

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND - MAGARINI 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 - Magarini Constituency set out on pages 16 to 57, which comprise of 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, 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 - Magarini 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 National Government Constituencies Development Fund Act, 2015 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1.0 Inaccuracies in the Financial Statements

The financial statements for the year ended 30 June, 2020 presented for audit had the following inaccuracies.

- i. The statement of assets and liabilities as at 30 June, 2020 reflects cash and cash equivalents comparative balance of Kshs.15,811,239 while the 2018/2019 audited financial statements reflect a balance of Kshs.15,911,239. Similarly, the statement of cashflows reflects opening balance of cash and cash equivalents of Kshs.15,811,239 while the audited financial statements reflect a balance of Kshs.15,911,239, the resultant variance of Kshs.100,000 has not been reconciled or explained.
- ii. Annex 4 - summary of fixed assets register reflects fixed assets opening balance of Kshs.45,756,125 while the audited financial statements for 2018/2019 reflect a balance of Kshs.58,295,743, resulting to an unreconciled variance of Kshs.12,539,618.

- iii. The summary statement of appropriation - recurrent and development combined for the year ended 30 June, 2020 reflects total actual receipts and total budget utilization difference of Kshs.121,123,208 and Kshs.82,619,483 respectively. However, a recomputation of these balances amounts to Kshs.121,127,208 and Kshs.82,615,483 respectively, both resulting to unreconciled variance of Kshs.4,000.
- iv. The summary statement of appropriation - recurrent and development combined reflects total actual expenditure on comparable basis of Kshs.107,066,148, while the budget execution by programmes and sub-programmes reflects a total expenditure amount of Kshs.90,441,385, resulting to an unreconciled and unexplained variance of Kshs.16,624,764.
- v. The statement of receipts and payments and Note 3 to the financial statements reflects other receipts amount of Kshs.1,040,094 which includes Kshs.15,000 in respect to receipts from sale of tender documents which is omitted from the summary statement of appropriation - recurrent and development combined.

Consequently, the accuracy and completeness of the balances could not be confirmed.

2.0 Irregularities in Bursary Payments

The statement of receipts and payments reflects other grants and transfers of Kshs.50,528,918. Included in this balance are bursary payments to secondary, tertiary and special schools totaling Kshs.36,844,000. However, the balance includes an amount of Kshs.9,424,300 being bursary payments for six hundred and forty five (645) beneficiaries whose registration or admission numbers were not indicated in the application documents.

Further, the bursary payments includes amounts totalling Kshs.720,000 in respect to bursary payments for sixty four (64) students in twenty three (23) schools who were sharing registration and admission numbers. In addition, bursaries totaling to Kshs.528,500 were paid to thirteen (13) students who were awarded more than one bursary each.

Consequently, the accuracy and propriety of bursary payments amounting to Kshs.36,844,000 could not be confirmed.

3.0 Variances Between Financial Statement Balances and Supporting Schedules

The statement of assets and liabilities as at 30 June, 2020 and the statement of receipts and payments for the year ended 30 June, 2020 reflects balances that are at variance with their supporting schedules as detailed below:

No	Item/component	Note	Financial Statements Balance (Kshs.)	Schedule Balance (Kshs.)	Variance (Kshs.)
	Payments				
1	Domestic travel and subsistence	5	325,380	272,580	52,800
2	Hospitality supplies and services	5	468,500	168,500	300,000
3	Committee allowance	5	2,155,500	1,910,500	245,000
4	Office and general supplies and services	5	1,725,513	1,319,313	406,200
5	Other operating expenses	5	1,308,987	608,987	700,000
6	Routine maintenance-vehicles	5	1,172,535	162,535	1,010,000
7	Routine maintenance other assets	5	242,310	92,310	150,000
8	Emergency projects	7	3,276,000	5,140,000	(1,864,000)
9	Cash in hand	10B	15,000	-	15,000

Consequently, the accuracy and completeness of the balances 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 - Magarini 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 combined reflects final receipts budget totaling to Kshs.203,742,691 against total actual receipts balance of Kshs.121,127,208, resulting to budget under funding of Kshs.82,615,483 or 41% of the budget. Similarly, the Fund expended an amount of Kshs.107,066,148 against an approved budget of Kshs.203,742,691 resulting to budget under absorption of Kshs.96,676,543 or 47% of the budget.

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

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 Unplanned Training Expenses

The statement of receipts and payments reflects use of goods and services balance of Kshs.12,545,457. This balance includes an amount of Kshs.1,756,900 in respect to training expenses. However, the expenditure was not supported with the training plan and training needs assessment, done to assess the inadequacy of knowledge and skills. This is contrary to Section H.3.1 of the Human Resource Policies and Procedures Manual for the Public Service, 2015.

Consequently, Management was in breach of the law.

2.0 Irregular Procurement of Construction Contracts

The statement of receipts and payments reflects transfers to other Government entities balance of Kshs.40,327,027. Expenditure records revealed that an amount of Kshs.8,714,922 was incurred in four (4) primary schools, namely Mapimo, Mwaeba, Nyamala Sinene and Midodoni for the construction of classrooms and purchase of desks. A review of the related procurement records revealed the following anomalies;

- i. The procurement plan with details of the projects was not provided for audit review, contrary to Regulation 115(2) of the Public Finance Management (National Government) Regulations, 2015 which provides that every year a procurement plan shall be prepared by the Accounting Officers to form the basis for procurement activities undertaken by Government entities in the fiscal year;
- ii. The professional opinion and tender evaluation report were not provided for audit review, contrary to Section 84(1) of the Public Procurement and Asset Disposal Act, 2015 which provides that the head of procurement function of a procuring entity shall, alongside the report to the evaluation committee as secretariat comments, review the tender evaluation report and provide a signed professional opinion to the Accounting Officer on the procurement or asset disposal proceedings;
- iii. The tenders were not procured, in accordance to Executive Order No. 2 of 13 June, 2018 on Procurement of Public Goods, Works and Services by public entities which states that public procurement entities should undertake all their procurements through the e-procurement module beginning 1 January, 2019, and
- iv. An amount totalling to Kshs.710,000 being provisional sums was incurred on these contracts, however, Management has not provided for audit review, the distribution lists of the desks, the bill of quantities for the electrical works and information on how the contingency funds were utilized.

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

3.0 Other Grants and Transfers

3.1 Failure to Implement e-Procurement

The statement of receipts and payments reflects other grants and transfers of Kshs.50,528,918. This balance includes an amount of Kshs.3,130,818 in respect to environment projects involving construction of toilets. However, the projects were not procured electronically, contrary to Executive Order No.2 of 13 June, 2018 on Procurement of Public Goods, Works and Services by public entities which required Public Procurement Entities to undertake all their procurements through the e-procurement module beginning 1 January, 2019.

Consequently, Management was in breach of the law.

3.2 Irregular Expenditure on Emergency Projects

The statement of receipts and payments and Note 7 to the financial statements reflects other grants and transfers amount of Kshs.50,528,918. This balance includes an amount of Kshs.3,276,000 in respect to emergency projects, out of which an amount of Kshs.2,314,000 was spent on projects that were not emergency in nature, contrary to Section 8(3) of the National Government Constituencies Development Fund Act, 2015 which states that "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 expenditure is summarized below:

No.	Project Name	Amount (Kshs.)
1	Office and General supplies	406,200
2	Travelling	52,800
3	Maintenance of vehicle	1,010,000
4	Maintenance of other assets-Building	150,000
5	Committee expenses	245,000
6	Fund Account Manager	450,000
	Total	2,314,000

Consequently, Management was in breach of the law.

3.3 Sports Projects

As disclosed in Note 7 to the financial statements, the transfers to other Government entities of Kshs.50,528,918 includes an amount of Kshs.4,477,800 in respect to sports projects, out of which an amount of Kshs.3,477,800 was used by the Fund Account Manager for purchase of various items. However, the following anomalies were noted:

- i. An amount of Kshs.2,568,400 was spent on sports items/activities procured using direct procurement method, 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 long as the purpose is not to avoid competition. Further, the items purchased were not in the procurement plan, contrary to Regulation 115(2) of the Public Finance Management (National Government) Regulations, 2015 which provides that every year a procurement plan shall be prepared by the Accounting Officers to form the basis for procurement activities undertaken by Government entities in the fiscal year.
- ii. Sports items acquired at a cost of Kshs.2,110,450 were not supported with a goods received note, delivery note and a distribution list contrary to Section 159(2) of the Public Procurement and Asset Disposal Act, 2015) which requires

an Accounting Officer of a procuring entity to record goods, works and services received in an inventory of the procuring entity as shall be prescribed.

In the circumstances, value for money from the expenditure on sports projects could not be confirmed.

4.0 Projects Inspection

Audit inspection carried out in the month of February, 2021 of five (5) projects with a total contract sum of Kshs.10,327,027 revealed anomalies as outlined in the table below:

No.	Name of Project	Project Activity	Contract Price (Kshs.)	Audit Observations
1	Sabaki Primary School	Completion of four (4) classrooms at an amount Kshs.1,400,000 and delivery of twenty (20) desks – at an amount of Kshs.100,000	1,500,000	The classrooms were complete and in use. However, the door locks and anodized aluminum louvre jamb units were not done.
2	Mapimo Primary School	Completeness of renovation of six (6) classrooms (Construction of columns, flooring, plastering, roofing and painting)	6,677,027	The classrooms were complete and in use. However, hardwood door was installed instead of steel door as indicated in Bill of Quantities (BQ) while internal painting which required two (2) coats of gloss oil paint as per the BQ was not done. Further, window glass was not fixed.
3	Magarini Primary School	Construction of one (1) Two door Toilet	550,000	The toilet was complete and in use. However, Union door locks amounting to

No.	Name of Project	Project Activity	Contract Price (Kshs.)	Audit Observations
				Kshs.4,000 were not fitted as per BQs.
4	Majengo Primary School	Construction of a two (2) door pit latrine at Majengo Primary School	500,000	The Pit latrine was complete and in use. However, doors were not fitted with locks as per BQs.
5	Kibaoni Primary School	Construction of two (2) classrooms to completion	1,100,000	The building was complete and in use. However, rain harvesting gutters and window louvres were not done.
	Total		10,327,027	

Consequently, it could not be confirmed whether the public obtained value for money for the above 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 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 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 Fund's 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 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 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 Fund's ability 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

17 February, 2022