

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND – MSAMBWENI 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 - Msambweni Constituency set out on pages 16 to 38, which comprise of the statement of assets and liabilities as at 30 June, 2020, 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 - Msambweni 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. Accuracy of Cash and Cash Equivalents

The statement of assets and liabilities as at 30 June, 2020 reflects Kshs.13,048,048 in respect of bank balances. The supporting bank reconciliation statement as at 30 June, 2020 includes unrepresented cheques totalling Kshs.578,120 which had not cleared in the bank as at the time of audit in January, 2021 and were therefore stale and invalid for payment. However, the cheques had not been reversed in the cash book and the Management did not explain why the cashbook had not been updated.

Consequently, the accuracy and completeness of bank balance of Kshs.13,048,048 as at 30 June, 2020 could not be confirmed.

2.0. Payment for Incomplete Work

The statement of receipts and payments reflects transfers to other government units amount of Kshs.66,600,000 for the year ended 30 June, 2020. Included in transfers are payments totalling of Kshs.8,500,000 to four (4) primary schools for various projects. However, an audit inspection of the projects in January, 2021 revealed the following works and items which had not been executed as per the bills of quantities (BQ):

No.	Name of Projects	Amount (Kshs.)	Observations
1	Shamu Primary School	1,500,000	Only five fans were installed instead of six (6) as per BQ.
2	Mivumoni Secondary School	3,000,000	Only nine (9) Windows installed instead of twelve (12) as per BQ. Project branding not done.
3	Ramisi Primary School	2,000,000	Five (5) fans installed instead of eight (8) as per BQ.
4	Makongeni Primary School	2,000,000	Only nine (9) Windows installed instead of twelve (12) as per BQ.
	Total	8,500,000	

The Management did not explain why payments were made for work not done.

In the circumstances, the accuracy and validity of expenditure totalling Kshs.8,500,000 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 - Msambweni 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 and actual on comparable basis of Kshs.198,669,729 and Kshs.121,302,005 respectively resulting to shortfall of Kshs.77,367,724 or 39% of the approved budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis totalling to Kshs.198,669,729 and Kshs.108,253,957 respectively, resulting in underperformance amounting to Kshs.90,415,772 or 45% of the budget. The underfunding and under expenditure affected the planned activities and may have impacted negatively on service delivery to the residents of Msambweni Constituency.

2.0 Projects Implementation

According to the projects implementation status report as at 30 June, 2020, twenty-four (24) projects with a total budget of Kshs.67,336,062 had not been completed, including nineteen (19) projects with a total budget of Kshs.59,236,062 which had not started.

As previously reported, information available indicated that the National Government Constituencies Development Fund Board was yet to approve ICT Hubs projects, Mwabungo Social Hall, Msambweni Teachers Training College and Social Programme projects despite being allocated a total of Kshs.22,477,028. The situation is an indication of lack of proper planning and prioritizing citizens' needs in the budget making process mechanism.

Delays in implementation of the projects denies residents of Msambweni Constituency intended benefits and services as envisaged.

3.0 Projects Inspection

An audit inspection of six (6) development projects with total disbursements of Kshs.20,175,000 undertaken in January, 2021 revealed anomalies as detailed below:

No.	Name of Projects	Project Activity	Disbursements to the Project (Kshs.)	Observations
1	Bongwe Primary School	Renovation of three (3) classrooms to completion; plastering, roofing, ceiling, painting and electricity.	1,500,000	There was structural gap between old and renovated structure leading water seepage. Project was not branded.
2	Shamu Primary School	Renovation of three (3) classrooms to completion; plastering, roofing, ceiling, painting and electricity	1,425,000	Five (5) ceiling fans had been installed instead of six (6) as per bills of quantities.
3	Mivumoni Secondary School	Construction of 1 No dormitory of 80 students capacity to completion	2,850,000	Windows fitted 9 while Bills of Quantities (BQ) indicated 12. Project was not branded.
4	Ramisi Primary School	Renovation of four (4) classrooms to completion; plastering, roofing, ceiling, painting and electricity	1,900,000	Project complete and in use. Windows fitted are 16 instead of 20 as per BQ. Fans installed are five instead of eight (8)
5	Makongeni Primary School	Renovation of three (3) classrooms to completion; plastering, roofing, ceiling, painting and electricity.	1,500,000	Project Complete and in use. Windows fitted nine (9) instead of twelve (12)

No.	Name of Projects	Project Activity	Disbursements to the Project (Kshs.)	Observations
6	Vingujini Secondary School	Construction of four (4) classrooms to completion; plastering, roofing, ceiling, painting and electricity	11,000,000	Two of the classrooms complete but not in use.
	Total		20,175,000	

The anomalies in workmanship and project implementation are an indication that Management had not conducted adequate supervision of the projects, which cast doubts on whether the residents of Msambweni Constituency will realize value for money from the funds spent on the projects.

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 Delayed Completion of Youth and Opportunity Centre Project

As previously reported, the National Government Constituencies Development - Msambweni Constituency awarded a contract of Kshs.60,125,880 for the construction of Msambweni Youth and Opportunity Centre. According to the signed contract agreement, works were to commence on 7 December, 2016, being the date of signing, for a period of six (6) months, and thus, the expected date of completion was 6 June, 2017. However, an audit inspection in the month of January, 2021 revealed that a total of Kshs.48,237,492 had been disbursed to the project and the works were ongoing, implying the project had delayed by more than three years. Consequently, the residents of Msambweni Constituency will take longer to realize the intended benefits.

Further, there was no evidence that the successful bidder placed a performance bond of 10% of contract price as guarantee against possible loss as per the contract agreement. As a result, the public funds are exposed to loss.

In addition, no evidence was provided to confirm that the ownership of the land where the Centre was being constructed had been transferred to the National Government Constituencies Development Fund - Msambweni Constituency as required by Regulation 11(k) of the National Government Constituencies Development Fund Regulations, 2016 which provides that "where a project involves purchase of building or land the constituency committee should ensure that the ownership is duly verified".

In the circumstances, the regularity and value for money from the project could not be ascertained.

2.0 Irregular Committee Allowances

Included in use of goods and services expenditure of Kshs.7,312,076 reflected in the statement of receipts and payments for the year ended 30 June, 2020 are committee expenses amounting to Kshs.1,134,000. The expenses include sitting allowances of Kshs.375,000 paid to sub-county officials while attending constituency development committee meetings and monitoring and evaluation of projects. This was contrary to Regulation 33 of National Constituencies Development Fund Regulations, 2016 regarding guidelines on allowances payable to members of a constituency committee and other government officers involved in the Management of the Fund. The officials did not qualify for sitting allowances, and instead, they ought to have been paid lunch allowance. Therefore, the payment was irregular.

3.0 Ineligible Emergency Expenditure

Note 7 to the financial statements reflects Kshs.29,027,154 in respect of other grants and other payments which includes emergency projects expenditure totalling Kshs.8,338,993. The emergency expenditure includes Kshs.7,238,993 transferred to primary schools and a chief's office for renovation of classrooms, toilets, and the chief's office respectively. However, the nature of the projects did not meet 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 addition, project inspection done in January, 2021 in one of the projects for construction of twin door pit latrine, revealed the project was incomplete and the contractor was not on site. The urgency of the project was therefore in doubt.

Further, there was no evidence to show that the Management reported the utilization of the emergency vote in line with Regulation 2 of the National Government Constituencies Development Fund Act Regulations, 2016 which provides that utilization of the emergency reserve shall be reported to the National Government Constituencies Development Fund Board within 30 days of the occurrence of the emergency.

The Management was therefore in breach of the laws.

4.0 Unutilized Funds

As previously reported, Annex 5 to the financial statements for the year ended 30 June, 2020 reflects Project Management Committees Bank balances of Kshs.18,945,590, out of which Kshs.2,688,980 relates to twenty-four (24) closed projects. However, the funds had not been returned to the main bank account in line with Section 12(8) of the National Government Constituencies Development Fund Act, 2015 which states that, "all unutilized funds of the Project Management Committee shall be returned to the constituency account". No explanations were provided for the anomaly.

Consequently, the Management breached the Law.

5.0 Failure to Maintain Project Expenditure Status Report

According to the statement of receipts and payments, National Government Constituencies Development Fund (NGCDF) - Msambweni Constituency undertook various projects including Kshs.66,600,000 under transfer to other government entities and Kshs.29,027,154 under other grants and transfers. However, there was no evidence that the Fund Account Manager maintained a monthly record of all receipts, disbursements and expenditure per project and which was tabled before the National Constituency Development Fund Committee for discussion. This was contrary to Section 38 of the National Government Constituencies Development Fund Act, 2015, which states that, 'the officer of the Board in every constituency shall compile and maintain a record showing all receipts, disbursements and actual expenditures on a monthly basis in respect of every project and sub-project under this Act and shall:-

- (a) table such record at a meeting of the Constituency Committee in every month; and
- (b) submit a summary of the record for the year to the Constituency Committee not later than thirty days after the end of every financial year”.

Consequently, the Management was in breach of the 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 Article 229 (6) of the Constitution, 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 overall governance were not effective.

Basis for Conclusion

Weak Controls on Bursary Awards

During the period under review, National Government Constituencies Development Fund - Msambweni Constituency disbursed bursaries to secondary schools and tertiary institutions amounting to Kshs.29,027,154. However, examination of the records revealed the following internal control weaknesses:

- i. The application forms did not include data fields to guide a criteria for award of bursaries.

- ii. Forty-four (44) beneficiaries were awarded bursary yet they were not on the list of applicants who were issued with bursary application forms.

The above cited weaknesses in Management of bursaries may result to award of bursaries to undeserving students at the expense of needy applicants.

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 National Government Constituencies Development Fund – Msambweni Constituency’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 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 National Government Constituencies Development Fund – Msambweni Constituency’s financial reporting process, reviewing the effectiveness of how the entity 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 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

09 February, 2022