

# **REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - IMENTI CENTRAL 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 - Imenti Central Constituency set out on pages 13 to 51, which comprise of the statement of assets and liabilities as at 30 June, 2020, 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 effects of the matter 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 - Imenti Central Constituency as at 30 June, 2020, and of its financial performance and its cash flows for the year then ended, in accordance with the International Public Sector Accounting Standards (Cash Basis) and comply with the National Government Constituencies Development Fund Act, 2015 and the Public Finance Management Act, 2012.

### **Basis for Qualified Opinion**

#### **1. Inaccuracies in Bank Balances**

As disclosed in Note 10A to the financial statements, the statement of assets and liabilities reflects bank balances totalling to Kshs.23,751,678. Review of the bank reconciliation statement for June, 2020 revealed unrepresented cheques amounting to Kshs.16,329,659. However, Management did not disclose the dates when the cheques were issued and cleared in the bank.

In the circumstances, the accuracy, completeness and validity of bank balances totalling to Kshs.23,751,678 reflected in the statement of assets and liabilities as at 30 June, 2020 could not be confirmed.

#### **2. Unsupported Committee Allowances**

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects use of goods and services totalling to Kshs.4,933,026. The balance includes allowances to Constituency Development Fund Committee members for projects monitoring and inspections totalling to Kshs.1,016,000. However, supporting documents including minutes authorizing the expenditures and work tickets were not provided.

In the circumstances, the accuracy, completeness and validity committee allowances totalling to Kshs.1,016,000 for the year ended 30 June, 2020 could not be confirmed.

### **3. Unsupported Bursaries**

As disclosed in Note 7 to the financial statements, the statement of receipts and payments reflects other grants and other payments totalling to Kshs.52,764,650. The balance includes disbursed bursaries to beneficiaries totalling to Kshs.21,217,696. However, the list of applicants, Bursary Committee Vetting Minutes, criteria used in awarding and acknowledgement letters or receipts were not provided. In addition, the schedule provided showed that seventy-seven (77) beneficiaries of bursaries amounting to Kshs.314,300 did not have admission numbers.

In the circumstances, the accuracy, completeness and validity of Bursaries amounting to Kshs.21,217,696 for the year ended 30 June, 2020 could not be confirmed.

### **4. Unsupported Summary of Fixed Assets**

Annex 4 to the financial statements reflects summary of fixed assets totalling to Kshs.39,611,505. The balance includes additions during the year amounting to Kshs.736,920. However, supporting documents such as ledger, payment vouchers or journal vouchers were not provided.

In the circumstances, the accuracy, completeness and validity of assets additions totalling to Kshs.736,920 as at 30 June, 2020 could not be confirmed.

### **5. Unsupported Committees Account Balances**

Note 17.4 to the financial statements reflects Project Management Committees account balances totalling to Kshs.39,339,328. However, the respective cash books, bank certificates and bank reconciliation statements were not provided.

In the circumstances, the accuracy, completeness and validity of the Committees Account Balances totalling to Kshs.39,339,328 as at 30 June, 2020 could not be confirmed.

### **6. Inaccuracies in Project Implementation Status**

The summary statement of appropriation reflects transfers to other Government units budget amount of Kshs.76,911,127 and other grants and transfers amount of Kshs.104,512,620 both totalling to Kshs.181,423,747. However, the Project Implementation Status provided reflected amount of Kshs.129,366,263 as allocated to projects resulting to an unreconciled variance amounting to Kshs.52,057,484.

In addition, the statement reflects transfers to other Government units amount of Kshs.47,961,114 and other grants and transfers amount of Kshs.52,764,649 both totalling to Kshs.100,725,763. However, the Project Implementation Status reflected a total of Kshs.90,725,764 allocated to projects resulting to unreconciled variance amounting to Kshs.9,999,999.

In the circumstances, the accuracy, completeness and validity of the Project Implementation Status as at 30 June, 2020 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 - Imenti 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 and actual on comparable basis totalling to Kshs.201,174,961 and Kshs.131,807,237 respectively, resulting to an under-funding amounting to Kshs.69,367,724 or 34% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis totalling to Kshs.201,174,961 and Kshs.108,055,559 respectively, resulting to an under expenditure amounting to Kshs.93,119,402 or 46% of the budget. In addition, there was a total of Kshs.23,751,678 in respect to cash at bank, being funds released by the Board but not spent by the Fund.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

#### **2. Unresolved Prior Year Matters**

In the audit report of the previous year, several issues were raised. However, the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates for the year ended 30 June, 2020.

# 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. Non-compliance with the Public Sector Accounting Standards Board Requirements**

The forward by the Chairman to the National Government Constituencies Development Fund committee at page 5 to the financial statements indicates that “a total of Kshs.110,055,559 has been spent on various projects”. However, item totals on the same page and the statement of receipts and payments reflects a total of Kshs.108,055,559 on the same item resulting to an unexplained variance amounting to Kshs.2,000,000.

Further, the Management did not prepare the separate summary statements of appropriation for recurrent and development as well as Note 9 to the financial statements. This is contrary to the requirements of the Public Sector Accounting Standards reporting template issued by the Board for the year ended 30 June, 2020.

In the circumstances, the presentation of the annual reports and the financial statements for the year ended 30 June, 2020 are not in accordance with the prescribed PSASB format.

### **2. Delay in Project Implementation**

The Project Implementation Status showed that one hundred and thirty-two (132) projects with a budget allocation totalling to Kshs.129,366,263 were to be implemented during the year under review. However, forty-seven (47) projects with a budget allocation amounting to Kshs.38,581,383 (30%) had been completed, thirty-eight (38) projects with a budget allocation amounting to Kshs.67,840,172 (52%) were on-going and forty-seven (47) projects with a budget allocation amounting to Kshs.22,944,708 (18%) had not started.

In the circumstances, the public did not get value for money equivalent to an amount of Kshs.67,840,172 for the ongoing projects and an amount of Kshs.22,944,708 for projects not started all totalling to Kshs.90,784,880 for the year ended 30 June, 2020.

### **3. Irregular Contracts**

#### **3.1 Kariene and Kijo Primary Schools**

The Management disbursed an amount of Kshs.2,130,252 to Kariene Primary School and an amount of Kshs.1,700,000 to Kinjo Primary School both totalling to Kshs.3,830,252 for playground leveling. A review of records revealed that restricted tendering was used without justification. This is contrary to Section 102(1)(a) of the Public Procurement and Asset Disposal Act, 2015 which stipulate that an accounting officer of a procuring entity may use restricted tendering if competition for contract, because of the complex or specialized nature of the goods, works or services is restricted to prequalified tenderers resulting from the procedure under Section 94.

#### **3.2 Kithirune Girls Secondary School**

The Management disbursed an amount of Kshs.1,000,000 to Kithirune Girls School for construction of a sixty (60) beds capacity dormitory from fourth course level to roofing level. However, a review of records revealed that request for quotations was used procurement of building materials contrary to the requirement of threshold matrix C of the Public Procurement and Asset Disposal (Amendment) Regulations, 2013 which requires the entity to use request for quotations for procurement of works up to maximum expenditure of Kshs.500,000.

In addition, the contract agreement provided had not been signed by the contractor contrary to Section 135(1) of the Public Procurement and Asset Disposal Act, 2015 which stipulate that the existence of a contract shall be confirmed through the signature of a contract document.

#### **3.3 Sports Activities**

The Management procured sports uniforms and equipment totalling to Kshs.2,180,818 from a firm. However, the firm was sourced through restricted tendering instead of open tender without justification. This is contrary to Section 102(1)(a) of the Public Procurement and Asset Disposal Act, 2015 which stipulates that an accounting officer of a procuring entity may use restricted tendering if competition for contract, because of the complex or specialized nature of the goods, works or services is restricted to prequalified tenderers resulting from the procedure under Section 94.

Further, physical verification carried out in December, 2020 revealed that the sports items had not been distributed.

#### **3.4 Procurement of Text Books**

The Management procured textbooks for day secondary schools totalling to Kshs.10,000,000. A review of records showed the procurement method used was restricted tendering instead of open tender without justification. This is contrary to Section 102(1)(a) of the Public Procurement and Asset Disposal Act, 2015 which stipulate that an accounting officer of a procuring entity may use restricted tendering if competition for

contract, because of the complex or specialized nature of the goods, works or services is restricted to prequalified tenderers resulting from the procedure under Section 94.

Further, prequalified list of suppliers was not provided but two firms were identified as the successful tenderers. However, notifications of award, letters of acceptance and contract between the firms and the Fund were not provided and regret letters sent out to the unsuccessful bidders did not indicate the reasons for not being successful and the winning bidders. This is contrary to Section 87(3) of the Public Procurement and Asset Disposal Act, 2015 which stipulate that when a person submitting the successful tender is notified under subsection (1), the accounting officer of the procuring entity shall also notify in writing all other persons submitting tenders that their tenders were not successful, disclosing the successful tenderer as appropriate and reasons thereof.

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

#### **4. Irregularities in the Management of the Environment Grants**

The Management spent a total of Kshs.1,803,500 for supply of tree seedlings. However, a review of records revealed that the contract was single sourced. This is contrary to Section 103(1) of the Public Procurement and Asset Disposal Act, 2015 which provides that a procuring entity may use direct procurement as allowed under sub-section (2) as long as the purpose is not to avoid competition. In addition, the letter of award provided did not indicate the date and the addressee and Local Purchase Order (LPO) was not provided.

In the circumstances, the validity and value for money for the expenditure totalling to Kshs.1,803,500 for the year ended 30 June, 2020 could not be confirmed.

#### **5. Unsatisfactory Implementation of Projects**

##### **5.1 Kibari Primary School**

The Management disbursed an amount of Kshs.881,207 to Kibari Primary School for leveling of playing field. Physical verification in December, 2020 revealed that the levelling that was done in October, 2019 had developed gulleys across the field fourteen (14) months after leveling which was an indication of poor workmanship.

##### **5.2 Stalled Security Projects**

The Management disbursed an amount of Kshs.2,314,305 for construction of three (3) Assistant Chief's Offices. However, physical verification in December, 2020 revealed that the projects had not been completed and no construction works were going on.

##### **5.3 Emergency Projects - Mukiria Nyweri Road**

The Management spent an amount of Kshs.1,700,000 disbursed for the rehabilitation of Mukiria Nyweri road. However, a review of records revealed the following anomalies;

- i. Work quoted totalled to Kshs.3,698,776, however, the same was awarded to a firm at a total of Kshs.1,700,000. No explanation was given on how and when the balance of the work amounting to Kshs.1,998,776 was to be funded.
- ii. Justification that the project was emergency was not provided. This is contrary to Section 8(3) of the National Government Constituencies Development Fund Act, 2015 which provides that an 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.

The Tender Evaluation Minutes indicated that the firm lacked valid tax compliance certificate, single business permit, National Construction Authority certificate and Kenya Revenue Authority PIN certificate.

- iii. The contract agreement was signed on 22 April, 2020 seven (7) days after the date of the tender evaluation. This was contrary to Section 135(3) of the Public Procurement and Asset Disposal Act, 2015 which stipulate that written contract shall be entered into within the period specified in the notification but not before fourteen days have elapsed following the giving of that notification provided that a contract shall be signed within the tender validity period.

In the circumstances, I am unable to confirm whether the public obtained value for money for the expenditure on the unsatisfactory Implemented projects.

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 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**

**18 November, 2021**