

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - LAMU WEST 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 - Lamu West Constituency set out on pages 15 to 44, which comprise the statement of financial assets and liabilities as at 30 June, 2020, and the statement of receipts and payments, statement of cash flows and summary statement of appropriation: recurrent and development combined for the year then ended and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effects 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 - Lamu West Constituency as at 30 June, 2020 and its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Cash Basis) and comply with the National Government Constituencies Development Fund Act, 2015.

Basis for Qualified Opinion

1. Transfer to Other Government Entities

1.1. Transfers to Secondary Schools

As disclosed in Note 6 to the financial statements, the statement of receipts and payments reflects Transfer to Other Government units balance of Kshs.66,217,106 as at 30 June, 2020. Included in this balance is an amount of Kshs.44,600,200 being transfers to secondary schools. Examination of tender records revealed that Management procured works for the construction of twelve (12) number classrooms, a borehole and ablution block at Mpeketoni Girls Secondary School through an open tender. The contract was awarded at a contract sum of Kshs.54,132,625 and the contract agreement signed on 29 November, 2019. However, examination of payment vouchers, tender documents and physical verifications conducted on 17 March, 2021 revealed the following anomalies;

- i. The project budget for the year was Kshs.15,100,000 but Management commenced the procurement proceedings without sufficient funds to meet the obligations and awarded a contract sum of Kshs.54,132,625. This is contrary to Section 53(8) of the Public Procurement and Asset Disposal Act, 2015.
- ii. There was no multi - year procurement plan prepared consistent with the medium term budgetary expenditure framework for the project that was going beyond one

year as required by Section 53(7) of the Public Procurement and Asset Disposal Act, 2015.

- iii. A total payment of Kshs.14,120,408 was made to the contractor as at 30 June, 2020. However, monthly progress report as well as minutes of the site meetings of Project Management Committee on project implementation were not provided. It was therefore not possible to establish the percentage of works completed against the payment made to the contractor.
- iv. As at the time of audit, the project was not completed and the contractor was not on site. No explanation was provided as to why the project was behind schedule.

In the circumstances, the validity and value for money for the payment of Kshs.14,120,408 as at 30 June, 2020 could not be confirmed.

2. Other Grants and Other Transfers

2.1. Unsupported Bursary Payments

The statement of receipt and payment and Note 7 to the financial statements reflects a balance of Kshs.65,194,391 for Other Grants and Other Payments. Included in this balance is an amount of Kshs.48,919,392 incurred on bursary disbursement to secondary schools and tertiary institutions. However, review of the expenditure and other supporting documents revealed that bursary disbursements totalling Kshs.14,559,000 were not acknowledged with official receipts or acknowledgment letters from the institutions that were paid, making it difficult to complete the audit trail.

In the circumstances, the validity and completeness of other grants and other payments of Kshs.65,194,391 as at 30 June, 2020 could not be confirmed.

3. Use of Goods and Services

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects a balance of Kshs.7,670,702. However, review of relevant records revealed the following anomalies:-

3.1. Unsupported Committee & Other Committee Expenses

Included in the Use of goods and Services balance of Kshs.7,670,702 is Kshs.2,703,260 and Kshs.492,000 incurred on Other Committee expenses and Committee allowances respectively. The expenditure was incurred when the committee conducted various monitoring and evaluation exercise as well as conducting public participation. However, no evidence was provided to ascertain if the committee was actually involved in the exercise.

Consequently, the validity and value for money of Kshs.2,254,760 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 National Government Constituencies Development Fund - Lamu West 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 of Kshs.192,736,702 and Kshs.105,992,377 respectively resulting to an under-funding of Kshs.86,744,326 or 45% of the budget. The Project expenditure was limited to the amount realised.

Based on the approved estimates, under funding and expenditure affected the planned activities and may have impacted negatively on service delivery to the public.

2. Project Implementation

The Fund had budgeted to implement forty nine (49) projects consisting of sixteen (16) primary school projects, eleven (11) secondary school projects, eleven (11) Environment projects, seven (7) sports projects and four (4) security projects with a total allocation of Kshs.127,970,744. However, the Fund implemented a total of forty (40) projects.

Nine (9) projects were not implemented. Failure to complete all projects may have denied the Public the desired services.

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, 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

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 matters 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

1. Summary of Fixed Assets

Annex 4 to the financial statements is a summary of fixed assets balance of Kshs.23,057,490 for the Fund as at 30 June, 2020. However, Management did not maintain a fixed asset register but instead had a soft copy, which lacks security features and thus prone to manipulation, Contrary to Section 139(1) of the Public Finance Management (National Government) Regulations, 2015. It was further noted that obsolete and non-serviceable items were retained for long time. No effort was made to have the items disposed-off as required by the Public Procurement and Asset Disposal Act, 2015. In addition, the land where the Lamu West NG-CDF headquarters is currently situated has not been valued and disclosed.

In the circumstances, the accuracy and completeness of the summary of fixed assets balance could not be ascertained.

2. Lack of Constituency Oversight Committee

During the year under review, Management had not appointed Constituency Oversight Committee, contrary to Section 53(1) of the National Government Constituencies Development Fund Act, 2015 which states that there shall be a Constituency Oversight Committee for the projects undertaken under this act. Further subsection (3) states that the Constituency Member of National Assembly shall, in consultation with the Constituency Oversight Committee at least twice in every financial year, and upon giving notice of at least fourteen days, convene public forums for purposes of (a) mobilization and sensitization (b) soliciting views, opinions and proposals from the public regarding to the fund.

In the circumstances, the Fund was in breach of the law.

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 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 Fund's ability to continue to sustain services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless Management is aware of the intention to 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 Management monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to 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

09February, 2022