

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 14 FEB 2024	
TABLED BY:	Hon Dr. Gedion Muthuri Chairperson, Decentralized Funds Accounts Committee
CLERK AT THE TABLE:	Miriam Moko



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

13TH PARLIAMENT – THIRD SESSION

Approved
SNA
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**SECOND REPORT OF THE DECENTRALIZED FUNDS ACCOUNTS COMMITTEE
(DFAC)**

**FINANCIAL STATEMENTS FOR THE NATIONAL GOVERNMENT
CONSTITUENCIES DEVELOPMENT FUND FOR FIVE (5) CONSTITUENCIES IN
VIHIGA COUNTY FOR FINANCIAL YEARS 2013/2014, 2014/2015 AND 2015/2016.**

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The National Assembly
Parliament of Kenya
NAIROBI

FEBRUARY, 2024

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ABBREVIATIONS

BOQ	Bill of Quantities
CDF	Constituencies Development Fund
CoK	Constitution of Kenya, 2010
FAM	Fund Account Manager
FY	Financial Year
GDP	Gross Domestic Product
GOK	Government of Kenya
IPSAS	International Public Sector Accounting Standards
KeRRA	Kenya Rural Roads Authority
LSO	Local Service Orders
MDA	Ministries, Departments and Agencies
MP	Member of Parliament
NG-CDF	National Government Constituencies Development Fund
PMC	Project Management Committee
PSASB	Public Sector Accounting Standards Board
OAG	Office of the Auditor General

CHAIRPERSON'S FOREWORD

Hon. Speaker, on behalf of the Decentralized Funds Accounts Committee pursuant to Standing Orders 199, it is my pleasant duty and honor to present to the House the report of the Committee on audited financial statements for the National Government Constituencies Development Fund for five (5) Constituencies in Vihiga County for financial years 2013/2014, 2014/2015 and 2015/2016.

Oversight over national revenue and expenditure is amongst the roles of the National Assembly as stipulated under Article 95 (4) (c) of the Constitution of Kenya, 2010. Further, Article 226 of the Constitution provides that an Act of Parliament shall provide for the designation of an Accounting Officer in every public entity at the national level who is accountable to the National Assembly for its financial management. In addition, Article 229(8) mandates this House to debate and take appropriate action on audit reports from the Auditor-General.

In fulfilment of these constitutional provisions, the National Assembly Standing Orders 205B established the Decentralized Funds Accounts Committee, whose mandate is to examine reports of the Auditor-General for the National Government Constituencies Development Fund, among other funds. The Committee, which was established in the Thirteenth (13th) Parliament, received a backlog of audited reports dating back from the financial year 2013/2014 from the two hundred and ninety (290) constituencies. Given that each constituency is audited independently, the Committee adopted a strategy of examining reports for constituencies in each County for the three financial years concurrently.

The Committee received written evidence from the Chief Executive Officer of the National Government Constituencies Development Fund being the Accounting Officer of the NG-CDF as provided under Section 67 (1) of PFM Act, 2012. The Committee also engaged the Fund Account Managers, both present and former to clarify various issues raised by the Auditor-General during their tenure in office given the critical role that they play as AIE holders as stipulated under Section 12(4) of the NG-CDF Act, 2015.

The Committee held six (6) sittings. It received evidence from the Fund Account Managers from the five (5) constituencies namely Vihiga, Sabatia, Hamisi, Emuhaya and Luanda.

The oral and written submissions received formed the basis of observations, findings and recommendations of the Committee as outlined in this report under each of the audit queries. These are also contained in the Minutes and Hansard Reports of Committee proceedings.

Hon. Speaker, I wish to commend the office of the Chief Executive Officer of the NG-CDF Board for ensuring that Fund Account Managers prepared their responses in time and appeared before the Committee as scheduled. I also commend the Project Management Committees in the constituencies for engaging the public in project identification which ensured that priority projects which had the greatest benefits to the communities were implemented. The majority of these projects were on infrastructure development in various public schools and public utilities.

Hon. Speaker, I wish to express appreciation to the Honourable Members of the Committee, the Office of the Speaker, and the Clerk of the National Assembly, the Parliamentary Liaison Offices of the Auditor-General and the National Treasury and the Committee Secretariat for facilitating the Committee in the production of this report.

Hon. Speaker, on behalf of the Decentralized Funds Accounts Committee, I now wish to table this report and urge the House to adopt it and its recommendations therein.

HON. DR. GIDEON MULYUNGI, CBS, EBS, MP

CHAIRPERSON, DECENTRALIZED FUNDS ACCOUNTS COMMITTEE

1.0 CHAPTER ONE

PREAMBLE

1.1 Establishment of Decentralized Funds Accounts Committee (DFAC)

1. The Decentralized Funds Accounts Committee is a Select Committee established pursuant to the National Assembly Standing Orders 205B as a split Committee from the extensive mandate of the Special Funds Accounts Committee.
2. It is amongst the six Watchdog Committees of the Thirteenth Parliament which examines the reports of Auditor-General laid before the House.

1.2 Mandate of the Committee

3. In accordance with Standing Orders 205B, the mandate of the Committee is to examine the reports of the Auditor General on the accounts of:
 - a) The National Government Constituencies Development Fund
 - b) The National Government Constituencies Development Fund Board
 - c) The National Government Affirmative Action Fund
 - d) The National Government Affirmative Action Fund Board.

1.3 Guiding Principles

4. In execution of its mandate, the Committee is guided by principles on public finance management as provided in the Constitution of Kenya 2010, Public Finance Management Act, 2012 as well as established customs, traditions, practices, and usages.
5. The Public Finance Management principles require public money to be used in a prudent and responsible manner and that on direct personal liability.
6. Article 201 provides for the fundamental principles that “...*shall guide all aspects of public finance in the Republic...*” These principles are, inter alia-
 - (i) 201(a) there shall be openness and accountability, including public participation in financial matters.
 - (ii) 201(d) public money shall be used in a prudent and responsible way; and
 - (iii) 201(e) financial management shall be responsible, and fiscal reporting shall be clear.
7. Article 226(5) of the Constitution provides that “*If the holder of a public office, including a political office, directs or approves the use of public funds contrary to law or*

instructions, the person is liable for any loss arising from that use and shall make good the loss, whether the person remains the holder of the office or not''.

8. It is on this basis that each Fund Account Manager being the Accounting Officer of the NGCDF is held directly and personally liable for any loss of public funds under their watch.
9. Section 68 (1) of the Public Finance Management Act, 2012 provides, inter alia, that- *"An accounting officer for a national government entity, Parliamentary Service Commission and the Judiciary shall be accountable to the National Assembly for ensuring that the resources of the respective entity for which he or she is the accounting officer are used in a way that is lawful and authorized, and effective, efficient, economical and transparent."*
10. This provision obligated Fund Account Managers as accounting officers in the constituencies to appear before the Decentralized Funds Accounts Committee to respond to audit queries raised by the Auditor-General.

1.4 Committee Membership

11. The Committee comprises of the following members: -

Chairperson

Hon. Dr. Gideon Mutemi Mulyungi, CBS, EBS, M.P.

Member for Mwingi Central Constituency

Wiper Democratic Movement-Kenya

Vice-Chairperson

Hon. Gertrude Mwanyanje Mbeyu, M. P.

Member for Kilifi Constituency

Orange Democratic Movement

Hon. Mejjadonk Benjamin Gathiru M. P.

Member for Embakasi Central Constituency

United Democratic Alliance

Hon. Mboni David Mwalika M.P.

Member for Kitui Rural Constituency

Wiper Democratic Movement – Kenya

Hon. Kahangara Joseph Mburu M. P.

Member for Lari Constituency

United Democratic Alliance

Hon. Momanyi Innocent Obiri M.P.

Member for Bobasi Constituency

Wiper Democratic Movement – Kenya

Hon. Caroline Jeptoo Ng'elechei M. P.

Member for Elgeyo Marakwet Constituency
Constituency

Independent Member

Hon. Mogaka Stephen M.P.

Member for West Mugirango

Jubilee Party

Hon. Barre Hussein Abdi M. P.

Member for Tarbaj Constituency

United Democratic Alliance

Hon. Dorothy Muthoni Ikiara M.P.

Member for Meru Constituency

United Democratic Alliance

Hon. Wanyonyi Martin Pepela M. P.
Member for Webuye East Constituency
Ford Kenya

Hon. Guyo Adhe Wario M. P.
Member for North Horr Constituency
KANU

Hon. Lentoijoni Jackson Lekumontare M. P.
Member for Samburu East Constituency
KANU

Hon. Osogo Bensuda Joyce M.P.
Member for Homabay Constituency
Orange Democratic Movement

Hon. Kipngor Reuben Kiborek M.P.
Member for Mogotio Constituency
United Democratic Alliance

1.5 Committee Secretariat

12. The Secretariat facilitating the Committee comprises of the following staff:

- | | | |
|-------------------------|---|-----------------------------|
| 1) Ms. Ruth M. Gakuya | - | Clerk Assistant I |
| 2) Mr. John Mutinda | - | Clerk Assistant III |
| 3) Ms. Sharon Koskei | - | Clerk Assistant III |
| 4) Mr. Clinton Sindiga | - | Legal Counsel II |
| 5) Ms. Elizabeth Kibati | - | Research Officer III |
| 6) Mr. Wilson Mwangi | - | Fiscal Analyst III |
| 7) Mr. Calvin Karung'o | - | Media Relations Officer III |
| 8) Ms. Zainabu Wario | - | Serjeant-at-Arms II |
| 9) Ms. Esther Mbatha | - | Protocol Officer III |
| 10) Mr. Muchiri Mwangi | - | Audio Officer III |

2.0 INTRODUCTION

2.1 Examination of Audited Financial Statements for the National Government

Constituencies Development Fund (NGCDF)

12. Examination of reports of the Auditor-General for the National Government Constituencies Development Fund (NGCDF) for the 290 Constituencies in Kenya is amongst the mandate of the Decentralized Funds Accounts Committee as outlined in the National Assembly's Standing Order number 205B.
13. The Committee received a backlog of these reports which dates to 2013/2014 financial year which had not been examined by the Twelfth Parliament.
14. Given the fact that each of the 290 Constituencies is audited independently, the Committee adopted a strategy of scrutinizing financial statements of each Constituency for 2013/2014, 2014/2015 and 2015/2016 financial years concurrently.
15. The report contains observations, findings and recommendations arising from examination of fifteen (15) reports of the Auditor-General for the NG-CDF for financial years 2013/2014, 2014/2015 and 2015/2016 for the following fifteen (5) Constituencies in Vihiga County:
 - 1) Vihiga Constituency
 - 2) Sabatia Constituency
 - 3) Hamisi Constituency
 - 4) Emuhaya Constituency
 - 5) Luanda Constituency

3.0 CHAPTER TWO

REPORTS ON THE AUDITED ACCOUNTS FOR VIHIGA CONSTITUENCY NG- CDF FOR THE FINANCIAL YEARS 2013/2014, 2014/2015 AND 2015/2016

VIHIGA CONSTITUENCY

17. The Fund Account Manager, Mr. Joe Godwin Oduor appeared before the Committee on 25th April 2023, to respond to the audit matters raised in the report of the Auditor General for Vihiga Constituency for the financial years 2013/2014, 2014/2015 and 2015/2016 as follows:

FINANCIAL YEAR 2013/2014

1.0 Cash and Cash Equivalent

18. The statement of assets and liabilities as at 30th June 2014 reflected cash and cash equivalent balance of Kshs. 7,041,907.00. However, the cash flow statements and note 11 showed Kshs 7,398,079.00 as at the same. Further, note 15 indicated a brought forward balance of Kshs 356,172.40 that had not been incorporated in the statement of assets and liabilities. Consequently, the accuracy and completeness of cash and cash equivalents balance of Kshs. 7,041,097.00 could not be confirmed as at 30th June, 2013/2014.

Response by the Fund Account Manager

19. The opening balance for financial year 2013/2014 was Kshs. 356,172.40. Due to an oversight, it was not included in the statement of financial assets and liabilities so as to reflect the correct cash and cash equivalent. Kshs. 7,398,079.00 was the correct cash and cash equivalent for the year. The statement of financial assets and liabilities was amended and availed to the auditors for review.

Committee Observation

20. *The Committee observed that the statement of financial assets and liabilities were amended and availed to the auditors for review.*

Committee Recommendations

21. *The Committee recommends that the Accounting Officer should ensure that the Fund Account Managers: -*
- a) keeps financial and other records that are accurate, reliable, and complete.*
 - b) adhere to accounting standards prescribed by the Public Sector Accounting Standards Board (PSASB) as provided by Section 81(3) of the PFM Act, No. 18 of 2012 which provides that "The Accounting Officer shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time".*

c) adhere to Regulation 100 of the PFM Act (National Government), 2015 which provides that “Accounting Officers shall keep in all offices concerned with receiving cash or making payments a cash book showing the receipts and payments and shall maintain such other books and registers as may be necessary for the proper maintenance and production of the accounts of the vote for which he or she is responsible”.

d) adhere to Regulation 101(4) of the PFM Act (National Government), 2015 which provides that “An Accounting Officer shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed by the Public Sector Accounting Standards Board, not later than three months after the end of the financial year and submit them to the Auditor General with a copy to the County Treasury, the Controller of Budget and the National Treasury”.

2.0 Going Concern

22. The High Court of Kenya in its ruling on petition 71 of 2013 held that the Constituency Development Fund Act 2013 establishing the Constituency Development Fund since enactment of the Constitution of Kenya 2010 was unconstitutional rendering the existence of the Fund illegal. It is not clear whether legislation providing for the Fund will be in place within the period given by the High Court of twelve months for the Fund to continue existing.
23. As a result, the going concern status of the Constituency Development Fund is doubtful.

Response by the Fund Account Manager

24. The NG-CDF Board fulfilled all the conditions set by the High Court concerning the petition against the CDF (Petition 71 of 2013). A new Act NG-CDF Act 2015 which was amended in 2022 is in place and has comprehensively addressed the issue of unconstitutionality of the Fund.

Committee Observation

25. The Committee observed that the issue was overtaken by events as it was addressed through the passing of the NG-CDF Act, 2015 and its Regulations 2016 which aligned the Fund functions to National Government functions. The query was adequately addressed and resolved.

3.0 Under Expenditure

26. Vihiga CDF had an approved Budget of Kshs. 70,426,000.00 for the year ended 30th June 2014. However, the Fund spent Kshs. 63,398,735 against a budget of Kshs. 70,426,000.00 resulting to unexplained under expenditure of Kshs. 7,027,271.00 approximately 10% of the total budget. The low budget absorption denied the constituents the much-needed services delivery.

Response by the Fund Account Manager

27. The under expenditure of Kshs. 7,027,271 was due to the late receipt of funds in the constituency on 30th May, 2014 of Kshs. 13,003,315 out of which Kshs. 7,398,079 remained unspent as at 30th June, 2014. The funds were absorbed in the subsequent financial year.

Committee Observations

28. *The Committee observed that: –*

- (i) The budget under absorption relates to unspent balances held by the constituency as at 30 June, 2014.*
- (ii) Under absorption was occasioned by the late receipt of funds in the constituency. The funds were received on 30th May, 2014.*
- (iii) The funds were absorbed in the subsequent financial year.*

Committee Recommendation

29. *The Committee recommends the National Treasury should ensure timely and adequate disbursement of funds to the National Government Constituencies Development Fund Board for immediate release to the Constituencies.*

FINANCIAL YEAR 2014/2015

1.0 Unimplemented Projects - Kshs. 25,337,929

30. During the year, the Fund had budgeted to implement 130 projects costing 61,621,418. However, the Fund did not implement various projects valued at Kshs. 25,337,929.00 (55%) that were to be done within the financial year. It is not clear, and management did not explain how this backlog of projects will be done to provide the planned and budgeted services to the constituents.

Response by the Fund Account Manager

31. The Constituency underutilization was occasioned by the delayed disbursement of funds by the exchequer, and this affected the utilization of funds for the year. The various projects were later funded and implemented to completion.
32. The completion certificates for the projects were availed to the auditor for review.

Committee Observation

33. *The delay in releasing the exchequer by the National Treasury affected project implementation at the PMC level.*

Committee Recommendation

34. *The National Treasury should ensure timely and adequate disbursement of funds to the National Government Constituencies Development Fund Board for immediate release to the Constituencies.*

2.0 Budget Control

35. Vihiga CDF had an approved budget of Kshs. 141,358,181.40 for the financial year ended 30th June, 2015. However, the Fund spent Kshs. 94,389,385.10 resulting in under expenditure of Kshs. 46,968,796.30, approximately 33% of the total budget. The under expenditure in this 2015 was attributed to be unutilised but carried forward the previous year's budget of Kshs. 21,526,790.00. The Fund also overspent on seven expenditure items to the tune of Kshs. 17,416,722.25, having spent Kshs. 66,456,767.55 against a budget of Kshs. 49,043,045. The Fund did not operate within its approved budget estimates during the year ended 30th June, 2015.

Response by the Fund Account Manager

36. The under-expenditure of Kshs. 46,968,796.30 was due to the delayed funding from the exchequer; however, the various projects were funded and completed.
37. Kshs. 49,043,045 was part of the allocation for the financial year 2014/2015 of Ksh. 95,638,949.00. The over-expenditure as indicated, was an expenditure of the balances brought forward and disbursement of Kshs. 40,233,932 for 2013/2014; hence there was no over-expenditure on the seven expenditure items.

Committee Observations

38. *The Committee observed that:*

- (i) As per copies of AIEs, bank statements and project implementation report submitted by the Fund Account Manager, it was established that the under-absorption of Kshs.46,968,796.30 was due to the delayed funding from the exchequer.*
- (ii) Kshs. 49,043,045 was part of the allocation for the financial year 2014/2015 of Ksh.95, 638,949.00.*
- (iii) There was no over-expenditure on the seven expenditure items as indicated. This was an expenditure of the balances brought forward and a disbursement of Kshs.40,233,932 for 2013/2014.*
- (iv) The management submitted to the OAG the copies of AIEs, bank statements and project implementation report to support the utilization of funds held by the constituency as at 30 June 2015.*

Committee Recommendation

39. *The National Treasury should ensure timely and adequate disbursement of funds to the National Government Constituencies Development Fund Board for immediate release to the Constituencies.*

FINANCIAL YEAR 2015/2016

1.0 Presentation, Accuracy and Completeness of the Financial Statements.

40. According to International Public Sector Accounting Standards (cash basis), financial statement presentation format prescribed by the National Treasury requires the Management to include the action taken on the previous auditors' recommendations. In the year 2014/2015, Vihiga CDF had a qualified opinion. However, no report on the progress of the follow-up of the audit issues raised was included in the financial statements for the year under review.

Response by the Fund Account Manager

41. The Constituency omitted the report but complied with the reporting framework in the subsequent financial years.

Committee Observation

42. *The Committee observed that the Fund Account Manager acknowledged the omission of the report on the follow-up of audit issues raised in the previous year's auditor's recommendations and confirmed that they later complied with the reporting framework in the subsequent financial years.*

Committee Recommendations

43. *The Committee recommends that: -*
- (i) The NG-CDF Board should ensure that the Fund Account Managers:-*
 - a) keeps financial and other accounting records that are accurate, reliable, and complete.*
 - b) adhere to accounting standards prescribed by the Public Sector Accounting Standards Board (PSASB) as provided by Section 81(3) of the PFM Act, No. 18 of 2012 which provides that 'The Accounting Officer shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time'*
 - c) adhere to Regulation 100 of the PFM Act (National Government), 2015 which provides that 'Accounting Officers shall keep in all offices concerned with receiving cash or making payments a cash book showing the receipts and payments and shall maintain such other books and registers as may be necessary for the proper maintenance and production of the accounts of the Vote for which he or she is responsible'*
 - d) adhere to Regulation 101(4) of the PFM Act (National Government), 2015 which provides that 'An Accounting Officer shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed by the Public Sector Accounting Standards Board, not later than three months after the end of the financial year and submit them to*

the Auditor General with a copy to the County Treasury, the Controller of Budget and the National Treasury'

- (ii) *The NG-CDF Board engages the Public Sector Accounting Standards Board (PSASB) to conduct continuous capacity building on financial reporting standards for all NG-CDF Constituency staff.*

2.0 Lack of Contract Register

- 44. The Management did not maintain any contract register as a result it was difficult to determine how the whole process of contracting and payments were being undertaken during the year under review.

Response by the Fund Account Manager

- 45. Procurement and award of contracts are usually undertaken by the PMCs, and payments are made by the PMCs. All contract/ procurement records are kept at the PMC's offices.
- 46. They also keep records of PMC's payments as well as copies of tender documents.

Committee Observations

- 47. *The Committee made the following observations: -*

- (i) *This was a case where management failed to provide documents for audit within the statutory timelines since the contract/ procurement records were misplaced at the PMC's offices.*
- (ii) *This was a case of poor record-keeping at the PMC's offices.*
- (iii) *The Committee observed that the Office of the Auditor General verified that the Management was the custodian of the procurement records and contracts.*
- (iv) *The Management later provided copies of AIEs, bank statements, project code list and implementation status report to support the utilisation of rolled-over projects. These documents were verified by the OAG, thereby resolving the matter.*

Committee Recommendations

- 48. *The Committee recommends that: -*

- a) *The Accounting Officer should ensure that the Fund Account Manager maintains proper records of each project which include project returns, tender documents, payment and completion certificates, bill of quantities and project designs, contracts, membership of the Project Management Committees, project minutes and procurement documents and a duplicate file to be maintained by the Project Management Committee.*
- b) *The NG-CDF Board should conduct continuous capacity building in basic record keeping for officers in PMC offices.*

3.0 Budget Control and Performance

49. The Fund approved budget receipts were Kshs.150, 132,053 including Kshs. 50,906,380 being unutilised cash balance brought forward from 2014/2015. However, actual receipts amounted to Kshs. 98,025,772 as analysed below.

Receipt/Expense Item	Original Budget	Adjustments	Final Budget	Actual on Comparable Basis	Budget Utilisation Difference	% of Utilisation
	a	b	c=a+b	d	e=c-d	f=d/c %
Transfers from NG-CDF Board	99,225,473	50,906,580	150,132,053	98,001,772	52,130,281	65.3%
Proceeds from Sale of Assets	-	-	-	-	-	-
Other Receipts	-	24,000	24,000	24,000	-	100.00%
TOTAL RECEIPTS	99,225,473	50,930,580	150,156,053	98,025,772	52,130,281	65.3%
PAYMENTS						
Compensation of Employees	1,949,900	613,307	2,563,207	1,949,900	613,307	76.1%
Use of goods and services	9,624,392	4,061,754	13,686,146	9,624,392	4,061,754	70.3%
Transfers to Other Government Units	40,053,930	35,318,166	75,372,096	40,053,930	35,318,166	53.1%
Other grants and transfers	43,385,394	9,544,770	52,930,164	43,385,394	9,544,770	82.0%
Acquisition of Assets	261,000	405,657	666,657	261,000	405,657	39.2%
TOTAL	95,274,616	49,943,654	145,218,270	95,274,616	49,943,654	65.6%

50. Further, the Fund underspent on all the five (5) components/compensation of employees, use of good and services, transfer, and acquisition of assets by diverse percentages ranging from 39.2% to 76.1%. Consequently, the Fund did not operate within the approved budget, which might have negatively impacted the delivery of prompt services for the constituents.

Response by the Fund Account Manager

51. The Constituency's intention was to implement all projects/budgets within the financial year. This has however hampered by delays in disbursement of funds.

52. During the year under review, the Constituency received Kshs. 48,225,473 on 29th June, 2016 hence the huge closing balances as of 30th June, 2016, as it was impossible for the

amount to be spent during the financial year 2015/2016 due to the procurement processes involved.

53. The projects were later implemented to completion.

Committee Observations

54. The Committee observed that: -

- (i) *The late disbursement of funds by the exchequer affects the delivery of services for the constituents.*
- (ii) *The fundamental cause of pending ongoing projects being dominant as they wait for further funding to completion was the inadequate allocation of funds with the hope of completing the projects in subsequent financial years.*

Committee Recommendations

55. The Committee recommends that: -

- (i) *The Committee recommends that the National Treasury should ensure timely and adequate disbursement of funds to the National Government Constituencies Development Fund Board for immediate release to the Constituencies.*
- (ii) *The NG-CDF Board should immediately discourage the partial allocation of funds to projects and ensure that projects are completed at most within two financial years. Further, the NG-CDF Committee should ensure proper costing of projects is done through consultation with the relevant Government department to ensure realistic cost estimates.*
- (iii) *The NG-CDF Board should come up with a realistic policy framework of costing projects for each constituency by the end of the 1st quarter of Financial Year 2023/2024, which is informed by the cost of materials, cost of transportation, taxes, the topography of each constituency and reports from the relevant Government department.*

4.0 Project Implementation and Management

56. The CDF was to implement a total of 70 projects. However, it was noted that twenty-three (23) (32.86%) of the projects had not started, 40 (57.14%) were still ongoing, and seven (7) (10%) were completed.

57. The implementation status is detailed below:

Sector	Not started	Value	Ongoing	Value	Completed	Value
Administration	1	100,000	0	11,470,202	-	-

Education	18	12,300,000	32	54,362,619	7	5,500,000
Emergency	0	0	1	5,767,647	-	-
Environment	1	2,025,005	0	0	-	-
Roads	0		5	4,500,000	-	-
Security	3	2,400,000	1	800,000	-	-
Sports		-	1	2,025,005	-	-
TOTAL	23	16,825,005	40	78,925,473	7	5,500,000

58. Given the foregoing, the Fund did not deliver the expected services to the constituents and did not achieve its development objectives.

Response by the Fund Account Manager

59. The Constituency's intention is to implement all projects/budget within the financial year. This was, however, hampered by delays in the disbursement of funds from the Board.
60. During the year under review, the constituency received the first disbursement from the Board on 23rd November, 2015 of Kshs. 51,000,000 and the second disbursement of Kshs. 48,225,473 on 29th June, 2016. The first disbursement was spent mainly on bursaries and administration, thus affecting timely implementation of the rest of the projects since funds were not available until June 2016.

Committee Observations

61. *The Committee observed that: -*

- (i) *The late disbursement of funds by the exchequer affects service delivery to the constituents.*
- (ii) *The fundamental cause of pending ongoing projects being dominant as they wait for further funding for completion is the inadequate allocation of funds with the hope of completing the projects in subsequent financial years.*

Committee Recommendations

62. *The Committee recommends that: -*

- a) *The Committee recommends that the National Treasury should ensure timely and adequate funds disbursement to the National Government Constituencies Development Fund Board for immediate release to the Constituencies.*
- b) *The NG-CDF should immediately discourage partial allocation of funds to projects and ensure that projects are completed at most within two financial years. Further, the NG-CDF Committee should ensure proper costing of projects is done through consultation with the relevant Government department to ensure realistic cost estimates.*

- c) *The NG-CDF Board should come up with a realistic policy framework of costing projects for each constituency by the end of the 1st quarter of Financial Year 2023/2024, which is informed by the cost of materials, cost of transportation, taxes, the topography of each constituency and reports from the relevant Government department.*

**REPORTS ON THE AUDITED ACCOUNTS FOR SABATIA CONSTITUENCY
NG- CDF FOR THE FINANCIAL YEARS 2013/2014, 2014/2015 AND 2015/2016**

SABATIA CONSTITUENCY

63. The Fund Account Manager, Mr. Tom M. Gimonge, appeared before the Committee on 26th April 2023, to respond to the audit matters raised in the report of the Auditor General for Sabatia Constituency for the financial years 2013/2014, 2014/2015 and 2015/2016.

FINANCIAL YEAR 2013/2014

1.0 Accuracy and Completeness of the Financial Statements

64. The Fund did not comply with the Public Sector Accounting Standards Board and the template contained in gazette pronouncement issued by IPSAS Board. The statement of cash flow and statement of comparison between budget and actual amounts were not prepared and appended as an integral part of the financial statements.
65. As a result, the accuracy and completeness of the financial statements as at 30th June 2014 could not be confirmed.

Response by the Fund Account Manager

66. As part of their responsibility, Sabatia constituency office complied with International Public Sector Accounting Standards (cash basis) in the preparation and fair presentation of financial statements.
67. The summary statement of appropriation showing final budget and actuals was appended. However, they regretted the non-attachment of the cashflow statement which was an oversight at their end.

Committee Observation

68. *The Constituency office now complies with the International Public Sector Accounting Standards in preparing and presenting financial statements.*

Committee Recommendations

69. *The Committee recommends that:*

- (i) *The NG-CDF Board should ensure that the Fund Account Managers:*
- a) *keeps financial and accounting records that are accurate, reliable, and complete.*
 - b) *adhere to accounting standards prescribed by the Public Sector Accounting Standards Board (PSASB) as provided by Section 81(3) of the PFM Act, No. 18 of 2012, which provides that 'The Accounting Officer shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time.'*

- c) *adhere to Regulation 100 of the PFM Act (National Government), 2015, which provides that 'Accounting Officers shall keep in all offices concerned with receiving cash or making payments a cash book showing the receipts and payments and shall maintain such other books and registers as may be necessary for the proper maintenance and production of the accounts of the Vote for which he or she is responsible' and*
 - d) *adhere to Regulation 101(4) of the PFM Act (National Government), 2015, which provides that 'An Accounting Officer shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed by the Public Sector Accounting Standards Board, not later than three months after the end of the financial year and submit them to the Auditor General with a copy to the County Treasury, the Controller of Budget and the National Treasury.'*
- (ii) *The NG-CDF Board engages the Public Sector Accounting Standards Board (PSASB) to conduct continuous capacity building on financial reporting standards for all NG-CDF constituency staff.*

2.0 Going Concern

- 70. The High Court of Kenya, in its ruling on Petition 71 of 2013, held that the Constituencies Development Fund Act, 2013, establishing the Constituency Development Fund since the enactment of the constitution of Kenya 2010, was unconstitutional, rendering the existence of the Fund illegal. It is not clear whether the legislation providing for the Fund will be in place within the period given by the High Court of twelve months for the Fund to continue existing.
- 71. As a result, the going concern status of Sabatia Constituency Development Fund is doubtful.

Response by the Fund Account Manager

- 72. The Petition 71 of 2013 was addressed by the enactment of the new National Government Constituency Development Act, 2015, which addressed the uncertainty/ going concern.

Committee Observation

- 73. *The Committee observed that events overtook the issue as it was addressed through the passing of the NG-CDF Act, 2015 and its Regulations of 2016 which aligned the Fund functions to the National Government functions. The query was adequately addressed and resolved.*

3.0 Reallocation without Approval

- 74. During the year under review, the Fund budgeted Kshs. 3,564,466.00 for emergency projects. However, only Kshs. 525,000.00 was spent, leaving a balance of Kshs. 3,039,466.00, which was reallocated for the purchase of land for Vokoli High School without approval.

75. Consequently, the propriety of the expenditure could not be confirmed as at 30th June 2014.

Response by the Fund Account Manager

76. Section 12(3) of the CDF Act, 2013 defines "Emergency" as an urgent, unforeseen 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.
77. The balance of Kshs. 3,039,466.00 was allocated to Vokoli Girls High School by the committee to enable the school to purchase land for expansion. This was necessitated by the high transition rate and conversion of the neighbouring Bunyore girls' high school to a national school.

Committee Observations

78. *The Committee observed that: -*

- (i) Although the gesture was noble, the Fund Account Manager reallocated emergency funds without the approval of the NG-CDF Board; and*
- (ii) The money was used to purchase land for Vokoli High School, which did not qualify as an emergency project.*

Committee Recommendations

79. *The Committee recommends that the National Government Constituencies Development Fund Board ensures that the Fund Account Managers adhere to sections 6(2) and section 8 of the National Government Constituencies Development Fund Act, 2015 which provides that:*
- (i) Section 6(2) 'Once funds are allocated for a particular project, they shall remain allocated for that project and may only be re-allocated for any other purpose during the financial year with the approval of the Board.'; and*
 - (ii) Section 8 "(1) A portion of the Fund, equivalent to five per centum (hereinafter referred to as the "Emergency Reserve") shall remain unallocated and shall be available for emergencies that may occur within the Constituency."
"(2) The Constituency Committee shall determine the allocation of the emergency reserve in accordance with the Act."; and
(3) "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."*

FINANCIAL YEAR 2014/2015

1.0 Budget Control And Project Implementation

80. Sabatia CDF had an approved budget of Kshs. 95,776,968.00 for the year ended 30th June 2015. However, the Fund spent Kshs. 108,724,638.90 resulting in over expenditure of Kshs.12,947,670.90, approximately 14% of the total budget. The over-expenditure in the budget was due to under-expenditure in the previous year's budget by Kshs. 43,416,383. However, the cash in bank balance as at 30th June 2015 was Kshs. 30,668,711.50 resulting in a deficit of Kshs. 12,747,671.50. As a result, it had not been clear how the CDF committee intended to rectify the anomaly.

Response by the Fund Account Manager

81. The total payments of Kshs. 108,724,639.50, included payment of Kshs. 43,416,383 made from the cashbook balance brought forward from 2013/2014 and Kshs. 95,776,968 received in the year under review.
82. Kshs. 30,668,711.50 was the cashbook balance as at 30th June, 2015. Therefore, there was no over expenditure of Kshs. 12,947,670.90 as this was an approved expenditure from the previous financial year's allocation.

Committee Observation

83. The Committee observed that the over-expenditure was brought about by the financial year 2013/2014 balances transferred to 2014/2015. Further, the Committee was satisfied by the explanations and documentation availed to the OAG for audit review. The query was adequately addressed and resolved.

FINANCIAL YEAR 2015/2016

1.0 Accuracy, Completeness, and Presentation of the Financial Statements

84. The International Public Sector Accounting Standards (IPSAS) – cash basis financial statements presentation format prescribed by the Kenya Public Sector Accounting Standards Board requires the management to include the action taken on the previous year's auditor's recommendations.
85. In the year 2014/2015, Sabatia CDF had an adverse audit opinion. However, the report on the follow-up of the issues raised in the audit report was not included in the financial statements for the year under review as required. Therefore, the presentation of the financial statements did not conform to IPSAS (Cash basis) as prescribed by Kenya Public Sector Accounting Standards Board in accordance with the Public Finance Management Act, 2012.
86. In the circumstances, the completeness and presentation of the financial statements as at 30th June 2016, could not be confirmed.

Response by the Fund Account Manager

87. As at the time of preparation of the financial statements, Sabatia NG-CDF had not received the final certificate for the financial year 2014/2015 and hence did not prepare the report on follow-up of audit issues.
88. However, the report on follow-up of audit issues was later prepared and submitted to the auditor for review.

Committee Observation

89. *The Committee observed that the Fund Account Manager later prepared and submitted the report on follow-up of audit recommendations to the auditors for review. The query was satisfactorily addressed.*

Committee Recommendations

90. *The Committee recommends that:*

(i) The NG-CDF Board should ensure that the Fund Account Managers:-

- a) keeps financial and accounting records that are accurate, reliable, and complete.*
- b) adhere to accounting standards prescribed by the Public Sector Accounting Standards Board (PSASB) as provided by Section 81(3) of the PFM Act, No. 18 of 2012, which provides that 'The Accounting Officer shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time.'*
- c) adhere to Regulation 100 of the PFM Act (National Government), 2015, which provides that 'Accounting Officers shall keep in all offices concerned with*

receiving cash or making payments a cash book showing the receipts and payments and shall maintain such other books and registers as may be necessary for the proper maintenance and production of the accounts of the Vote for which he or she is responsible' and

- d) adhere to Regulation 101(4) of the PFM Act (National Government), 2015 which provides that 'An Accounting Officer shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed by the Public Sector Accounting Standards Board, not later than three months after the end of the financial year and submit them to the Auditor General with a copy to the County Treasury, the Controller of Budget and the National Treasury.'*

- (ii) The NG-CDF Board engages the Public Sector Accounting Standards Board (PSASB) to conduct continuous capacity building on financial reporting standards for all NG-CDF constituency staff.*

2.0 Irregular Re-Allocation of Funds

91. The CDF Management disbursed Kshs. 800,000/= to Evojo Secondary School for the purchase of two acres of land. However, the funds were transferred to Evojo Primary School for the construction of two toilets and two classrooms. Further, Kshs.1,500,000/= disbursed to Bugina Secondary School for installment payment of the purchase of a 52-seater school bus was spent on the construction of a dining hall.
92. No authority or approval by the Board was given for these reallocations as required by National Government Constituencies Development Fund Act, 2015.

Response by the Fund Account Manager

93. Evojo Secondary School had just started, and it was still under the management of Evojo primary school, which was managing the funds for both institutions. Kshs. 800,000 sent to Evojo Secondary School for the purchase of 2 acres was spent by the project management committee to construct two toilets and classrooms at Evojo Primary as the school had a dire need for the infrastructure (toilets and classrooms). The completion certificates for the project were availed to the auditor for verification.
94. Kshs. 1,500,000 which was an instalment payment for a 52-seater bus, was used to fund the dining hall as the school had a need due to the increase in the number of students and since the funds were not enough at the time to purchase the school bus.
95. However, the constituency has considered the need to follow due process in reallocating Fund for projects and has endeavored to always seek permission before reallocating funds for project activities.

Committee Observation

96. *The Committee observed that the Fund Account Manager provided a satisfactory explanation. The query was satisfactorily addressed.*

Committee Recommendations

97. *The Committee recommends that the National Government Constituencies Development Fund Board ensures that the Fund Account Managers comply with provisions of sections 6(2) and section 8 of the National Government Constituencies Development Fund Act, 2015 which provides that:*

- (i) Section 6(2) 'Once funds are allocated for a particular project, they shall remain allocated for that project and may only be re-allocated for any other purpose during the financial year with the approval of the Board' and*
- (ii) Section 8 "(1) A portion of the Fund, equivalent to five per centum (hereinafter referred to as the "Emergency Reserve") shall remain unallocated and shall be available for emergencies that may occur within the Constituency;
(2) "The Constituency Committee shall determine the allocation of the emergency reserve in accordance with the Act"; and
(3) "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."*

3.0 Irregular Purchase of Land

98. The Fund disbursed Kshs. 1,000,000 to St. Ursula Chamakanga Girls High School for the purchase of two (2) acres of land. However, the following unsatisfactorily matters were noted:
- (i) The seller was paid Kshs. 1,000,000 before entering into an agreement with the school.
 - (ii) Official search from Ministry of Land, the Government surveyor report and valuation report were not availed for audit review.
 - (iii) The title deed for the land was not provided.
99. In the circumstances, it was not clear how the seller was paid for the land in the absence of all the required documents.

Response by the Fund Account Manager

100. Kshs. 1,000,000 was used for the purchase of land at St. Ursula Chamakanga Girls' High School and due process was followed. The documents for the purchase of land were at the school during the time of audit and were submitted to the auditor for review.

Committee Observation

101. *The Committee observed that the Fund Account Manager provided a satisfactory explanation. The query was satisfactorily addressed.*

4.0 Unvouched Expenditure

102. The Fund made payments totalling Kshs. 7,150,687 with respect to committee allowances (administration), Monitoring and Evaluation (M&E) and office and general supplies and services. However, the payments were not supported with relevant documents, including payment vouchers.
103. Consequently, it was not possible to ascertain the propriety of the expenditure.

Response by the Fund Account Manager

104. The Constituency incurred an expenditure of Kshs 7,150,687 for committee expenses, monitoring and evaluation and office and general supplies. The payment vouchers supporting the expenditure were availed to the auditor for verification.

Committee Observation

105. *The Committee observed that this matter arose due to failure to submit relevant support documents during the audit period.*

Committee Recommendation

106. *The Committee recommends that the Accounting Officer ensures that all Fund Account Managers comply with the provisions of Sections 62 (1) (b) and (c) of the Public Audit Act, No.34 of 2015 which provides that –*

“(1) A person shall not— (b) without justification, fail to provide information required under this Act and (c) without justification, fail to provide information within reasonable time that is required under this Act”.

OTHER MATTERS

1.0 Budget Control and Performance

107. The fund budget receipts of Kshs. 80,668,712, including Kshs. 30,668,712 brought forward from 2014/15. However, the actual expenditure was Kshs. 76,869,309 resulting in an under expenditure of 3,799,403.
108. Consequently, the Fund did not operate within the approved budget.

Response by the Fund Account Manager

109. Kshs. 3,799,403 was the cashbook balance as at 30th June, 2015. The under absorption of funds was occasioned by the delayed disbursement of funds from the exchequer.

Committee Observation

The Committee observed that the AIEs for prior years proving delay in the disbursement of funds were availed and verified by the Office of the Auditor General.

Committee Recommendation

110. *The Committee recommends that the National Treasury should ensure timely and adequate disbursement of funds to the National Government Constituencies Development Fund Board for immediate release to the Constituencies.*

2.0 Project Analysis

111. The CDF management had approved a plan to implement 49 projects valued at 44,500,000. —however 40, projects valued at Kshs. 35,400,000 were not started, 6 projects valued at 6,700,000 were ongoing and only 3 projects valued at Kshs. 2,400,000 were completed. In view of the foregoing the Fund did not deliver the expected services to the constituency and therefore did not achieve its development objectives.

Response by the Fund Account Manager

112. The delayed implementation of projects was due to the late release of funds from the exchequer, thus affecting the service delivery at the constituency. However, the projects were completed in the subsequent financial year when funds were received.

Committee Observation

The Committee observed that: –

113. The query arose due to the late release of funds from the ex-chequer and also non-provision of adequate documents and explanation by the Fund Account Manager. However, the documents and explanations were provided and verified by the Office of the Auditor General. The query was adequately addressed and resolved.

Committee Recommendation

114. The Committee recommends that:-

- i. The National Treasury should ensure timely release of funds to enable implementation of projects approved by the NG-CDF Board.*
- ii. The Fund Account Managers comply with the provisions of Sections 62 (1) (b) and (c) of the Public Audit Act, No.34 of 2015 which provides that – “(1) A person shall not— (b) without justification, fail to provide information required under this Act and (c) without justification, fail to provide information within reasonable time that is required under this Act.”*

REPORTS ON THE AUDITED ACCOUNTS OF HAMISI CONSTITUENCY NG-CDF FOR THE FINANCIAL YEARS 2013/2014, 2014/2015 AND 2015/2016

HAMISI CONSTITUENCY

115. Mr. Silverius M. Wakoli, the former Fund Account Manager appeared before the Committee on 3rd May 2023 to respond to the audit matters raised in the report of the Auditor General for Hamisi Constituency for the financial years 2013/2014, 2014/2015 and 2015/2016.

FINANCIAL YEAR 2013/2014

1.0 Under Expenditure

116. Hamisi CDF had an approved budget of Kshs. 127,866,041.15 for the year ended 30th June, 2014. However, the Fund spent Kshs. 84,435,119.65 against a budget of Kshs. 127,866,041.15 resulting in an unexplained under-expenditure of Kshs. 43,430,922.50, approximately 34% of the total budget. The low budget absorption denied the constituents the required and planned service delivery.

Response by the Fund Account Manager

117. The under-expenditure resulted from the late disbursement of funds from the Board. The constituency received Kshs. 40,341,399.00 for the financial year 2013/2014 on 24th June, 2014, which was at the close of the financial year. AIE No. 750123 of Kshs. 40,341,399.00, CDF, Committee minutes approving the payments and completion certificates were submitted to the auditors for review. A balance of Kshs. 3,089,523.50 was the amount in the cashbook at the end of the financial year meant for the recurrent expenditure (Salaries, office running, members allowances)

Committee Observations

118. The Committee observed that: –
- (i) Under absorption of funds was occasioned by the late disbursement of funds by the Board. The funds were, however, disbursed days before the closure of the financial year.
 - (ii) AIE's, CDF committee minutes approving the payments and completion certificates were submitted to the Office of the Auditor General for verification.

Committee Recommendation

The Committee recommends that:-

119. The National Treasury shall ensure timely and adequate disbursement of funds to the National Government Constituencies Development Fund Board for immediate release to the Constituencies.

2.0 Going Concern

120. The High Court of Kenya, in its ruling on Petition 71 of 2013, held that the constituencies Development Fund Act, 2013, establishing the Constituency Development Fund since the enactment of the Constitution of Kenya 2010, was unconstitutional, rendering the existence of the Fund illegal.

Response by the Fund Account Manager

121. The ongoing concern of CDF was resolved by enactment of the NG-CDF Act, 2015 and its regulations, thus aligning its functions under the National Government.

Committee Observations

The Committee observed that:-

122. *The Committee observed that events overtook the issue as it was addressed through the passing of the NG-CDF Act, 2015 and its Regulations 2016 which aligned the fund functions to the National Government functions. The query was adequately addressed and resolved.*

FINANCIAL YEAR 2014/2015

1.0 Unsupported Purchase of Land

123. The Fund purchased land for the construction of Jeptulu Police Post and Givigoi dispensary at a cost of Kshs. 1,750,000.00 and Kshs. 740,000.00 respectively. However, the land ownership documents were not made available for audit review.
124. Consequently, the ownership of the two parcels of land could not be verified as at 30th June 2015.

Response by the Fund Account Manager

125. The ownership documents for Givigoi Dispensary and Jeptulu Police post were obtained, and copies of sampled valuation report, title deeds and sale agreement were submitted to the auditors.

Committee Observations

The Committee made the following observations:

- i. *This was an issue of documents not being produced during audit period.*
- ii. *The title deed, valuation report, and the sale agreement were later submitted and verified by the Office of the Auditor General.*

Committee Recommendation

The Committee recommends that the Accounting Officer should ensure that Fund Account Managers comply with the provisions of Sections 62 (1) (b) and (c) of the Public Audit Act, No.34 of 2015 which provides that – “(1) A person shall not— (b) without justification, fail to provide information required under this Act and (c) without justification, fail to provide information within reasonable time that is required under this Act.

2.0 Unimplemented Projects

126. During the year, the Fund planned to implement 121 projects. However, it failed to implement 43 projects valued at Kshs. 36,937,931.00 that were to be undertaken within the financial year though 36 projects were ongoing.
127. In the circumstances, it is not clear, and the fund management has not explained how the backlog of projects will be completed for the benefit of the Constituents.

Response by the Fund Account Manager

128. Although the projects had not begun, the funds had already been disbursed to the PMCs, and the implementation was under tendering process. The projects were later fully implemented within the financial year.

Committee Observation

The Committee observed that:

Following physical verification by the Office of the Auditor General, it was noted that the projects were completed and were in use. The query was adequately addressed and resolved.

3.0 Budgetary Control and Performance

129. Hamisi CDF had an approved budget of Kshs. 159,713,908.50 for the year ended 30th June 2015. However, the Fund spent Kshs. 116,019,719.45 resulting in an overall under-expenditure of Kshs. 43,694,189.05, approximately 27% of the total budget. The under-expenditure was due to the unutilized previous year's budget carried forward of Kshs. 43,428,303.35. The Fund, therefore, failed to meet its budget objectives and deliver the planned and provide service to the constituents.

Response by the Fund Account Manager

130. The under-expenditure resulted from the delay in disbursement of funds from the National Board. The final disbursement of Kshs. 40,699,045.00 for the FY 2014/2015 on AIE No. A796095 was disbursed to the Constituency on 29th June 2015, which was later utilized in the FY 2015/2016. A copy of the AIE No. A796095 of Kshs. 40,699,045.00, CDFC minutes approving payments and completion certificates were availed to the auditor.
131. The difference of Kshs. 2,995,144.05 was the amount in the cash book at the end of the financial year, which was for recurrent expenditure and was later utilized in the subsequent financial year.

Committee Observations

132. *The Committee observed that:-*

- (i) The query resulted from the late disbursement of funds by the NG-CDF Board.*
- (ii) It was established that the final disbursement of Kshs. 40,699,045.00 for the FY 2014/2015 on AIE No. A796095 was disbursed to the Constituency on 29th June 2015, which was later utilized in the FY 2015/2016; and*
- (iii) A copy of the AIE No. A796095 of Kshs. 40,699,045.00, CDFC minutes approving payments and completion certificates were submitted to the auditor for review.*

Committee Recommendation

133. *The Committee recommends that the NG-CDF Board shall ensure timely disbursement of funds to the Constituencies.*

FINANCIAL YEAR 2015/2016

1.0 Presentation and Completeness of Financial Statements

134. The Public Sector Accounting Standards Board of the National Treasury requires the management to include the action taken on the previous year's auditor's recommendations. In the year 2014/2015, Hamisi CDF had a qualified opinion. However, there was no report in the financial statements for the year under review.
135. In the circumstances, the presentation of the financial statements was not in conformity with the International Public Sector Accounting Standards Board (cash basis) as prescribed by the Board.

Response by the Fund Account Manager

136. During the preparation of the financial statement the Constituency had not received the report on Audit issues raised by the auditor thus could not include the issues in the financial statement.
137. However, the report on issues raised by auditor were later prepared and availed for review.

Committee Observations

138. *The Committee observed that:*
- (i) The Fund Account Manager admitted the omission of the report on follow-up of audit issues raised in the previous year.*
 - (ii) The Fund Account Manager later prepared the report and availed to the auditor for review.*

Committee Recommendations

139. *The Committee recommends that:*
- (i) The NG-CDF Board should ensure that the Fund Account Managers: -*
 - a) Keep financial and other accounting records that are accurate, reliable, and complete.*
 - b) Adhere to accounting standards prescribed by the Public Sector Accounting Standards Board (PSASB) as provided by Section 81(3) of the PFM Act, No. 18 of 2012, which provides that 'The Accounting Officer shall prepare the financial statements in a form that complies with the relevant Accounting Standards prescribed and published by the Accounting Standards Board from time to time.'*

- c) *Adhere to Regulation 100 of the PFM Act (National Government), 2015 which provides that 'Accounting Officers shall keep in all offices concerned with receiving cash or making payments a cash book showing the receipts and payments and shall maintain such other books and registers as may be necessary for the proper maintenance and production of the accounts of the Vote for which he or she is responsible' and*
- d) *Adhere to Regulation 101(4) of the PFM Act (National Government), 2015 which provides that 'An Accounting Officer shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed by the Public Sector Accounting Standards Board, not later than three months after the end of the financial year and submit them to the Auditor General with a copy to the County Treasury, the Controller of Budget and the National Treasury.'*
- (ii) *The NG-CDF Board should engage the Public Sector Accounting Standards Board (PSASB) to conduct continuous capacity building on financial reporting standards for all NG-CDF constituency staff.*

2.0 Budgetary Control and Performance

- 140. The Fund budget receipts was Kshs. 166,993,149 including Kshs. 43,694,189 brought forward from 2014/2015. However, actual receipts amounted Kshs. 116,466,352. Further, the Fund underspent on all five components – compensation of employees, use of goods and services, transfer to other government units, other grants and transfers and did not procure any additional assets during the year.
- 141. Consequently, the Fund did not operate within the approved budget, which might have negatively impacted service delivery to the constituents.

Response by the Fund Account Manager

- 142. The under-expenditure resulted from the late disbursement of funds from the exchequer. The final disbursement was received on 27th June 2016 on AIE No. A825724 of Kshs. 61,298,960.00, which was at the close of the financial year. The funds were later fully utilized per the approved financial year 2016/2017 budget.

Committee Observations

- 143. *The Committee observed that: -*
 - (i) *The under absorption of the funds was due to late disbursement of funds by the exchequer.*
 - (ii) *The projects were implemented in the subsequent financial year as budgeted.*
 - (iii) *The explanation by the Fund Account Manager was satisfactory; and*

(iv) *The Fund Account Manager submitted a copy of AIE No. 825724 of Kshs. 61,298,960.00 dated 27th June 2016, minutes approving payments and the completion certificates.*

Committee Recommendation

152. *The Committee recommends that the National Treasury should ensure timely disbursement of funds to the National Government Constituencies Development Fund Board for immediate release to the constituencies.*

3.0 Project Implementation Status

153. The management had approved a plan to implement a total of 296 projects. However, only 219 projects valued at Kshs. 142,465,702 were completed, and 77 projects valued at Kshs. 107,055,329 were ongoing.
154. In view of the foregoing, the Fund did not deliver the expected services to the constituents and therefore did not achieve its development objectives.

Response by the Fund Account Manager

155. The 77 ongoing Projects were later completed within the financial year.

Committee Observation

The Committee observed that:-

Following physical verification by the Office of the Auditor General, it was noted that the projects were completed and were in use. The project implementation status (PIS) report highlighting the 77 ongoing projects was availed to the Auditors for review and verification. The query was adequately addressed and resolved.

**REPORTS ON THE AUDITED ACCOUNTS OF EMUHAYA CONSTITUENCY
NG- CDF FOR THE FINANCIAL YEARS 2013/2014, 2014/2015 AND 2015/2016**

EMUHAYA CONSTITUENCY

156. The Fund Account Manager, Mr. Paul Charles Mogendi, appeared before the Committee on 3rd May 2023, to respond to the audit matters raised in the report of the Auditor General for Emuhaya Constituency for the financial years 2013/2014, 2014/2015 and 2015/2016.

FINANCIAL YEAR 2013/2014

1.0 Accuracy and Completeness of the Financial Statements

157. The general ledgers from which the financial statements were to be prepared were not maintained. In addition, the cash, and cash equivalent balance of Kshs. 7,627,541.25 was not supported by note 12 and 14, which accumulatively show kshs.8,568,700.05. The resulting difference of kshs.947,257.80 was not explained.
158. Consequently, the accuracy and completeness of the financial statements for the year ended 30/06/2014 could not be confirmed as at 30th June, 2014.

Response by the Fund Account Manager

159. The Constituency maintains an annual expenditure return which serves as a ledger and the basis from which the financial statements are prepared. However, the constituency had maintained schedules extracted from the annual expenditure return, which were availed to the auditor for review.
160. Ksh. 7,621,541.25 was the cash and cash equivalent as at the end of the financial year which comprises of the cashbook closing balance of Ksh. 6,974,283.45 and the outstanding imprest of Ksh. 647,257.80. There was an error in note 12 to the financial statement, which reflected the cash and cash equivalent instead of the cashbook closing balance. The notes to the financial statements were amended to reflect the correct position.

Committee Observation

161. *The Committee observed that the Fund Account manager submitted to the Office of the Auditor General the amended financial statements. The query was adequately addressed and resolved.*

Committee Recommendations

162. *The Committee recommends that:*
(i) *The NG-CDF Board should ensure that the Fund Account Managers;*

- a) *Keep financial and other accounting records that are accurate, reliable, and complete.*
 - b) *Adhere to accounting standards prescribed by the Public Sector Accounting Standards Board (PSASB) as provided by Section 81(3) of the PFM Act, No. 18 of 2012, which provides that 'The Accounting Officer shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time.'*
 - c) *Adhere to Regulation 100 of the PFM Act (National Government), 2015, which provides that 'Accounting Officers shall keep in all offices concerned with receiving cash or making payments a cash book showing the receipts and payments and shall maintain such other books and registers as may be necessary for the proper maintenance and production of the accounts of the Vote for which he or she is responsible' and*
 - d) *Adhere to Regulation 101(4) of the PFM Act (National Government), 2015, which provides that 'An Accounting Officer shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed by the Public Sector Accounting Standards Board, not later than three months after the end of the financial year and submit them to the Auditor General with a copy to the County Treasury, the Controller of Budget and the National Treasury.'*
- (ii) *The NG-CDF Board should engage the Public Sector Accounting Standards Board (PSASB) to conduct continuous capacity building on financial reporting standards for all NG-CDF constituency staff.*

2.0 Acquisition of Fixed Assets

- 163. Note 18.1 of the financial statement under the fixed asset register did not include motor vehicle and other transport equipment procured during the year 2013/2014 amounting to kshs.3,640,520.00.
- 164. Further, included in the fixed asset register was the land for Emuhaya DC'S office, Ebusangwe High School, magistrate's court, whose ownership documents were not provided.
- 165. As a result, the accuracy and ownership of the fixed assets could not be wholly confirmed as at 30/06/2014.

Response by the Fund Account Manager

166. The Fixed Asset Register was updated to reflect the correct position by including the motor vehicle in the asset register. As at the time of audit, the title deeds for Emuhaya DC'S office (land purchased was meant for the construction of District Commissioner's residential house), Eburnangwe High School and the Magistrate's Court (land acquired for purposes of constructing a magistrate's court in Emuhaya) were not ready. However, the title deeds were acquired and availed to the auditors for review.

Committee Observations

167. *The Committee made the following observations:*
- i. *This was an issue of documents not being produced during audit period.*
 - ii. *The title deeds were later acquired and availed to the auditors for review.*

Committee Recommendation

168. *The Committee recommends that the Accounting Officer should:*
- Comply with the provisions of Sections 62 (1) (b) and (c) of the Public Audit Act, No.34 of 2015 which provides that – "(1) A person shall not— (b) without justification, fail to provide information required under this Act and (c) without justification, fail to provide information within reasonable time that is required under this Act.*

3.0 Procurement of a Motor Vehicle and Office Chairs

169. During the year under review, the Fund procured a motor vehicle and office chairs valued at the cost of kshs.3,640,520.00 and kshs.360,000.00 respectively. However, procurement documents were not made available for audit review. Consequently, it was not possible to confirm whether the items were procured competitively and in accordance with Public Procurement and Disposal Act, 2005 and Regulation, 2006.

Response by the Fund Account Manager

170. The Public Procurement and Disposal Act 2005 and Regulations 2006 were adhered to while procuring the office vehicle (GKB 466F) and office chairs. The procurement documents were later submitted to the auditor for review.

Committee Observation

171. *The Committee observed that the query arose because documents were not submitted during the audit period. The procurement documents were, however, later submitted to the auditor for review.*

Committee Recommendation

172. *The Accounting Officer should ensure that the Fund Account Managers comply with the provisions of Section 45 of the Public Procurement and Disposal Act 2005 and Sections 62 (1) (b) and (c) of the Public Audit Act, No.34 of 2015 which provides that:-*

- i. *Section 45 of the Public Procurement and Disposal Act 2005 - (1) A procuring entity shall keep records for each procurement for at least six years after the resulting contract was entered into or, if no contract resulted, after the procurement proceedings were terminated. (2) The records for a procurement must include — (a) a brief description of the goods, works or services being procured.'*
- ii. *Sections 62 (1) (b) and (c) of the Public Audit Act, No.34 of 2015 - "(1) A person shall not— (b) without justification, fail to provide information required under this Act and (c) without justification, fail to provide information within reasonable time that is required under this Act.*

4.0 Unsupported Capital Projects

173. Project records and supporting documents in respect of construction works at Esirulo dispensary valued at kshs.500, 000.00 and Emuhaya District Hospital amounting to kshs.1,021,570.00 were not provided for audit scrutiny.
174. As a result, it was not been possible to ascertain whether the expenditure of kshs.1, 521,570.00 was spent for the intended purpose and was properly accounted for as at 30 June, 2014.

Response by the Fund Account Manager

175. At the time of audit, Esirulo Dispensary had not submitted its project expenditure returns and Emuhaya district hospital documents could not be located at the Sub-County Offices. However, they later submitted to the auditor for review.

Committee Observation

176. *The Committee observed that at the time of audit, expenditure returns from Esirulo dispensary and documents for Emuhaya district hospital were not submitted to the Office of the Auditor General for review. However, the documents were later submitted.*

Committee Observations

177. *The Committee made the following observations:-*
 - i. *This was a case where management failed to provide documents for audit within the statutory timelines. However, the necessary documents were later availed and verified by the Office of the Auditor General, thereby resolving the matter.*
 - ii. *This was a case of poor record keeping.*

Committee Recommendations

178. *The Committee recommends that:-*
 - (i) *The Accounting Officer ensures that all Fund Account Managers comply with the provisions of Sections 62 (1) (b) and (c) of the Public Audit Act, No.34 of 2015 which provides that – "(1) A person shall not— (b) without justification, fail to provide*

information required under this Act and (c) without justification, fail to provide information within reasonable time that is required under this Act and Section 68(2)(k) of the Public Finance Management Act, No. 18 of 2012 which provides that "(2) In the performance of a function under subsection (1), an accounting officer shall—(k) prepare annual financial statements for each financial year within three months after the end of the financial year, and submit them to the Controller of Budget and the Auditor-General for audit, and in the case of a national government entity, forward a copy to the National Treasury" on the timely submission of documents.

- (ii) The Committee recommends that the Accounting Officer ensures that the Fund Account Managers maintain proper records of each project, which include project returns, tender documents, payment and completion certificates, bill of quantities and project designs, contracts, membership of the Project Management Committees, project minutes and procurement documents and a duplicate file to be maintained by the Project Management Committee.*

OTHER MATTERS

1.0 Going Concern Status

179. The High Court of Kenya, in its ruling on petition 71 of 2013 held that the Constituencies Development Fund Act, 2013, establishing the Constituencies Development Fund was unconstitutional, rendering the existence of the Fund illegal. As a result, the going concern status of the Emuhaya Constituency Development Fund was doubtful.

Response by the Fund Account Manager

180. The Fund operated under the Constituencies Development Fund Act 2013 until the enactment of the National Government Constituencies Development Fund Act 2015, which aligned the functions of the NG-CDF to the National Government functions.

Committee Observation

181. *The Committee observed that the issue was overtaken by events as it was addressed through the passing of the NG-CDF Act, 2015 and its Regulations 2016, which aligned the fund functions to the National Government functions. The query was adequately addressed and resolved.*

2.0 Under Expenditure

182. Emuhaya CDF had an approved budget of Kshs. 77,937,337.10 for the year ended 30 June 2014. However, the Fund spent kshs.70,315,795.85 against the approved budget of 77,937,337.10, resulting in unexplained under-expenditure of Kshs.7,621,541.25, approximately 10% of the total budget. The low budget absorption denied the constituency much-needed service delivery.

Response by the Fund Account Manager

183. The under-expenditure was occasioned by the late release of funds by the exchequer. However, the projects were later funded in the subsequent financial year and completed. A copy of the bank statement, AIEs and completion certificates were provided to the auditor for review.

Committee observation

184. *Following physical verification by the Office of the Auditor General, it was established that:*
- i. the under expenditure was occasioned by the late disbursement of funds by the National Treasury.*
 - ii. the projects were implemented in the subsequent year, and they are in use.*
 - iii. copy of the bank statement, AIEs and completion certificates were provided to the auditors for review and verification.*

Committee Recommendation

185. *The Committee recommends the National Treasury should ensure timely and adequate disbursement of funds to the National Government Constituencies Development Fund Board for immediate release to the Constituencies.*

3.0 Unapproved Reallocation of Funds

186. During the year, the Fund reallocated funds totalling to Kshs 3,519,801.00 from emergency projects to hire a dozer, bursary, and printing newsletter without approval by CDF Board as required. In the circumstance, the Fund denied the constituents the planned and promised service delivery worth Kshs. 3,519,801.00 as at 30/06/2014.

Response by Fund Account Manager

187. Out of Ksh.3,519,801.00, Ksh.570,000.00 was used to print newsletters and Ksh.410,154.00 was used to complete an ongoing road project. These were the only funds used under the emergency vote head. The balance of Ksh. 1,227,356 was used to pay bursaries through bursary vote, which was wrongly classified as paid through the emergency vote. Ksh.912,291 was paid through the roads allocation for the year, but the project was not completed, leading to an additional Ksh. 410,154.00 for completion.
188. The payment vouchers and supporting schedules were availed to the auditor for review.

Committee Observations

The Committee observed that:-

- (i) The Fund Account Manager spent ksh.570,000.00 to print newsletters and Ksh.410,154.00 to complete a road project without seeking approval from the Board.*
- (ii) The Fund Account Manager claimed that a balance of Ksh. 1,227,356 was used to pay bursaries through the bursary vote and was wrongly classified as paid through the emergency vote.*
- (iii) Further verification by the Office of the Auditor General of the documents provided indicated that only Kshs. 1,380,154 was reallocated without approval from the NGCDF Board (the balance of Kshs.2,139,647 was supported).*

Committee Recommendations

189. *The Committee Recommends that the National Government Constituencies Development Fund Board should ensure that the Fund Account Managers comply with provisions of section 6(2) and section 8 of the National Government Constituencies Development Fund Act, 2015 which provides that:-*
- a) Section 6(2) "Once funds are allocated for a particular project, they shall remain allocated for that project and may only be re-allocated for any other purpose during the financial year with the approval of the Board." and;*

- b) *Section 8 "(1) A portion of the Fund, equivalent to five per centum (hereinafter referred to as the "Emergency Reserve") shall remain unallocated and shall be available for emergencies that may occur within the Constituency; (2) The Constituency Committee shall determine the allocation of the emergency reserve in accordance with the Act ;and (3) "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"*

FINANCIAL YEAR 2014/2015

1.0 Accuracy, Completeness, and Presentation of the Financial Statements

190. According to the international Public Sector Accounting Standards (cash Basis) financial statements presentation format prescribed by the National Treasury management is required to include the action taken on the previous years' auditors' recommendations. In the year 2013/2014, Emuhaya CDF had a qualified opinion report. However, no report on the progress on follow-up of audit issues raised was included in the financial statements for the year under review. The presentation of the financial statements was not in conformity with the IPSAS (Cash Basis) as prescribed by the National Treasury and in accordance with the public Finance Management Act, 2012.
191. In view of the foregoing, the accuracy, completeness, and presentation of the financial statements for the year ended 30 June 2015 could not be confirmed.

Response by the Fund Account Manager

192. As at the time of preparation of the financial statements, the constituency had not received the final certificate for the financial year 2013/2014 and hence did not include the report on progress on follow-up of audit recommendations. However, the report on follow-up of audit recommendations was later prepared and availed to the auditors for review.

Committee Observation

193. *The Committee observed that the Fund Account Manager later submitted the report on follow-up of audit recommendations to the auditors for review. The query was satisfactorily addressed.*

Committee Recommendations

194. *The Committee recommends that:*
- (i) The NG-CDF Board should ensure that the Fund Account Managers:*
 - a) keep financial and other accounting records that are accurate, reliable, and complete.*
 - b) Adhere to accounting standards prescribed by the Public Sector Accounting Standards Board (PSASB) as provided by Section 81(3) of the PFM Act, No. 18 of 2012 which provides that 'The Accounting Officer shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time.'*
 - c) Adhere to Regulation 100 of the PFM Act (National Government), 2015 which provides that 'Accounting Officers shall keep in all offices concerned with receiving cash or making payments a cash book showing the receipts and payments and shall maintain such other books and registers as may*

be necessary for the proper maintenance and production of the accounts of the Vote for which he or she is responsible' and

d) Adhere to Regulation 101(4) of the PFM Act (National Government), 2015 which provides that 'An Accounting Officer shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed by the Public Sector Accounting Standards Board, not later than three months after the end of the financial year and submit them to the Auditor General with a copy to the County Treasury, the Controller of Budget and the National Treasury'

(ii) The NG-CDF Board should engage the Public Sector Accounting Standards Board (PSASB) to conduct continuous capacity building on financial reporting standards for all NG-CDF constituency staff.

2.0 Budgetary Control and Performance

195. The Fund approved budget was Kshs.155, 153,113.00 but spent Kshs.106, 425,246.00 resulting in under expenditure of Kshs.48, 727,867.00 or budget utilization of 69% as shown below.

Items	Current year approved budget	Current year actual figures	variance	% utilization of
Compensation of employees	2,343,208	1,962,770	(380,438)	84%
Use of goods and services	2,869,440	2,869,440	-	100%
Committee expenses	2,662,110	2,662,110	-	100%
Transfers to other government units	66,821,807	43,865,269	(22,956,538)	66%
Other grants and transfers	72,947,300	50,055,405	(22,891,895)	69%
Social Security benefits	43,200	19,600	(23,600)	45%
Acquisition of assets	1,780,800	1,780,00	-	100%

Other payments	5,685,248	3,209,852	(2,475,396)	69%
Total payments	155,153,113	106,425,246	(48,727,867)	69%

196. Further, the Fund received Kshs.77,685,098.00 in the year against the total allocation of Kshs. 103,580,130.00, resulting in an undisbursed budget allocation of Kshs.25,895,033.00. Consequently, the budget targets were not met, and various projects budgeted for were not implemented within the financial year, impacting negatively on service delivery.

Response from the Fund Account Manager

197. Out of a total allocation of Kshs.103, 580,130.00 only Kshs.77, 685,097.50 was received. Therefore, by end of the F/Y, Emuhaya CDF had not received Kshs.25, 896,032.50. Thus, the NGCDFC could not utilize or absorb all the funds within the financial year as planned due to the late disbursement of funds from the exchequer.
198. The various projects were undertaken in the subsequent financial year after the receipt of the funds. AIE's & Bank Statements were submitted to the auditors for review.

Committee observations

199. *Following physical verification by the Office of the Auditor General, it was established that:*
- i. the under expenditure was occasioned by the late disbursement of funds by the National Treasury.*
 - ii. the projects were implemented in the subsequent year, and they are in use.*
 - iii. evidence of physical existence and photos of the projects were availed to the auditors for review and verification.*
 - iv. copy of the bank statement, AIEs and completion certificates were provided to the auditors for review and verification.*

Committee Recommendation

200. *The Committee recommends that the National Treasury should ensure timely and adequate disbursement of funds to the National Government Constituencies Development Fund Board for immediate release to the Constituencies.*

3.0 Unimplemented Projects

201. During the year, the Fund budgeted to implement one hundred and eighteen (118) projects worth Kshs.103, 580,130.00. However, the Fund had not commenced the implementation of various projects amounting to kshs.22, 832,834.00 that were to be done within the financial year as shown below.

Sector	Total project cost	Actual/implemented projects			total	% of completed projects
		Not started	ongoing	completed		
Primary schools	9,950,000	10	-	19	29	66%
Secondary projects	35,227,392	-	4	40	44	91%
Tertiary	18,000,000	1	1	1	3	33%
Environment	500,000	1	-	1	2	50%
Cdf office	17,486,447	2	-	11	13	85%
security	8,600,000	3	3	1	7	14%
Sports	1,963,597	-	-	1	1	100%
Health	1,850,000	1	2	2	5	40%
Roads	10,002,694	-	-	14	14	100%
Total	103,580,130	18	10	90	118	76%

Response by Fund Account Manager

202. The Constituency did not receive all funds for the financial year 2014/2015 and hence did not implement all the projects. However, the projects were implemented in the subsequent financial year to completion. The completion certificates for the projects were availed to the auditors for review.

Committee Observation

203. *Following physical verification by the Office of the Auditor General, it was established that:*
- Fund didn't commence the implementation of various projects because of the late disbursement of funds by the National Treasury.*
 - the projects were however later implemented to completion in the subsequent year, and they are in use.*
 - evidence of physical existence and photos of the projects were availed to the auditors for review and verification.*

- iv. *copy of the bank statement, AIEs and completion certificates were provided to the auditors for review and verification.*

Committee Recommendation

204. *The Committee recommends that the National Treasury should ensure timely disbursement of funds to the National Government Constituencies Development Fund Board for immediate release to the constituencies.*

4.0 Renovation of Classrooms in Kilingili Secondary School

205. A total of Kshs.837, 931.00 was disbursed to Kilingili Secondary School for the renovation of classrooms. However, physical verification conducted on 3rd March 2016 revealed that the renovation of classrooms was poorly done in that the re-painted walls and the floor which was re-done had already peeled off, and the grill doors re-placed appeared weak and of poor quality since some had already broken. As a result, the Fund did not get value for money spent on the renovation of classrooms.

Response by Fund Account Manager

206. At the time of audit, there were defects in the renovated classrooms, as had been observed by the auditor. The works officer had issued a notice to the contractor to correct the defects. However, the defects had not been corrected by the time of the audit. The defects were later corrected, and the works officer certified the works by issuing the completion certificate on 10/01/2017. It was availed to the auditor for verification.

Committee observations

207. *Following physical verification by the Office of the Auditor General, it was established that:*
- i. *the defects were corrected.*
 - ii. *evidence of physical existence and photos of the project were availed to the auditors for review and verification.*
 - iii. *the Public Works officer certified the works and issued the completion certificate that was submitted to the auditors for review and verification.*

FINANCIAL YEAR 2015/2016

1.0 Accuracy, Completeness, and Presentation of the Financial Statements.

208. The National Treasury Public Sector Accounting Standards Board prescribes that management should include the action taken on the previous year's auditors' recommendations. In the year 2014/2015, Emuhaya CDF had an adverse Audit opinion. However, the report on the follow-up of the issues raised in the audit report has not been included in the financial statements for the year under review as required.
209. In the circumstances, the management was in breach of National Treasury regulations.

Response by the Fund Account Manager

210. They had not received the Audit certificate at the time when they were preparing the financial statements. However, the report on the follow-up of audit issues was later prepared and presented to the auditor for verification.

Committee Observation

211. *The Committee observed that the Fund Account Manager later submitted the report on follow-up of audit issues for verification to the Office of the Auditor General. The query was satisfactorily addressed.*

Committee Recommendation

212. *The Committee recommends that:*
- (i) The NG-CDF Board should ensure that the Fund Account Managers:*
 - a) Keeps financial and other accounting records that are accurate, reliable, and complete.*
 - b) Adhere to accounting standards prescribed by the Public Sector Accounting Standards Board (PSASB) as provided by Section 81(3) of the PFM Act, No. 18 of 2012 which provides that 'The Accounting Officer shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time'*
 - c) Adhere to Regulation 100 of the PFM Act (National Government), 2015 which provides that 'Accounting Officers shall keep in all offices concerned with receiving cash or making payments a cash book showing the receipts and payments and shall maintain such other books and registers as may be necessary for the proper maintenance and production of the accounts of the Vote for which he or she is responsible' and*

- d) *Adhere to Regulation 101(4) of the PFM Act (National Government), 2015 which provides that 'An Accounting Officer shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed by the Public Sector Accounting Standards Board, not later than three months after the end of the financial year and submit them to the Auditor General with a copy to the County Treasury, the Controller of Budget and the National Treasury'*
- (ii) *The NG-CDF Board should engage the Public Sector Accounting Standards Board (PSASB) to conduct continuous capacity building on financial reporting standards for all NG-CDF constituency staff.*

2.0 Variance between Financial Statement Figures and Supporting Schedules

213. The balances reflected in the statement of financial performance under use of goods and services and compensation to employees of Kshs.10,119,288.00 and Kshs.2,723,264.00, respectively, differ from amounts indicated in the supporting schedules/payment vouchers as shown below.

	Financial statement figures (Kshs)	Supporting documents/schedules (Kshs)	Variance (Kshs)
Use of goods	10,119,288.00	10,223,518.00	204,230.00
Compensation of employees	2,223,264.00	1,650,041.00	573,223.00

214. In view of the foregoing, the accuracy and validity of financial statements for the year ended 30 June could not be ascertained.

Response by the Fund Account Manager

215. The amount expensed under the use of goods and services and compensation to employees are Kshs 10,119,287.94 and Kshs 2, 223,264.00 respectively, as is in the financial statements. The payment schedules & vouchers supporting the values for the use of goods and for compensation of employees were availed to the auditors for review.

Committee Observations

216. *The Committee observed that -*
- (i) *The query arose because the Fund Account Manager did not provide payment schedules and vouchers supporting the expenditures on the use of goods and services and for compensation of employees at the time of the audit.*

- (ii) *The documentations were later submitted to the auditor for audit review and verification.*

Committee Recommendation

217. *The Accounting Officer ensures that all Fund Account Manager comply with the provisions of Sections 62 (1) (b) and (c) of the Public Audit Act, No.34 of 2015, which provides that – “(1) A person shall not—
(b) without justification, fail to provide information required under this Act and
(c) without justification, fail to provide information within reasonable time that is required under this Act”.*

3.0 Cash and Cash Equivalents

218. Included in the cash and cash equivalents balance of Kshs.58, 253,703.00 are stale cheques totaling to Kshs.2, 119,763.00, which had not been reversed in the cash book as at 30 June 2016.
219. In the circumstances, it was not possible to confirm that the cash and cash equivalents balance of Kshs.58, 253,703 was fairly stated.

Response by the Fund Account Manager

220. The stale cheques of Ksh. 2,119,763.00 were reversed in the cashbook and reissued to other beneficiaries. The cash-book extract were availed to the auditors for review.

Committee Observation

221. *The Committee observed that the stale cheques Ksh. 2,119,763.00 were reversed in the cashbook and reissued to other beneficiaries. An extract of the cashbook was availed to the auditors for review.*

Committee Recommendations

222. *The Committee recommends that –*

- (i) *The NG-CDF Board should ensure that the Fund Account Manager:*
- a) *Keeps financial and other accounting records that are accurate, reliable, and complete.*
- b) *Adhere to accounting standards prescribed by the Public Sector Accounting Standards Board (PSASB) as provided by Section 81(3) of the PFM Act, No. 18 of 2012 which provides that ‘The Accounting Officer Shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time’*

- c) *Adhere to Regulation 100 of the PFM Act (National Government), 2015 which provides that 'Accounting Officers shall keep in all offices concerned with receiving cash or making payments a cash book showing the receipts and payments and shall maintain such other books and registers as may be necessary for the proper maintenance and production of the accounts of the Vote for which he or she is responsible' and*
- d) *Adhere to Regulation 101(4) of the PFM Act (National Government), 2015 which provides that 'An Accounting Officer shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed by the Public Sector Accounting Standards Board, not later than three months after the end of the financial year and submit them to the Auditor General with a copy to the County Treasury, the Controller of Budget and the National Treasury'*
- (ii) *The NG-CDF Board should engage the Public Sector Accounting Standards Board (PSASB) to conduct continuous capacity building on financial reporting standards for all NG-CDF constituency staff.*

4.0 Unsupported Expenditure

- 223. The management made payments totalling Kshs.11, 683,085.00 with respect to items under use of goods and services, other grants and transfers to other government entities, which however, were not supported with relevant documents.
- 224. Consequently, it was not possible to ascertain the propriety of the expenditure totalling Kshs.11, 683,085.00 which is over and above Kshs. 10,119,288.00 is reflected in the financial statements.

Response by the Fund Account Manager

- 225. The payment vouchers and supporting schedules have since been availed to the auditor for verification. Copies were provided for review.

Committee Observation

- 226. *The Committee observed that the Fund Account Manager provided payment vouchers, supporting schedules, evidence of physical existence/photos to the Office of the Auditor General for verification. The query was adequately addressed and resolved.*

Committee Recommendation

- 227. *The Accounting Officer ensures that the Fund Account Manager comply with the provisions of Sections 62 (1) (b) and (c) of the Public Audit Act, 2015, which states that 'A person shall not —*
(b) without justification, fail to provide information required under this Act and
(c) without justification, fail to provide information within reasonable time that is required under this Act'.

5.0 Irregular Procurement

228. The Fund paid Kshs.4,002,000.00 to a local company in respect of supply of computers and accessories. However, it was noted that the payments were not supported by quotations from interested bidders, and also, the office did not maintain store records such as S11 and S3 cards.
229. Consequently, the propriety of this expenditure could not be ascertained and management breached the provisions of the Public Procurement and Disposal Act, 2005.

Response by the Fund Account Manager

230. The quotations, S11 and S3 cards were provided to the auditors for verification.

Committee Observation

231. *The Committee observed that the Fund Account Manager submitted quotations, S11 and S3 cards to the Office of the Auditor General for verification. The query was adequately addressed and resolved.*

Committee Recommendations

232. *The Committee recommended that: –*
- (i) The Fund Account Manager ensures compliance with*
 - (ii) provisions of Public Procurement and Asset Disposal Act, 2015 and Public Procurement Regulations, 2020.*
 - (iii) The NG-CDF Board, in consultation with the Public Procurement Regulatory Authority (PPRA), should conduct continuous capacity building to all Fund Account Managers on procurement laws and regulations within six (3) months of the tabling of this Report.*
 - (iv) The Accounting Officer ensures that all Fund Account Managers comply with the provisions of Sections 62 (1) (b) and (c) of the Public Audit Act, No.34 of 2015, which provides that – “(1) A person shall not—*
 - (b) without justification, fail to provide information required under this Act and*
 - (c) without justification, fail to provide information within reasonable time that is required under this Act”.*

OTHER MATTER

1.0 Budget Performance

233. The Fund had budget receipts of Kshs.157, 459,779.00, including Kshs brought forward from 2014/2015. However, the actual expenditure was only Kshs 99,206,073.00, resulting in an under-expenditure of Kshs.58,253,702.00, as analyzed below.

Receipt/ expense item	Original Budget	Adjustmen ts	Final budget	Actual on comparable basis	Budget utilization Difference	% of utilizati on
	A	B	C=a+b	d	E=c-d	F=d/c%
Receipts	Kshs	Kshs	kshs	kshs	kshs	
Transfers from ngcdf board	108,731,909	48,727,867	157,459,776	157,459776	-	100%
Proceeds from sale of assets	-	-	-	-	-	-
Other receipts	-	-	-	-	-	-
Totals	108,731,909	48,727,867	157,459,776	157,459776	-	100%
Payments						
Compensat ion of employees	2,811,460	588,196	3,399,656	2,223,264	1,176,392	65.4%
Use of goods and services	6,845,325	3,273,963	10,119,288	10,119,288	-	100%
Transfers to other governmen t units	50,687,477	25,137,829	75,825,306	44249,226	31,576,079	58.4%
Other grants and transfers	48,387,647	16,748,236	65,135,883	42,523,258	22,612,625	65.3%
Acquisitio n of assets	-	91,038	91,038	91,038	-	100%

Other payments	-	2,888,606	2,888,606	-	2,888,606	-
Totals	108,731,909	48,727,867	157,459,776	99,2026,073	58,253,703	63%

234. Consequently, the Fund did not operate within the approved budget.

Response by the Fund Account Manager

235. The Constituency did not receive all funds for the financial year 2015/2016 and hence did not implement all the projects. However, the projects were implemented in the subsequent financial year to completion. The completion certificates for the projects & AIE's for 2015/2016 were availed to the auditors for review.

Committee Observations

236. *The Committee observed that: –*

- (i) This was occasioned by the late disbursement of funds by the National Treasury.*
- (ii) The Fund Account Manager availed the bank statements to the Office of the Auditor General for review and verification.*
- (iii) The projects were implemented in the subsequent financial year. The completion certificates were availed to the auditors for review.*

Committee Recommendation

237. *The Committee recommends that the National Treasury should ensure timely and adequate disbursement of funds to the National Government Constituencies Development Fund Board for immediate release to the Constituencies.*

2.0 Project Analysis

238. The CDF had an approved plan to implement a total of 324 projects. However, 45 projects valued at Kshs.15,800,000 were re-allocated, 2 projects valued at Kshs.1,000,000 stalled, 105 projects valued at Kshs.110,274,432 were on-going, and only 172 projects valued at Kshs.157,885,826 were completed.

Sector/status	Re-allocated		Stalled		Ongoing		Complete	
	No.	Value Kshs	No.	Value kshs	No.	Value kshs	No.	Value kshs
Administration			2	1,000,000	9	14,356,784	19	28,935,580

Agriculture					1	200,000	1	250,000
Bursary					2	19,050,000	3	25,000,000
Education	10	2,040,000			60	54,000,000	87	55,204,869
Emergency					1	5,767,647	2	8,964,725
Environment	10	300,00			10	300,000		
Health	3	1,400,00			4	1,700,000	5	6,332,759
Market								
Water	3	3,000,000			1	900,000	3	2,350,000
Road	5	1,250,000					34	23,327,987
Electricity	4	160,000						
Security	9	5,650,000			12	9,900,000	13	3,800,000
Uncategorized					5	4,100,00	3	400,000
Sports	1	2,000,000					2	3,319,906
Total	45	15,800,000	2	1,000,000	105	110,274,42	172	157,885,826

239. In view of the foregoing, the Fund did not deliver the expected services to the constituents and, therefore, did not achieve its development objectives.

Response by the Fund Account Manager

240. The projects were not completed due to late disbursement of funds by the ex-chequer. However, the funds were received and utilized as per the budget.
241. A list of projects and status were provided.

Committee Observation

242. *The Committee observed that the query arose due to late disbursement from the exchequer. The funds were later received and utilized as per the budget.*

Committee Recommendation

243. *The Committee recommends that the Cabinet Secretary for the National Treasury should ensure timely disbursement of funds to the National Government Constituencies Development Fund Board for immediate release to the constituencies.*

REPORTS ON THE AUDITED ACCOUNTS OF LUANDA CONSTITUENCY NG-CDF FOR THE FINANCIAL YEARS 2013/2014, 2014/2015 AND 2015/2016

LUANDA CONSTITUENCY

244. The Fund Account Manager, Mr. Philip Odida, appeared before the Committee on 3rd May, 2023 to respond to the audit matters raised in the report of the Auditor General for Luanda Constituency for the financial years 2013/2014, 2014/2015 and 2015/2016.

FINANCIAL YEAR 2013/2014

1.0 Going Concern

The High Court of Kenya in its ruling on Petition 71 of 2013 held that the constituencies Development Fund Act 2013 establishing the Constituency Development Fund Act, 2013 establishing the Constituency Development Fund since enactment of the Constitution of Kenya 2010 was unconstitutional thus rendering the existence of the Fund illegal. It is not clear whether legislation providing for the fund will be in place within the period given by the high court of twelve months for the fund to continue existing. As a result, the going concern status of the Constituencies Development Fund – Luanda Constituency is doubtful.

Response by the Fund Account Manager

245. NGCDF Act 2015 come into operation in February 2016. The function of the Fund is now in line with the Constitution of Kenya 2010.

Committee observation

The Committee observed that events overtook the issue as it was addressed through the passing of the NG-CDF Act 2015 and its Regulations 2016, aligning the Fund functions to the National Government functions. The query was adequately addressed and resolved.

2.0 Accuracy and Completeness of the Financial Statements

246. The Financial statements prepared as at 30th June 2014 and submitted for audit were not supported by detailed analysis of trial balance and ledgers. Further, the opening fund balance of Ksh. 41,637,998.40 had no support. Consequently, the accuracy and completeness of the financial statements for the year ended 30th June 2014 could not be confirmed.

Response by the Fund Account Manager

247. The Constituency maintains an annual expenditure return which serves as the ledger and the basis for the preparation of the financial statements. The trial balance and the annual expenditure return were availed to the auditors for review. Ksh. 41,637,998.40 is money that

was received on 16th June 2014 and not the opening balance. The AIE and bank statement were availed to the auditors for review.

Committee Observations

248. *The Committee observed that:*

- (i) The Management provided a copy of trial balance and ledgers to support financial statement balances.*
- (ii) The constituency was newly created after the 2013 general election and did not have any fund balance brought forward.*
- (iii) The query was adequately addressed, and matter resolved.*

Committee Recommendations

249. *The Committee recommends that the Accounting Officer should ensure that the Fund Account Managers:-*

- (i) Keep financial and other records that are accurate, reliable, and complete;*
- (ii) Adhere to accounting standards prescribed by the Public Sector Accounting Standards Board (PSASB) as provided by Section 81(3) of the PFM Act, No. 18 of 2012 which provides that "The accounting officer shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time";*
- (iii) Adhere to Regulation 100 of the PFM Act (National Government), 2015 which provides that "Accounting Officers shall keep in all offices concerned with receiving cash or making payments a cash book showing the receipts and payments and shall maintain such other books and registers as maybe necessary for the proper maintenance and production of the accounts of the Vote for which he or she is responsible"; and*
- (iv) Adhere to Regulation 101(4) of the PFM Act (National Government), 2015 which provides that "An Accounting Officer shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed by the Public Sector Accounting Standards Board, not later than three months after the end of the financial year and submit them to the Auditor General with a copy to the County Treasury, the Controller of Budget and the National Treasury".*

3.0 Cash and Cash Equivalent

250. The Statement of financial position reflects cash and cash equivalents balance of ksh. 4,446,676.15 as at 30th June 2014. However, note 12 shows a balance of Ksh. 46,107,674.55. The resulting difference of Ksh.41,637,998.40 was not been explained. Further, imprests amounting to Ksh.306,000 held by a former Fund manager which ought

to have been surrendered or otherwise accounted for on or before 30th June 2014 was still outstanding as at the date of audit. No reasons was provided for failure to comply with the Government Financial Regulations and Procedures governing the issuance and surrender of imprests. In addition, the outstanding imprests shown in the statement of assets and liabilities of ksh. 1,007,300 included amounts alleged to have been surrendered as shown in Note 14. In view of the foregoing, the accuracy and completeness of cash and cash equivalents balance of Ksh. 4,469,676.00 could not be confirmed as at 30 June 2014.

Response by the Fund Account Manager

251. Kshs. 4,446,676.15 was the cash and cash equivalent as at 30th June 2014, Note 12 to the financial statements had an error, and it was been amended to reflect the correct position. Kshs. 306,000 was the outstanding imprest as at 30th June 2014, however, the imprest was surrendered after the activity was over vide voucher no. 630 and 990, amounting to Ksh 156,000 and Ksh. 150,000.00 respectively. Kshs. 1,007,300 was the total amount of imprest taken during the year out of which Ksh.101,300 was fully accounted for.

Committee Observations

252. *The Committee observed that:*
- (i) *That the cash and cash equivalent balance were reconciled to Kshs 46,107,675 as per the supporting bank reconciliation statement.*
 - (ii) *The outstanding imprests were subsequently surrendered and posted to the cashbook.*

Committee Recommendation

253. *The Committee recommends that the Accounting Officers should ensure that:*

Any officer allocated imprest surrenders within seven days failure to which recovery should ensue as provided for under Regulation 93(6) of the Public Finance Management Regulations of 2015 which provides that "In the event of the imprest holder failing to account for or surrender the imprest on the due date, the Accounting Officer shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate."

4.0 Acquisition of Assets

254. The fixed assets register (Note 18.1) attached to the Financial Statements did not include the motor vehicle valued at Ksh. 6,130,000.00. No reason was provided for the omission. Consequently, the fixed assets balance as at 30 June 2014 was understated to the extent of the omission.

Response by the Fund Account Manager

255. There was an error while preparing the fixed asset register where the motor vehicle of Ksh. 6,130,000 was not included in the register. However, the fixed asset register was amended and availed to the auditor for review.

Committee Observation

256. *The Committee observed that the omitted asset was subsequently disclosed in the constituency financial statements as per the copy of the asset register provided. The query was adequately addressed, and the matter was resolved.*

5.0 Irregular Procurement

257. During the year under review, the Fund procured a motor vehicle, office chairs, computers, and a photocopier at a cost of Ksh. 3,000,000, ksh771,980.00 and Ksh. 130,000.00 respectively. However, procurement documents for these assets were not available for audit review. Consequently, it was not possible to confirm whether the goods worth ksh.635,771,980.00 were competitively sourced in accordance with the procurement and disposal Act, 2005 and Regulations, 2006.

Response by the Fund Account Manager

258. The procurement process was followed in the purchase motor vehicle at Ksh. 3,000,000.00, Ksh 771,980 on the purchase of office chairs and Kshs 130,000 on the purchase of computers and a photocopier. The procurement documents were to the auditor for review.

Committee Observation

259. *The Committee observed that the Management had provided tender quotations, minutes, and local purchase orders to support the purchase of a motor vehicle, office furniture and photocopy machine.*

Committee Recommendations

260. *The Committee recommends that: –*

- (i) The Fund Account Manager should comply with provisions of the Public Procurement and Asset Disposal Act, 2015 and Public Procurement Regulations, 2020.*
- (ii) The NG-CDF Board, in consultation with the Public Procurement Regulatory Authority (PPRA), should conduct continuous capacity building to all Fund Account Managers on procurement laws and regulations.*

6.0 Under Expenditure

261. The Fund had an approved budget of Ksh.69,396,664.00 but spent Ksh.23,288,989.45, resulting in an unexplained under-expenditure of Ksh. 46,107,674.55, approximately 66% of the total budget. The low budget absorption denied the constituents the much-needed service delivery.

Response by the Fund Account Manager

262. The Fund received the last disbursement of Ksh. 41,637,998.40 on 16th June 2014 which could not be spent within the financial year and Ksh. 4,446,676 was the closing cashbook balance as at 30th June. The projects were completed and are in use. The completion certificates were availed to the auditors for review.

Committee Observation

263. *The Committee observed that:*

The under-absorption was occasioned by the last disbursement of Ksh. 41,637,998.40 on 16th June 2014 which could not be spent within the financial year and Ksh. 4,446,676 was the closing cashbook balance as at 30th June. However, the rollover projects were subsequently funded and completed.

Committee Recommendation

264. *The Committee recommends the National Treasury should ensure timely and adequate disbursement of funds to the National Government Constituencies Development Fund Board for immediate release to the Constituencies.*

FINANCIAL YEAR 2014/2015

1.0 Presentation, Accuracy, and Completeness of the Financial Statements

265. According to the International Public Sector Accounting Standards (Cash Basis), the financial statements presentation format prescribed by the National Treasury requires the management to include the action taken on the previous year's auditor's recommendations. In the year 2013/2014, Luanda CDF had a qualified opinion. However, no report on the progress on follow-up of audit issues raised was included in the financial statements for the year under review. The presentation of the financial statements were not in conformity with IPSAS (Cash Basis) as prescribed by the National Treasury in accordance with the Public Finance Management Act 2012. Further, the statement of receipts and payments reflects comparative balances for 2013/2014, which differs from the last audited financial statements.
266. A statement of prior years' adjustments was not provided to justify the changes. The supporting ledgers of payments for the acquisition of assets worth Ksh.6,341,227.00, committee expenses of Ksh. 5,378,400 and transfer to other Government Units of Ksh. 1,900,000.00, all totalling Ksh.13,619,627.00 and their supporting documents were not presented for audit verification. The validity and completeness of these expenditures could not be confirmed. In addition, the financial expenditure figures differed from the supporting expenditure returns, raising a variance of Ksh. 2,792,907.00 as an anomaly. Consequently, the accuracy and completeness of the financial statements could not be confirmed.

Response by the Fund Account Manager

267. As at the time of preparation of the financial statements, the constituency had not received the final certificate for the previous year. However, the statements were prepared and availed to the auditors for review. This was erroneous. The statement were amended to reflect the correct comparative figures. The amended financial statements were provided for review.
268. In place of ledgers, the constituency prepares annual expenditure returns that give the breakdown of the expenditure items in the financial statement. Ksh.2,792,907 was an error of including replacements of various cheques that were not supposed to be in the expenditure return. The error has been corrected to reflect the correct position.

Committee Observations

269. The Committee observed that:

- (i) The Fund Account Manager submitted the correct financial statements to the auditors for review.
- (ii) Ksh.2,792,907 was an error of including replacements of various cheques that were not supposed to be in the expenditure return. The error was corrected to reflect the correct position.

- (iii) *The progress on follow-up on prior year audit issues were later included in the financial statements.*
- (iv) *The audited surplus as at 30 June 2014 was Kshs 46,107,675, while the amount carried forward in 2014-2015 was Kshs 45,485,748.*
- (v) *Expenditure on the acquisition of assets in note 10 was supported.*
- (vi) *Expenditure on committee expenses in note 6 was supported.*

Committee Recommendations

267. *The Committee recommends that the Accounting Officer should ensure that the Fund Account Managers:-*

- i. Keep financial and other records that are accurate, reliable, and complete;*
- ii. Adhere to accounting standards prescribed by the Public Sector Accounting Standards Board (PSASB) as provided by Section 81(3) of the PFM Act, No. 18 of 2012 which provides that "The accounting officer shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time";*
- iii. Adhere to Regulation 100 of the PFM Act (National Government), 2015 which provides that "Accounting Officers shall keep in all offices concerned with receiving cash or making payments a cash book showing the receipts and payments and shall maintain such other books and registers as maybe necessary for the proper maintenance and production of the accounts of the Vote for which he or she is responsible"; and*
- iv. Adhere to Regulation 101(4) of the PFM Act (National Government), 2015 which provides that "An Accounting Officer shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed by the Public Sector Accounting Standards Board, not later than three months after the end of the financial year and submit them to the Auditor General with a copy to the County Treasury, the Controller of Budget and the National Treasury".*

2.0 Budgetary Control and Performance

268. During the year under review, the fund received Ksh. 89,184,197, resulting in an undisbursed allocation of Ksh. 10,000,000.00. Further budget analysis revealed over/under expenditure while, in some instances, expenditures were not budgeted for. The fund's expenditure exceeded the budget by an aggregate sum of Ksh. 19,026,660 incurred in health, water, sports, emergency, and roads projects without approval. Further, the over-expenditure incurred in the health sector, totalling ksh.10,441,251 was not budgeted at all. In addition, the fund underspent by Ksh. 5,777,224 insecurity, bursaries, and mocks.

Response by the Fund Account Manager

269. The total allocation for the financial year 2014/2015 for Luanda CDF was Ksh. 99,184,197.00, although the fund received ksh.89,184,197.00, which was less by Ksh. 10,000,000.00. This amount was a commitment by the committee towards Emululu Technical Training Institute as required by the Ministry of Education, Science and Technology. The committee, however, reallocated the funds to other projects as attached, after approval from the institute took longer than expected. The funds for the projects were later released, and the projects have been implemented.
270. Under-expenditure on security and bursary votes was a result of late disbursement of funds. The projects were implemented and are in use. The completion certificates for the projects were availed for review.
271. The constituency had previous years' outstanding balances that were brought forward and spent in FY 2014/2015. The Ksh. 10441,251 was approved allocation for health facilities in the previous years. The projects were Eliangoma Dispensary, Kima Hospital, Ebusyubi Health Centre, and Emuhaya Sub District Hospital. Water projects were also budgeted for Emululu Primary and Ebwali Secondary School, respectively.

Committee Observation

272. *The Committee observed that the over expenditure was occasioned by projects that were rolled over from the year 2013/2014, and the under-absorption related to unutilized funds held by the Fund as at 30 June 2015.*

Committee Recommendations

273. *The Committee recommends that:*
- (i) The NG-CDF Board should immediately discourage partial allocation of funds to projects and ensure that projects are completed within two financial years. Further, the NG-CDF Committee should ensure proper costing of projects is done through consultation with the relevant Government department to ensure realism of the cost estimates.*
 - (ii) The NG-CDF Board should come up with a realistic policy framework of costing projects for each constituency by the end of the 1st quarter of the Financial Year 2023/24, which is informed by cost of materials, cost of transportation, taxes, topography of each constituency and reports from the relevant Government department.*

3.0 Project Implementation and Management

274. The Fund implemented a total of eight one (81) projects/ programmes in various sectors during the financial year. At the time of the audit, 2% of the projects had not started, 20% were ongoing, and 78% were complete. Since it did not complete all its projects, the Fund failed to deliver some services to its constituents.

Response by the Fund Account Manager

275. All the projects could not be implemented due to delayed funding from the ex-chequer. Ksh.14,796,049.20 was received on 26th June 2015 the projects were completed and are in use. The completion certificates were availed for review and verification.

Committee Observation

276. *The Committee observed that the 81 projects could not be implemented due to delayed funding from the ex-chequer. However, projects were completed and in use as per the completion certificates provided.*

Committee Recommendations

277. *The Committee Recommends that:-*

- i. The NG-CDF Board should immediately discourage partial allocation of funds to projects and ensure that projects are completed within two financial years. Further, the NG-CDF Committee should ensure proper costing of projects is done through consultation with the relevant Government department to ensure realism of the cost estimates.*
- ii. The NG-CDF Board should come up with a realistic policy framework of costing projects for each constituency by the end of the 1st quarter of the Financial Year 2023/24, which is informed by cost of materials, cost of transportation, taxes, topography of each constituency and reports from the relevant Government department.*

4.0 Construction of Dormitory Project - Ekwanda Secondary School

278. The Fund disbursed Ksh. 4,000,000.00 for the construction of a dormitory at Ekwanda Secondary School. However, procurement records for the project, which was labour-based, were not presented for audit. Further, physical verification done on 18th February, 2016 revealed that the project, which began in July, 2014 stalled at the lintel level. Consequently, the Fund and the beneficiaries did not get value for money from the stalled project and the expenditure totalling Ksh.4,000,000.00.

Response by the Fund Account Manager

279. The project was implemented through a labour contract. At the time of the audit, the project file was still at the PMC. The file was received and was availed to the auditors for review. The committee allocated an additional Kshs 4,000,000.00 in FY 2020/2021 to complete the project. The project was completed and is in use. The completion certificate were availed for review.

Committee Observation

280. *Following physical verification by the Office of the Auditor General, it was established that:*

- i. the query arose because documents were not submitted during the audit period.*
- ii. the project was later done to completion.*
- iii. copies of LPOs, invoices, and delivery notes were later submitted for accountability of materials purchased.*
- iv. the project was supported by minutes of the Tender Committee, which were used to select suppliers for building materials.*

Committee Recommendations

281. *The Accounting Officer ensures that all Fund Account Managers comply with the provisions of Sections 62 (1) (b) and (c) of the Public Audit Act, No.34 of 2015 which provides that – “(1) A person shall not— (b) without justification, fail to provide information required under this Act and (c) without justification, fail to provide information within reasonable time that is required under this Act”.*

FINANCIAL YEAR 2015/2016

1.0 Accuracy, Completeness and Presentation of the Financial Statements

282. The International Public Sector Accounting Standards (IPSAS) - (Cash Basis) financial statements presentation format prescribed by the Kenya Public sector accounting Standards board requires the management to requires the management to include the action taken on the previous year auditor's recommendations. In the year 2014/2015, Luanda CDF had a disclaimer audit opinion. However, the report on follow up of the issues raised in the audit report has not been included in the financial statements for the year under review as required. Therefore, the presentation of the financial statements does not conform to IPSAS cash basis as prescribed by Kenya Public Sector Accounting Standards Board and in accordance with the Public Finance Management Act, 2012. In the circumstances, the completeness and Presentation of the Financial Statement as at 30 June 2016 cannot be confirmed.

Response by the Fund Account Manager

283. As at the time of preparation of the financial statements, the constituency had not received the final certificate for the previous year. However, the statements were prepared and availed to the auditors for review.

Committee Observations

284. The Committee observed that –

- (i) *The Fund Account Managers experienced challenges in adapting to the International Public Sector Accounting Standards (IPSAS) reporting framework in the preparation of financial statements.*
- (ii) *The Progress on follow-up on prior year audit issues were later included in the subsequent financial statements.*

Committee Recommendations

285. The Committee recommends that -

- (i) *The NG-CDF Board should conduct continuous capacity building on financial reporting standards for Constituency Committees and the PMC to improve the quality of reporting and enhance compliance.*
- (ii) *The NG-CDF Board should ensure Constituency Committees employ qualified Accountants for the Constituency Offices beginning FY 2023/24 within the 6% administrative allocation to the NG-CDFC. This will strengthen the maintenance of books of accounts and, preparation of financial statements.*
- (iii) *The NG-CDF Board should ensure that the Fund Account Managers.*
 - a) *Keep financial and other accounting records that are accurate, reliable, and complete.*

- b) *Adhere to accounting standards prescribed by the Public Sector Accounting Standards Board (PSASB) as provided by Section 81(3) of the PFM Act, No. 18 of 2012 which provides that 'The Accounting Officer shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time'.*
- c) *Adhere to Regulation 100 of the PFM Act (National Government), 2015 which provides that 'Accounting Officers shall keep in all offices concerned with receiving cash or making payments a cash book showing the receipts and payments and shall maintain such other books and registers as may be necessary for the proper maintenance and production of the accounts of the Vote for which he or she is responsible'.*
- d) *Adhere to Regulation 101(4) of the PFM Act (National Government), 2015 which provides that 'An Accounting Officer shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed by the Public Sector Accounting Standards Board, not later than three months after the end of the financial year and submit them to the Auditor General with a copy to the County Treasury, the Controller of Budget and the National Treasury'.*

2.0 Bank Reconciliation Statements

286. The Fund did not prepare bank reconciliation statements for its account number 1120261446995 held at Equity Bank, Luanda Branch. Failure to prepare bank reconciliation is against section 83(1) of the public finance regulations which requires effective cash management of the cash book and regular reconciliation of the bank statements. Consequently, it has not been possible to ascertain the accuracy of Ksh. 33,167,881.00 accounts balance reflected under cash and cash equivalent in the financial statements as at 30 June 2016.

Response by the Fund Account Manager

287. The delay in preparation of the BRS was occasioned by a vacuum left due to the death of the former District accountant. Bank reconciliation statements were later prepared and availed for audit verification.

Committee Observation

288. The Committee observed that bank reconciliation statements were provided to support end-of-year balances. The query was adequately addressed, and the matter was resolved.

OTHER MATTERS

1.0 Budget Performance Analysis

289. The National Government Constituency Development Fund – Luanda Constituency had budget receipts of Ksh. 133,627,752.00 including Ksh. 29,090,837.00 brought forward from 2014/2015. However, the actual expenditure was only Ksh. 100,459,781.00 resulting to under expenditure of Ksh. 33,167,881.00. The constituency had underspent budget by Ksh. 33,167,881.00 converting to 25% of the approved budget not utilized. The constituency did not get full services which were approved for.

Response by the Fund Account Manager

290. The total allocation for Luanda National government constituency development fund was ksh. 104,536,915.00, which was received in its entirety as per the attached bank statement. The amount relating to the previous financial year (2014/2015) was ksh. 10,000,000.00 and Ksh. 19,090,837, which was the opening balance for 2015/2016. The Under expenditure was due to the delayed disbursement of funds and the Ksh. 10,000,000 had not been received by the close of the financial year.

Committee Observation

291. *The Committee observed that the under-absorption was due to the delayed disbursement of funds and the Ksh. 10,000,000 had not been received by the close of the financial year.*

Committee Recommendation

292. *The Committee recommends that the National Treasury should ensure timely release of funds to enable the implementation of projects approved by the NG-CDF Board.*

2.0 Project Analysis

293. The Luanda NGCDF had an approved project implementation plan for 193 projects with a total cost of Ksh. 271,862,164. However, only 149 projects valued at Ksh. 182,957,688.00 were completed, 14 projects valued at Ksh. 24, 030,000.00 had not started, while the balance of 30 projects with a cumulative value of Ksh. 64,874,476 were ongoing.

Response by the Fund Account Manager

294. The delay in project implementation was due to the delayed funding from the ex-chequer. However, the projects were fully funded in the subsequent financial year to completion. The list of the projects and completion certificates have been availed to the auditor for review.

Committee Observations

295. *Following physical verification by the Office of the Auditor General, it was established that:*

- (i) The delay in the implementation of projects was due to the late receipt of funds from the exchequer.*
- (ii) The projects were, however, undertaken and completed in the subsequent financial year.*
- (iii) Evidence of physical existence/photos of the projects were submitted to the auditors for review and verification.*
- (iv) The query was adequately addressed and resolved.*

Committee Recommendation

296. *The Committee recommends that the National Treasury should release funds on time to the National Government Constituencies Development Fund Board as budgeted for the implementation of projects.*

4.0 CHAPTER THREE

General Observations and Recommendations

297. During the examination of these reports, the Committee made the following general observations and recommendations, which cut across the four (4) Constituencies in Vihiga County.

1.0 Reallocation and use of Emergency Funds

Committee Observation

298. The Committee observed that some of the projects funded using emergency funds did not meet the threshold set out in sections 6(2) and Section 8 of the NG-CDF Act, 2015.

Committee Recommendations

299. *The Committee Recommends that:-*

The National Government Constituencies Development Fund Board should ensure that the Fund Account Managers comply with provisions of section 6(2) and section 8 of the National Government Constituencies Development Fund Act, 2015 which provides that:-

- i. *Section 6(2) "Once funds are allocated for a particular project, they shall remain allocated for that project and may only be re-allocated for any other purpose during the financial year with the approval of the Board." and;*
- ii. *Section 8 "(1) A portion of the Fund, equivalent to five per centum (hereinafter referred to as the "Emergency Reserve") shall remain unallocated and shall be available for emergencies that may occur within the Constituency; (2) The Constituency Committee shall determine the allocation of the emergency reserve in accordance with the Act ;and (3) "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"*

2.0 Pending Ongoing Projects

Committee Observation

300. The Committee observed that the critical cause of pending ongoing projects being common in constituencies was the partial allocation of funds for projects.

Committee Recommendations

301. *The Committee Recommends that:-*

- (i) The NG-CDF Board should, with immediate effect, discourage the partial allocation of funds to projects and ensure that projects are completed at most within two financial years. Further, the NG-CDF Committee should ensure proper costing of projects is done through consultation with the relevant Government department to ensure realistic cost estimates.*
- (ii) The NG-CDF Board should come up with a realistic policy framework of costing projects for each constituency by the end of the 1st quarter of the Financial Year 2023/24, which is informed by the cost of materials, cost of transportation, taxes, the topography of each constituency and reports from the relevant Government department.*

3.0 Link Between the Office of the Auditor General and the Fund Account Managers

Committee Observations

- 302. The Committee observed that there was poor coordination between the Office of the Auditor General and Fund Account Managers, particularly regarding the timely response to audit queries. The Committee further observed that there is a need for the NG-CDF Board to inform Fund Account Managers across the country to respond to audit queries promptly.
- 303. The Committee observed further that Fund Account Managers did not avail some documents that were subject of examination by the Auditor-General for verification at the time of audit. The documents not availed for audit included cash books, bank statements, payment vouchers, project completion certificates, procurement records and Bills of Quantities.

Committee Recommendations

304. *The Committee recommends that:-*

- (i) the Board to ensure that Fund Account Managers comply with the provisions of Sections 62 (1) (b) and (c) of the Public Audit Act, No.34 of 2015 which provides that – "(1) A person shall not— (b) without justification, fail to provide information required under this Act and (c) without justification, fail to provide information within reasonable time that is required under this Act*
- (ii) the NG-CDF Board issues administrative circular directing Fund Account Managers to comply with provisions of the Constitution of Kenya, 2010, the*

Public Audit Act, No. 34 of 2015, the Public Finance Management Act, No. 18 of 2012 and Public Procurement and Asset Disposal Act, No. 33 of 2015.

- (iii) the NGCDF Board to ensure that Fund Account Managers maintain the original Project Management Committee files at the NG-CDF office, while the duplicate be maintained by the Project Management Committees at the project's site to ensure that documents are available at the time of audit.*
- (iv) The NG-CDF Board should ensure Constituency Committees employ qualified Accountants for the Constituency Offices beginning FY 2023/24 within the 6% administrative allocation to the NG-CDFC. This will strengthen the maintenance of books of accounts and, preparation of financial statements.*

4.0 Accuracy of Financial Statements

Committee Observations

305. ***The Committee observed that:-***

- i. The Committee observed that Fund Account Managers experienced challenges in adapting to International Public Sector Accounting Standards (IPSAS) reporting framework in preparation of financial statements. The Standards were introduced in 2013/14 financial year in the public sector and failure to comply with the standards in subsequent years occasioned qualification of financial statements.
- ii. The Committee also established that the Public Sector Accounting Standards Board (PSASB) reviews the IPSAS Standards periodically to take into account emerging issues and conform to best accounting practices. The Committee found that some Fund Account Managers experienced challenges in application of these standards while preparing financial statements as evidenced in the audit queries.

Committee Recommendations

306. ***The Committee recommends that:-***

- (i) The Fund Account Managers comply with the International Public Sector Accounting Standards (IPSAS) framework in the preparation of financial statements; and*
- (ii) The NG-CDF Board, in consultation with the Public Sector Accounting Standards Board (PSASB) conducts continuous capacity building on financial reporting standards for constituency staff.*
The NG-CDF Board, in consultation with the Public Procurement Regulatory Authority (PPRA), should conduct continuous capacity building to all Fund Account Managers on procurement laws and regulations within six (3) months of the tabling of this Report.

SIGNATURE.....

DATE.....6th Dec, 2023.....

HON. DR. GIDEON MULYUNGI, CBS, EBS, MP

CHAIRPERSON, DECENTRALIZED FUNDS ACCOUNTS COMMITTEE