

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND – LUNGALUNGA 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 – Lungalunga Constituency set out on pages 8 to 37, which comprise of the statement of assets and liabilities as at 30 June, 2020, and the statement of receipts and payments, statement of cash flows and a summary statement of appropriation - recurrent and development combined for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of the National Government Constituencies Development Fund – Lungalunga 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 the National Government Constituencies Development Fund Act, 2015.

Basis for Qualified Opinion

1.0 Unsupported Bank Balance

The statement of assets and liabilities as at 30 June, 2020 reflects a bank balance of Kshs.65,840,338. However, the figure varies with the reconciled cash book balance of Kshs.66,038,459.95, resulting to unexplained and unreconciled variance of Kshs.198,121.95. In addition, the bank reconciliation statement as at 30 June, 2020 reflects unpresented cheques amounting to Kshs.5,960,440 with no documentary evidence of when they were cleared in the bank.

Consequently, the accuracy and completeness of the bank balance of Kshs.65,840,338 could not be confirmed.

2.0 Unsupported Bursary Disbursements

The statement of receipts and payments and as disclosed in Note 7 to the financial statements reflects bursaries amounting to Kshs.24,946,078 which were issued to beneficiaries in secondary schools (Kshs.14,046,000) and tertiary institutions (Kshs.10,900,078) during the year ended 30 June, 2020. However, there was no

evidence that the bursary committee vetted the applicants as per the set criteria. In addition, application forms were not supported with evidence of enrolment in the learning institutions.

In the circumstances, the accuracy and completeness of the bursary disbursements amounting to Kshs.24,946,078 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 – Lungalunga 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

1.0 Budgetary Control and Performance

The summary statement of appropriation – recurrent and development reflects final receipts budget and actual on comparable basis of Kshs.198,669,982 and Kshs.187,408,600, respectively, resulting to an under-funding of Kshs.11,261,382 or 6% of the budget. Similarly, the Fund expended Kshs.127,773,166 against an approved budget of Kshs.198,669,982 resulting to an under-expenditure of Kshs.70,896,816 or 36% of the budget.

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

2.0 Projects Implementation Status

According to the project implementation status report as at 30 June, 2020, seventeen (17) projects with a total allocation of Kshs.35,320,000 were incomplete. There is need therefore, to hasten the implementation of the ongoing projects to ensure that the residents of Lungalunga Constituency obtain value for money.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, based on the audit procedures performed, except for the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources section of my report, I confirm that, nothing else has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

1.0 Ineligible Emergency Expenditure

The statement of receipts and payments for the year ended 30 June, 2020 and as disclosed at Note 7 to the financial statements reflects an expenditure of Kshs.58,725,154 in respect of other grants and Kshs.9,659,496 in respect of emergency projects.

Included in other grants and transfers of and which further includes payments totalling Kshs.2,576,496 to a firm for supply of desks and sports equipment and a further sum of Kshs.5,000,000 for construction of toilets in nine (9) primary schools and a police station. However, the nature of the projects did not meet the criteria set in Section 8(3) of the National Government Constituencies Development Fund Act, 2015 which defines emergency as, “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”. It was not clear why the projects could not be included in the subsequent year’s project proposal.

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

2.0 Errors in Presentation of Financial Statements

The financial statements for the year ended 30 June, 2020 and which were presented for audit had the following anomalies;

- i) The statement of performance against constituency’s predetermined objectives and corporate social responsibility statement were missing
- ii) The Sub-County Accountant’s Institute of Certified Public Accountants of Kenya (ICPAK) registration number was not indicated.

Consequently, the financial statements did not comply with the presentation requirements under International Public Sector Accounting Standard No.1 – Presentation of Financial Statements and the financial reporting guidelines issued by the Public Sector Accounting Standards Board.

3.0 Irregularities in Procurement

Audit examination of various procurement processes undertaken during the year under review revealed irregularities in projects costing a total of Kshs.19,057,393 as detailed below:

3.1 Construction of Mwangulu Police Station

Review of the tender documents revealed that the Fund tendered for construction of Mwangulu Police Station at a contract sum of Kshs.8,706,700. However, there was no evidence that the tender was advertised in the newspaper or government tender portal or whether the contractor placed a performance bond. Further, the certificates of payment did not provide a breakdown of actual work done by the contractor as per the bill of quantities and the contract was extended beyond the contract period of three (3) months without a written evidence of extension contrary to Section 88(2) of the Public Procurement and Asset Disposal Act, 2015 which states that the Accounting Officer of a procuring entity shall give in writing notice of an extension under subsection (1) to each person who submitted a tender.

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

3.2 Primary School Projects

Review of tender documents for projects undertaken in primary schools revealed the following irregularities in procurement;

- i. Mwamtsefu Primary School tendered for construction of two (2) classrooms and one (1) two (2) door pit latrine at a contract sum of Kshs.3,348,000. However, the audit noted that there were no appointment letters to the opening and evaluation committees contrary to Section 78(1) which states that an accounting officer of a procuring entity shall appoint a tender opening committee specifically for the procurement in accordance with the following requirements and such other requirements as may be prescribed — (a) the committee shall have at least three members; and (b) at least one of the members shall not be directly involved in the processing or evaluation of the tenders.

In addition, the same members participated in both the opening and evaluation of the tenders. The audit noted that the notification of award was addressed to a different firm other than the winning bidder contrary to Section 87 (1) which states that before the expiry of the period during which tenders must remain valid, the accounting officer of the procuring entity shall notify in writing the person submitting the successful tender that his tender has been accepted. It was also observed that the certificates of payments did not provide a breakdown of the actual work done.

- ii. Similarly, Perani Primary School tendered for renovation of five (5) classrooms at contract a sum of Kshs.3,500,000. However, review of tender documents showed that tender opening minutes were signed by only one member and the notification of award letter was addressed to a different firm other than the winning bidder. In addition, the certificates of payment did not indicate actual work done by the contractor as per the bill of quantities.
- iii. Mkono wa Ndugu Primary School tendered for construction of two (2) classrooms block, two (2) door pit latrine and supply of twenty (20) desks at the cost of Kshs.3,502,693. However, the certificates of payment did not indicate actual work done by the contractor as per the bill of quantities.

In the circumstances, the Management was in breach of the law and the value for money in the implementation of the projects could not be confirmed.

3.0 Poor Supervision of Projects

Projects inspection undertaken in the month of February, 2021 on eight (8) projects with total cost of Kshs.16,110,000 revealed anomalies as provided in **Appendix I**.

Poor implementation of projects greatly affects service delivery to the citizens of Lungalunga Constituency casting doubts on the effectiveness of projects monitoring and evaluation carried by the Constituency Development Fund Committee.

4.0 Unutilized Assets

During the audit, it was observed that equipment costing Kshs.1,126,634 which was procured in 2017/2018 financial year and which includes Information, Communication and Technology (ICT) cable trunking and a mast for installation of Wi-Fi receiver were lying idle for years since delivery. No explanation was provided for not installing the equipment to provide the expected services.

In the circumstances, value for money has not been achieved.

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

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 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 sustain 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 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 Fund's 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

15 February, 2022

APPENDIX I: Poor Project Supervision

No.	Project Name	Details of Project	Cost of Project Kshs	Audit Observations
1	Mwazaro Primary School	Construction of 1 No.2 door pit latrine	500,000	The latrine was small in size compared to the amount allocated
2	Mwauga Primary School	Construction of 1 No.2 door pit latrine	500,000	The latrine was small in size compared to the amount allocated
3	Masimbani Primary School	Renovation of 5 No. Classrooms	3,500,000	Windows were not fixed on class rooms.
4	Kilimangodo Primary School	Renovation of 5 No. classrooms and head teacher's office	3,000,000	Window had no glasses
5	Dzombo Chief's Office	Construction of 1 No.2 door pit latrine and fencing of 2 acre land with chain link	2,200,000	<ul style="list-style-type: none"> The size of land was not 2 acres as per project description. Untreated timber used for roofing of latrine had been infested with pests.
6	Shimoni Chief's Office	Construction of 1 No.2 door pit latrine and fencing of 0.75 acres	1,200,000	<ul style="list-style-type: none"> Land fenced off includes private properties within the compound and there were disputes about ownership of the land.
7	Mwangulu Police Station	Construction of a new administration block	4,500,000	Project complete and ready for use although the cells grills appeared weak.
8	Mwashetani High School	Completion of a tuition block-fitting of luvures, grills and painting	710,000	The head teacher was not sure which luviers were fitted or how the money was utilized to complete the project
	Total		16,110,000	