

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND – MALINDI CONSTITUENCY FOR THE YEAR ENDED 30 JUNE, 2020

REPORT ON THE FINANCIAL STATEMENTS

Adverse Opinion

I have audited the accompanying financial statements of National Government Constituencies Development Fund – Malindi Constituency set out on Pages 15 to 45, which comprise the statement of assets and liabilities as at 30 June, 2020, and 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, because of the significance of the matters discussed in the Basis for Adverse Opinion section of my report, the financial statements do not present fairly, the financial position of the National Government Constituencies Development Fund – Malindi 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 do not comply with the National Government Constituencies Development Fund Act No.30 of 2015 and the Public Finance Management Act, 2012.

Basis for Adverse Opinion

1. Inaccuracies in the Financial Statements

The financial statements for the year ended 30 June, 2020 contained inaccuracies as detailed below:

- i. A comparison of the comparative figures in financial statements for the year ended 30 June, 2020 and the audited financial statements for 2018/2019 reflected a variance of Kshs.7,499,999 as indicated in the table below :-

Notes	Comparative Balances for 2019/2020 (Kshs.)	Audited Balances for 2018/2019 (Kshs.)	Variance (Kshs.)
Transfers from Other Government Entities	160,325,359	164,325,358	(3,999,999)
Transfers to Other Government Units	56,904,775	59,904,775	(3,000,000)
Acquisition of Assets – Note 8.	-	500,000	(500,000)
Total	217,230,134	224,730,133	(7,499,999)

- ii. The summary statement of appropriation - recurrent and development combined reflects budget utilization difference of Kshs.83,291,499. However, a summation of the balances indicated a total of Kshs.134,852,846, resulting to an under-statement of Kshs.51,561,347.

- iii. The budget by programmes and sub-programmes reflects grand total budget utilization difference of Kshs.38,971,096. However, summation of the balances indicated a total of Kshs.134,852,846, resulting to under casting of Kshs.95,881,750.
- iv. The statement of receipts and payments reflects compensation of employees balance of Kshs.2,057,370. However, the supporting schedule reflected a balance of Kshs.1,882,080, resulting to unexplained and unreconciled variance of Kshs.175,290.
- v. Summary of fixed assets register disclosed in Annex 4 to the financial statements reflects opening balance as at 1 July, 2019 as Kshs.56,495,424. However, the audited financial statements for the year ended 30 June, 2019 reflect a closing balance of Kshs.56,995,424, resulting to unexplained and unreconciled difference of Kshs.500,000.

Consequently, the accuracy and completeness of the financial statements for the year ended 30 June, 2020 could not be confirmed.

2. Inaccuracies in Bank Balance

Note 10A to the financial statements for the year ended 30 June, 2020 reflects a bank balance of Kshs.13,944,248. However, the supporting bank reconciliation statement reflected un-presented cheques totalling to Kshs.1,091,963.76, out of which stale cheques totalling Kshs.610,094.00 had not been reversed in cash book.

Further, the supporting bank reconciliation statement reflected receipts totalling Kshs.1,091,963.76 in respect to unspent balances in Project Management Committee bank accounts returned to the Constituency bank account and which has not been recorded in cash book.

Consequently, the accuracy and completeness of the bank balance of Kshs.13,944,248 as at 30 June, 2020 could not be ascertained.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the National Government Constituencies Development Fund - Malindi 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 adverse 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

Budgetary Control and Performance

The summary statement of appropriation - recurrent and development combined for the year under review reflects total budgeted receipts of Kshs.248,759,944 and actual receipts of Kshs.127,851,346 resulting to underfunding of Kshs.120,908,598 or 49% of

the budget. Similarly, the statement reflects final expenditure budget and actual totalling to Kshs.248,759,944 and Kshs.113,907,098 respectively, resulting to an under expenditure amounting to Kshs.134,852,846 or 54% of the budget.

The underfunding and under expenditure may have affected delivery of services to the residents of the constituency.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, because of the significance of the matters discussed in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources section of my report, based on the audit procedures performed, I confirm that public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

1.0 Presentation of the Financial Statements

The financial statements for the year ended 30 June, 2020 contained the following presentation anomalies:

- i. Constituency Development Fund Committee (CDFC) members, Management team, report of the Fund Administration Manager and Management discussion and analysis are missing from the financial statements.
- ii. The table on progress on follow up of auditor recommendations is empty yet the Report of the Auditor-General for the year 2018/2019 had an Adverse Opinion.

Consequently, the financial statements for the year ended 30 June, 2020 are not prepared in accordance as prescribed by the Public Sector Accounting Standards Board.

2.0 Projects Implementation

During the year under review, the Management budgeted for thirty nine (39) projects costing Kshs.101,082,709 whose implementation status as at 30 June, 2020 is as summarized below:

Status	Number of Projects	Allocation (Kshs.)
Ongoing Projects	2	9,500,000
Not Started	15	44,764,709
Completed Projects	22	46,818,000
Total	39	101,082,709

Although the Management explained the delay to start the above projects was due to Covid 19 pandemic and delayed disbursement by the CDF Board, the projects have taken long to start. Failure by Management to implement the budgeted projects may impact negatively on delivery of goods and services to the residents of Malindi Constituency.

2.1 Projects Inspection

Seven (7) projects with a total allocation of Kshs.18,448,000 were inspected in the month of February, 2021. The inspection revealed delivery of beds and desks to a school amounting to Kshs.2,520,000 while the stores had the same items not issued. Further, the inspection revealed under-utilization of a dormitory constructed at a cost of Kshs,6,700,000 due to low student enrolment and instances of poor workmanship as detailed in **Appendix 1**.

The anomalies may be attributed to lack of proper supervision of projects by the Constituency Development Fund Committee and may negatively impact on the delivery of service to the residents of Malindi Constituency.

3.0 Compensation of Employees

3.1 Failure to Disclose Payables - Staff Gratuity

According to corporate social responsibility statement/sustainability reporting paragraph 3 - employee welfare, Malindi NG-CDF Committee offers contract terms of employment for three years to staff who are entitled to employee benefits in line with statutory requirements. Staff employment files and contracts of employment availed for audit review indicated that thirteen (13) staff who were employed way back in 2013 had accumulated gratuity amounting to Kshs.7,171,762. Although the gratuity was due for payment in the year under review, the same had not been paid as at 30 June, 2020 nor disclosed in the financial statements.

This is contrary to the Circular No. NG-CDF Board/CIRCULAR/ Vol.I. I/166 of 24 June, 2013 paragraph 8 which states that “staff shall be eligible for service gratuity tabulated at 31% of the annual basic salary for three years of contract”.

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

3.2 Failure to Fill Vacant Positions

Records maintained by the Fund indicate that the Constituency has not employed Clerk of Works and Accounts Assistant. This hampers preparation of financial records and supervision of projects. Further, the same is contrary to Section 45 Subsections 1 and 2 of the CDF Act, 2015 which provide that “the Constituency committee may engage such staff as may be necessary for the execution of its functions including persons with knowledge in information and communication technology, construction and basic accounting shall assist the constituency committee in project monitoring and evaluation, coordination and proper keeping of records and such staff be remunerated from the funds allocated for administration and recurrent expenses of the constituency committee.”

Consequently, the Constituency is in breach of 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, because of the significance of the matters discussed in the Basis for Adverse Opinion section of my report, based on the audit procedures performed, I confirm that internal controls, risk Management and governance were not effective.

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 ability of the Fund to sustain its services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless the 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 Fund's 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 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 Fund's 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 Fund's 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 noncompliance. 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 ability of the Fund 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

11 February, 2022

Appendix 1

Project Inspection Status

No.	Name of Project	Project Activity	Contract Price (Kshs.)	Audit Observations
1	Shomani Girls Secondary School	Purchase of 96 double decker bed @ Kshs.18,000	1,728,000	Delivery of double decker beds delivered and some were in use and others in the store due to low enrolment of students.
2	Shomani Girls Secondary School	Purchase of 360 lockers and 360 chairs @ Kshs.7,000 per set	2,520,000	Delivery of double decker beds delivered and some be in use and others in the store due to low enrolment of students.
3	Shomani Girls Secondary School	Construction of 96 capacity dormitory to completion (Kshs.5,450,000 with 1 unit of 6 No. door toilet (Kshs.700,000 and a septic tank @Kshs.550,000)	6,700,00	Dormitory complete and in use (underutilized due to low enrolment of students).
4	Mkaomoto Primary School	Renovation of 5 No. classrooms which shall include removal of rusty leaking iron sheets, dilapidated timbers, reroofing, superstructure walling and ring beam, plastering, painting, fixtures/fittings, flooring and electrical conduit works.	3,400,000	Reroofing done. However, roof for two classrooms were rusting compared to the other three class room roofs. All other works done to completion and the structure in use.
5	Kakuyuni Police Station	Construction of three offices	3,400,000	office done. Remaining doors, electrical works and plastering.
6	Shella Chief's Office	Construction of an office and a toilet to completion	3,200,000	Office and a two door toilet done to completion and in use.
7	Children Remand Prison-malindi	Upgrading of wall to enhance security construction of a perimeter fence.	4,200,000	Wall done and plastering and painting done.
Total			18,448,000	