may have impacted negatively on service delivery to the residents of Emuhaya Constituency contrary to values and principles of public service as provided for under Article 232 (1– c) of the Constitution.

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. Delayed Disbursement of Funds

The Emuhaya constituency was allocated a total of Kshs.137,371,724 in the financial year 2019-2020. However, out of the annual allocation, only Kshs.68,000,000 was disbursed to the constituency during the year leaving a balance of Kshs.69,371,724 that was disbursed to the constituency after the closure of the financial year. This is contrary to Section 39(2) of the NG-CDF Act, 2015 which requires that funds allocated to constituencies be disbursed to constituencies in four equal installments.

Consequently, the NG-CDF board was in breach of the law.

2. Transfers to Other Government Units

2.1 Irregularities on Construction of Bunyore TTC

As disclosed under Note 6 to the financial statements, the statement of receipts and payments reflects transfers to other government entities of Kshs.44,817,341 which includes transfers to tertiary institutions of Kshs.5,405,570 paid during the year under review for erection and completion of 8 No. lecture rooms, administration block & ablution blocks of Bunyore Teachers' Training College - Ilungu. However, at the time of audit total amount of Kshs.30,388,735 inclusive of Kshs.3,950,000 variations in prices had been paid to the contractor for the project.

A contract agreement dated 23 November, 2016 having been signed between Emuhaya National Government Constituency Development Fund and Contractors to carry the works of erection and completion of Bunyore Teachers' Training College - Ilungu at a contract sum of Kshs.26,438,735 and contract duration being 36 weeks from the date of signing the contract agreement. However, the following anomalies were noted:

- i) The contract period had elapsed and there was no evidence of extension period requested by the contractor approved in accordance with procurement regulations.
- ii) Certificate of completion was also not issued by Ministry of Public Works yet the project has been completed and retention amount paid awaiting handing over

iii) During the audit, it was noted that the bill of quantities supporting the variation approved by Ministry of Public Works for additional works included the supply and fixing of 3 plastic reservoir tanks of 3000 litres at a rate of Kshs.35,000 totalling to Kshs.105,000. It was however noted that during audit that none of the tanks stated were on site while only a single tank of 1000 litres was delivered.

iv) It was also noted that construction of a concrete kitchen workshop was to be completed with terrazzo paved on top which was not done at all.

Consequently, the residents have not received value for money expended on the project.

2.2 Delay in Commencement of Project

As disclosed under Note 6 to the financial statements, the statement of receipts and payments reflects transfers to other government entities of Kshs.44,817,341 which includes transfers to secondary schools' of Kshs.19,956,000 out of which Kshs.1,000,000 was transferred to Mwituha Secondary School for payment towards construction of dining hall, kitchen, erection of foundation/casting of floor slab, walling up to window through its project management committee.

Review of documents provided for audit showed that NG-CDF disbursed to the school Kshs.1,000,000 on 27 September, 2019. However, during the project verification it was noted that the construction of the dining hall has not started to date yet budget allocation towards the project was approved in the financial year 2018/2019, raising a concern of value for money. In addition, the funds were also never submitted back to the Constituency's bank account as prescribed by the law.

Consequently, the Management 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 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 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

Ineffective Internal Audit Department

During the review of operations of Emuhaya CDF, it was noted that Internal Audit Department is not performing duties as required. There was no indication of risk-based audit and the payment vouchers and cash books were not examined by Internal Audit Department. The internal audit reports were also not provided while there was no evidence of existence of an internal audit committee.

Consequently, the resources of the Fund are at risk of wastage due to absence of strong internal control system in place.

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standard requires that I plan and perform the audit to obtain assurance about whether effective 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 governance.

In preparing the financial statements, Management is responsible for assessing the Funds ability to continue to sustain services, disclosing, as applicable, matters related to sustainability of services and using the cash 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 Funds financial reporting process, reviewing the effectiveness of how the entity 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 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 Fund's 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

02 February, 2022