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REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
13TH PARLIAMENT – THIRD SESSION

THIRD REPORT OF THE DECENTRALIZED FUNDS ACCOUNTS COMMITTEE
(DFAC)

ON

THE EXAMINATION OF THE REPORT OF THE AUDITOR GENERAL ON THE
FINANCIAL STATEMENTS FOR THE NATIONAL GOVERNMENT
CONSTITUENCIES DEVELOPMENT FUND (NG-CDF) FOR NINE (9)
CONSTITUENCIES IN BUNGOMA COUNTY FOR THE FINANCIAL YEARS
2013/14, 2014/15 AND 2015/16.

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| DATE: 01 MAR 2024 | DAY: THUR |
| TABLED BY: | HON. GIDEON MUKYONGI, CBS, MP CHAIRPERSON, DECENTRALIZED FUNDS |
| ANNE SHIBUKO | |

NATIONAL ASSEMBLY
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Directorate of Audit, Appropriation &
General Purpose Committees
The National Assembly
Parliament of Kenya
NAIROBI

MARCH 2024

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ABBREVIATIONS AND ACRONYMS

| | |
|--------|---|
| 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

The Decentralized Funds Accounts Committee is amongst the six Watchdog Committees in the Thirteenth Parliament that examines reports of the Auditor-General laid before the National Assembly to ensure probity, efficiency, and effectiveness in the use of public funds.

The Committee was established in the First Session of the Thirteenth (13th) Parliament following the review of the National Assembly's Standing Orders to enhance the role of the House on oversight over national revenue and its expenditure. This is in addition to ensuring that the National Assembly complies with Article 229(8) of the Constitution of Kenya, 2010 on reports laid before the House by the Auditor- General which provides that "within three months after receiving an audit report, Parliament shall debate and consider the report and take appropriate action".

Examination of reports of the Auditor-General for the National Government Constituencies Development Fund (NG-CDF) for the 290 constituencies in Kenya is amongst the mandate of the Committee as outlined in the National Assembly Standing Order 205B.

The Committee received a backlog of these reports which dates to financial year 2013/14 which had not been examined at the end of the Twelfth Parliament. Since each of the 290 constituencies is audited independently, the Committee adopted a strategy of scrutinizing financial statements of each constituency for financial years 2013/14, 2014/15 and 2015/16 concurrently. The Committee also resolved to examine reports of all constituencies per County, with Bungoma being the third County.

This report therefore contains observations, findings and recommendations arising from examination of twenty-seven (27) reports of the Auditor-General for the National Government Constituencies Development Fund for the nine (9) Constituencies in Bungoma County for financial years 2013/14, 2014/15 and 2015/16.

The Committee appreciates the Offices of the Speaker and the Clerk of the National Assembly for the support extended to it during consideration of these reports. The Committee further extends its appreciation to the Offices of the Auditor- General and the National Treasury for the technical support and liaison services they offered during the entire period.

The Committee acknowledges the Office of the Chief Executive Officer of the National Government Constituencies Development Fund Board for the coordination of Fund Account Managers and other officers who appeared to respond to various audit queries raised in the reports.

On behalf of the Decentralized Funds Account Committee, and pursuant to Standing Order 199(6), it is my pleasant duty and honor to present to this House the report on audited financial statements for the National Government Constituencies Development Fund for the nine (9) Constituencies in Bungoma County for financial years 2013/14, 2014/15 and 2015/16.

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

CHAIRPERSON, DECENTRALIZED FUNDS ACCOUNTS COMMITTEE

CHAPTER ONE

1.0 PREFACE

1.1 Establishment of Decentralized Funds Accounts Committee

1. The Decentralized Funds Accounts Committee is established pursuant to the National Assembly Standing Orders 205B and Article 124 of the Constitution of Kenya. 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

2. The Committee is established to examine accounts laid before the House of the National Government Constituencies Development Fund, the National Government Constituencies Development Fund Board, the National Government Affirmative Action Fund, and the National Government Affirmative Action Fund Board.

1.3 Guiding Principles

3. In execution of its mandate, the Committee was 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. The Public Finance Management principles require public money to be used in a prudent and responsible manner and that on direct personal liability.

1.3.1 Constitutional Principles on Public Finance

4. 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.

1.3.2 Direct Personal Liability

5. 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".
6. 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.

1.3.3 Obligations of Accounting Officers

7. 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.”
8. 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.
9. The Committee carries out in-depth analysis on issues flagged out by the Auditor-General and seeks responses from accounting officers who are authorized to commit public funds. The Committee also undertakes physical verification on works and projects undertaken to ensure that they are beneficial to the public and value for money is attained. The Committee presents its reports with findings and recommendations which enables the National Assembly to debate the reports of the Auditor-General and take appropriate action as provided under Article 229(8) of the CoK, 2010.

1.3.4 National Government Constituencies Development Fund

10. The Constituency Development Fund (CDF) was set up in 2003 through the Constituency Development Fund Act (2003) sponsored by the then OI Kalou Member of Parliament and former Senator for Nyandarua County, Hon. Muriuki Karue, MP.
11. The Fund comprised an annual budgetary allocation equivalent to 2.5% of the Government's ordinary revenue and was aimed at controlling the imbalances in regional development occasioned by partisan politics.
12. Since it was introduced, the Constituency Development Fund has made a significant impact, with various Constituency Development Fund projects being implemented throughout the country.
13. In a bid to align the CDF with the Constitution of Kenya, 2010, Parliament passed the National Government Constituencies Development Fund (NG-CDF) Act, 2015. The NG-CDF is a national fund that comprises of monies of an amount of not less than 2.5% of all the national government's share of revenue as divided by the annual Division of Revenue Act enacted pursuant to Article 218 of the Constitution.

1.3.5 Examination of Audited Financial Statements for the National Government Constituencies Development Fund (NGCDF)

14. 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. The Committee received a backlog of these reports which dates to 2013/14 financial year which had not been examined by the Twelfth Parliament.

15. 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 2013/14, 2014/15 and 2015/16 financial years concurrently.
16. The Committee also resolved to complete examining reports of Auditor General of constituencies per County with Bungoma being the third County to be audited after Vihiga County.
17. The report contains observations, findings and recommendations arising from examination of twenty-seven (27) reports of the Auditor-General for the NG-CDF for financial years 2013/14, 2014/15 and 2015/16 for the following nine (9) Constituencies in Bungoma County:-
 - (1) Sirisia Constituency
 - (2) Kabuchai Constituency
 - (3) Tongaren Constituency
 - (4) Bumula Constituency
 - (5) Kanduyi Constituency
 - (6) Webuye East Constituency
 - (7) Webuye West Constituency
 - (8) Kimilili Constituency
 - (9) Mt. Elgon Constituency

1.4 Committee Membership

18. 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. Kahangara Joseph Mburu M. P.

Member for Lari Constituency

United Democratic Alliance

Hon. Osogo Bensuda Joyce M.P.

Member for Homabay Constituency

Orange Democratic Movement

Hon. Mejjadonk Benjamin Gathiru M. P.

Member for Embakasi Central Constituency

United Democratic Alliance

Hon. Wanyonyi Martin Pepela M. P.

Member for Webuye East Constituency

Ford Kenya

Hon. Mboni David Mwalika M.P.

Member for Kitui Rural Constituency

Wiper Democratic Movement – Kenya

Hon. Kipngor Reuben Kiborek M.P.

Member for Mogotio 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

Independent Member

Hon. Stephen Mogaka, M.P

Member for West Mugirango Constituency

Jubilee Party

Hon. Dorothy Muthoni Ikiara M.P.

Member for Meru Constituency

United Democratic Alliance

Hon. Barre Hussein Abdi M. P.

Member for Tarbaj Constituency

United Democratic Alliance

Hon. Guyo Adhe Wario M. P.

Member for North Horr Constituency

KANU

Hon. Lentoijoni Jackson Lekumontare M. P.

Member for Samburu East Constituency

KANU

1.5 Committee Secretariat

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

Ms. Ruth Mwihaki Gakuya
Clerk Assistant I

Mr. John Mutinda
Clerk Assistant III

Ms. Sharon Koskei
Clerk Assistant III

Mr. Clinton Sindiga
Legal Counsel II

Ms. Winfred Kiziah
Media Relations Officer II

Ms. Elizabeth Kibati
Research Officer III

Mr. Wilson Mwangi
Fiscal Analyst III

Mr. Wilson Angatangoria
Serjeant-at-Arms II

Mr. Eric Ogolo
Protocol Officer I

Mr. Muchiri Mwangi
Audio Officer III

2.0 CHAPTER TWO

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

20. Ms. Joyce Wanjala appeared before the Committee on April 14th, 2023, to respond to the audit matters raised in the report of the Auditor General for Sirisia Constituency for the financial years 2013/14, 2014/15 and 2015/16.

FINANCIAL YEAR 2013/2014

1.0 Under Expenditure

21. Constituencies Development Fund – Sirisia Constituency had approved budget of Kshs.74,759,341.00 for the year ended 30 June 2014. However, the Fund spent Kshs.45,858,900.80 against a budget of Kshs 74,759,341.00 resulting to unexplained under expenditure of Kshs.25,900,440.20 approximately 22% of the total budget. The low budget absorption denied the constituents of the much-needed service delivery. Consequently, it was not clear how the CDF Committee intended to remedy the anomaly.

Response by the Fund Account Manager

22. The under expenditure was as a result of delay in disbursement of funds from the Ex-chequer and approval of reallocations by the CDF Board. Kshs 22,427,802.30 was received on 24/06/2014. However, the projects were implemented in the subsequent year 2014/2015 and are in use.

Committee observation

23. The Committee observed that:
- (i) The under expenditure was because of the delay in disbursement of funds from the exchequer.
 - (ii) The supporting documents and schedules for Kshs. 22,427,803 AIE and bank statements were provided and verified by the Office of the Auditor General.
 - (iii) The query was adequately addressed and matter resolved.

Committee Recommendation

24. 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.

FINANCIAL YEAR 2014/2015

1.0 Presentation, Accuracy, and Completeness of the Financial Statements

25. The International Public Sector Accounting Standards (IPSAS) (Cash Basis) financial statements presentation format prescribed by the Treasury requires the management to include the action taken on the previous year auditors recommendations. In the year 2013/2014, Sirisia CDF had a qualified opinion. However, no report on the progress on follow up of audit issues raised was included in the financial statement for the year under review. In the circumstance, the presentation of the financial statements did not conform to IPSAS (Cash Basis) as prescribed by the National Treasury and in accordance with the Public Finance Management Act, 2012. In addition, the statement of appropriations was not fully completed as it did not disclose both the final budgeted and actual receipts. Consequently, the accuracy and completeness of the financial statements could not be confirmed.

Response by the Fund Account Manager

26. The management admitted that the report on the progress on follow up of the audit issues raised in the FY 2013/2014 was not included in the financial statement for the FY 2014/2015.
27. However, financial statements for the subsequent financial years have had the report on follow up of audit recommendations included without fail. Report for FY 2015/2016 was availed for verification.
28. The statement of appropriations disclosing all the required information including the final budget and actual receipts was submitted to the auditors for review and verification.

Committee observation

29. The Committee observed that during the year under review preparation of the cash flow was not a mandatory statement in the template. NG-CDF started using IPSAS cash reporting framework for the first time in the financial year 2013/14.

Committee Recommendation

30. The Committee recommends that the Accounting Officer should ensure that the Fund Account Managers adheres 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'**.

2.0 Budget Performance

31. The Fund incurred some of the expenditure against the approved budget resulting in (over)/under expenditure on various budget lines by more than the allowable 10% limit analyzed below.

| Audit components | Actual | budget | Variance | % |
|--------------------------------------|----------------------|----------------------|-----------------------|------------|
| Under expenditure | Kshs | Kshs | Kshs | |
| Payment of staff salaries & gratuity | 1,299,978.20 | 1,530,000 | (230,021.80) | -15 |
| Acquisition of assets | 10,000,000 | 11,100,000 | (1,100,000) | -10 |
| Payment of NSSF deductions | 32,800 | 50,000 | (17,200) | -34 |
| SUB-TOTAL | 11,332,778.20 | 12,680,000 | (1,347,221.80) | -10 |
| Over-Expenditure | | | | |
| Tertiary Bursary | 7,850,240 | 7,000,000 | 850,240 | 12 |
| Roads & bridges | 17,200,000 | 15,000,000 | 2,200,000 | 15 |
| Secondary schools | 17,949,526 | 15,300,000 | 2,649,526 | 17 |
| Secondary bursary | 12,562,860 | 10,477,198.50 | 2,085,661.50 | 20 |
| Emergency projects | 6,552,000 | 5,400,259 | 1,151,741 | 21 |
| Administration-goods & services | 5,326,591 | 3,059,791.46 | 2,266,799.54 | 74 |
| Sports projects | 4,146,175.88 | 2,146,175.88 | 2,000,000 | 93 |
| Health institutions | 7,113,756 | 2,630,997 | 4,482,759 | 170 |
| SUB TOTAL | 78,701,148.88 | 61,014,421.84 | 17,686,727.04 | 20 |

Response by the Fund Account Manager

32. The budget of Ksh. 61,014,421.84 was part of the allocation for the constituency for financial year 2014/2015. The over expenditure of Ksh. 17,686,727.04 was part of the expenditure of the balance brought forward of Ksh. 28,900,440 hence there was no over expenditure as the constituency spent on the balance brought forward.
33. The under expenditure was as a result of delays by the Ex-chequer to disburse funds to the constituency. The under expenditure in staff salaries & gratuity of Ksh 230,021.80 relates to the accumulated gratuity for the contracted NG-CDFC staff. The delayed funds were received in the subsequent year and the budget fully utilized. Copies of AIEs, bank statement, minutes of allocation, PIS and payment voucher for gratuity were submitted to the auditors for review and audit verification.

Committee observations

34. The Committee observed that:-

- (i) The under expenditure was as a result of delays by the exchequer to disburse funds to the Constituency.
- (ii) The delayed funds were received in the subsequent year and the budget fully utilized.
- (iii) Copies of AIEs, bank statement, minutes of allocation, PIS and payment voucher for gratuity were submitted to the auditors for review and audit verification.
- (iv) The query was adequately addressed, and matter resolved.

Committee Recommendation

35. The Committee recommends that the National Treasury should ensure timely exchequer releases for implementation of approved and budgeted for projects at the Constituencies.

3.0 Project Implementation Status

36. The Fund planned to implement a total of 94 projects in different sectors during the financial year. Out of this number, 22 projects (23%) of the projects had not started, 14 projects (or 15%) were still ongoing while 58 projects (or 62%) had been completed as at the time of audit in February 2016. Therefore the Fund failed to meet its budget target and deliver the service, that residents expected from the projects.

| Sector | Project cost (kshs) | Actual/Implemented projects | | | | % of completed projects |
|-------------------|----------------------|-----------------------------|-----------|-----------|-----------|-------------------------|
| | | Not started | Ongoing | Completed | Total | |
| Primary schools | 30,050,099 | 8 | 12 | 31 | 51 | 61% |
| Secondary schools | 18,200,000 | 5 | 0 | 19 | 24 | 79% |
| Water | 3,950,000 | 1 | 0 | 0 | 1 | 0% |
| Environment | 2,046,183.54 | 0 | 1 | 0 | 1 | 0% |
| Administration | 200,000 | 0 | 0 | 1 | 1 | 100% |
| Sports | 2,146,175.88 | 0 | 1 | 1 | 2 | 50% |
| Constituency off | 2,300,097.26 | 1 | 0 | 1 | 2 | 50% |
| Health | 3,280,997 | 6 | 0 | 0 | 6 | 0% |
| Roads | 18,500,000 | 1 | 0 | 5 | 6 | 83% |
| TOTAL | 80,673,552.68 | 22 | 14 | 58 | 94 | 57% |

| | | | | | | |
|---|------------|------------|------------|-------------|--|--|
| %Implementation over budgeted projects | 23% | 15% | 62% | 100% | | |
|---|------------|------------|------------|-------------|--|--|

Response by the Fund Account Manager

37. The delays in the implementation of projects resulted from the delays in the disbursement of funds by the ex-chequer. However, the funds were disbursed in the subsequent financial year and projects implemented accordingly. The completion certificates were availed to the auditors for review and verification.

Committee observations

38. The Committee observed that:
- (i) The delays in the implementation of projects resulted from the delays in the disbursement of funds by the exchequer.
 - (ii) The funds were disbursed in the subsequent financial year and projects implemented accordingly.
 - (iii) The AIE and bank statement were availed for review and verified by the Auditor.
 - (iv) The query was adequately addressed and matter resolved.

Committee Recommendation

39. The Committee recommends that the Accounting Officer should ensure that the Fund Account Manager adheres to Section 31(2) of the PFM (National Government) Regulations 2015 which provides that **“The Accounting Officer is responsible, in particular for ensuring that— (a) all services which can be reasonably foreseen are included in the estimates and that they are within the capacity of her or his national government entity during the financial year; (b) the estimates have been prepared are complete and accurate as possible; (c) the estimates have been framed with regard to economy and efficiency; (d) the requisite authority has been obtained, where necessary, before provision is made in the estimates; and (e) the estimates are submitted to the National Treasury in the manner and format to be issued by the Cabinet Secretary.”**

4.0 Land For Bungoma West Police Division

40. The Fund disbursed Kshs.1, 000,000 for acquisition of land for the Bungoma West police division. However, ownership documents for the land were not obtained. Further, valuation of the land was not done and payment was made to a project management committee member instead of the seller. Consequently, the legality, of the transaction including valuation and ownership of the land worth Kshs 1,000,000 could not be ascertained.

Response by the Fund Account Manager

41. The NGCDF Act, 2016 provides that all projects under the Act be implemented by the Project Management Committee. The due process was followed by implementing the project through the PMC. The agreement and land valuation was done before the funds were paid to the seller. The succession process was ongoing and immediately the title deed is obtained, it will be availed to the auditors for review.

Committee observations

42. The Committee observed that following physical verification by the NG-CDF Board Legal Department it was established that:
- (i) The Agreement for sale dated 11.05.2015 established that the agreement was executed between the PMC and vendors, Alice Nabangala, Dancun Wanyonyi Wanjala (Id. No. 27367894) and Proctus Wanjala Mumuelo (Id. No 10858084) for purchase of piece of land measuring 1.1 hectares to be subdivide from Title No. Malakisi/N Kulisuru/134 registered in the name of Wanakhulu Mukholi (deceased).
 - (ii) The family had not initiated succession proceedings due to lack of funds.
 - (iii) The sale agreement and letter from OCDP were submitted to the auditors for review and verification.

Committee Recommendations

43. The Committee recommends that:
- (i) Within (3) months of the adoption of this report, the NG-CDF Board in conjunction with NG-CDFCs should ensure that Bungoma West Police Division obtains the title deed for its land.
 - (ii) The NG-CDF Board should establish a policy on the procedure of buying land and adhere to Section II (I) (k) of the National Government Constituency Fund Regulations 2016 which provides that **“where a project involves purchase of a parcel of land or a building, ensure that the ownership thereof is duly verified and ownership documents authenticated with relevant government agencies”**.
 - (iii) Fund Account Managers should ensure that the PMC's purchase land in areas where there are clear ownership documents especially in areas where land adjudication has been done.

5.0 Multiple Constructions of Staff Houses – Chebukutumi Health Centre

44. The Fund transferred Kshs.7, 113,756 to health institutions during the year under review. However, during the year 2010/2011 the fund had released money for construction of houses for nurses working at Chebukutumi Health Centre whose construction stalled and abandoned. Further, construction of additional houses was funded during the year 2014/2015 but these too were not completed. Procurement records were not made available for audit review and no explanation was provided for starting new projects without completing the earlier ones which stalled. In the circumstance, the propriety of the expenditure totaling to Kshs.1, 494,283 could not be found.

Response by the Fund Account Manager

45. The houses initiated in the financial year 2010/2011 were affected by the transition process after the split of the constituency into two with the projects falling in Sirisia constituency. Procurement records were availed for audit verification.
46. The financial year 2014/2015 housing project was a conditional grant from Ministry of Health funded through NG-CDF and could not be related to the earlier projects. The project was completed and in use. Procurement documents, certificate of completion and photo were availed for audit verification.

Committee observations

47. The Committee observed that:
- (i) The housing project initiated in the financial year 2010/2011 was affected by the transition process after the split of the constituency into two with the projects falling in Sirisia constituency. The project was only 75% completed.
 - (ii) The housing project initiated in the financial year 2014/2015 was a conditional grant from ministry of health funded through NG-CDF and could not be related to the earlier projects. This project was completed and in use.
 - (iii) Procurement documents, certificate of completion and photo were availed for audit verification.
 - (iv) The query was adequately addressed and resolved.

6.0 Reallocation of Emergency Funds

48. Emergency funds amounting to Kshs.2,400,000.00 or (37%) out of total emergency allocation for the year totaling to Kshs.6,552,000 were re-allocated to various schools without the authority of the Board contrary to the regulations on re-allocation budgeted funds. As a result, delivery of emergency services may have been affected by shortage of funds.

Response by the Fund Account Manager

49. The emergency funds remain unallocated until the unforeseen occurrence happens - various schools were funded. The school request and Public Health demand letter were availed to the auditor for review.

Committee observation

50. The Committee observed that the reallocation of emergency funds was done without the authority and approval of the Board.

Committee Recommendations

51. The Committee recommends that the Accounting Officer
- (i) Should ensure that Fund Account Managers adheres to Section 31(2) of the PFM (National Government)) Regulations 2015 which provides that **“The Accounting Officer is responsible, in particular for ensuring that— (a) all services which can be reasonably foreseen are included in the estimates and that they are within the capacity of her or his**

national government entity during the financial year; (b) the estimates have been prepared are complete and accurate as possible; (c) the estimates have been framed with regard to economy and efficiency; (d) the requisite authority has been obtained, where necessary, before provision is made in the estimates; and (e) the estimates are submitted to the National Treasury in the manner and format to be issued by the Cabinet Secretary."

- (ii) 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 2015/2016

1.0 Lack of Title Deeds for Purchased Parcels of Land

52. During the year under review, the CDF approved and disbursed funds totalling to Kshs.800, 000 for purchase of land for Sengeteti Primary school at Kshs.400, 000 and Masaba Primary school at Kshs.400, 000. However, the transfer of the parcels of land purchased had not been fully processed and in absence of vital documents for these parcels of land, it was not possible to confirm ownership.

Response by the Fund Account Manager

53. The challenge of succession in land ownership has been of a major concern in Sirisia Constituency. However, for Sengeteti primary school, the management had initiated the necessary measures to ensure the ownership documents are attained. For Masaba Primary school, the process of succession was ongoing and the documents of succession were available for verification.

Committee observation on Sengeteti Primary School

54. The Committee observed that following physical verification by the NG-CDF Board Legal Department it was established that:

- (i) Agreement for sale dated 12.09.2016 was executed between the school and Leonard Simiyu of ID No. 2122769 for purchase of one acre to be subdivided from Title No. South Malakisi/South Namwela/181 registered in the name of Kakai Wanyera (deceased) for Kshs. 400,000.00.
- (ii) It was also established that the seller was the grandchild of the registered owner and his whereabouts were unknown.
- (iii) The portion sold was his share of inheritance and the sale was consented to by the family members.
- (iv) It was reported by the Board of Management member that succession had not been initiated and they required to sensitize the family members on purpose/importance of the same to facilitate the school to obtain the title.
- (v) Agreement for sale and copy of Title No. South Malakisi/South Namwela/181 were submitted to the auditors for review and verification.

Committee Recommendations on Sengeteti Primary School

55. The Committee recommends that:

- (i) Within (3) months of the adoption of this report the NG-CDF Board in conjunction with NG-CDFCs to collaborate with Masaba Primary School to expedite succession proceedings and obtain the title documents for the school.
- (ii) The NG-CDF Board in conjunction with NG-CDFCs should within (3) months of the adoption of this Report ensure that Sengeteti Primary School obtains the title deed for its land.
- (iii) The NG-CDF Board should establish a policy on the procedure of buying land and adhere to Section II (I) (k) of the National Government Constituency Fund Regulations 2016 which provides that **“where a project involves purchase of a parcel of land or a building, ensure that the ownership thereof is duly verified and ownership documents authenticated with relevant government agencies”**.
- (iv) Fund Account Manager should ensure that the PMC’s purchase land in areas where there are clear ownership documents especially in areas where land adjudication has been done.

Committee observations on Masaba Primary School

56. Following physical verification by the NG-CDF Board Legal Department it was established that:

- (i) Agreement for sale dated 02.05.2016 established that the agreement was executed between PMC and David Walumbe Wakhoya (Id. No. 4387229), the vendor for purchase of pieces of land measuring 100ft x 25ft to be subdivided from Title No. North & Central Namwela 671 registered in the name of Mating’ Chemwile (deceased) for Kshs. 400,000.
- (ii) It was noted that the vendor was not the registered owner but the beneficiary of the estate.
- (iii) Agreement for Sale, Petition of Letters of Administration & Letter from Chief, Namwela location were submitted to the auditors for review.

Committee Recommendations on Masaba Primary School

57. The Committee recommends that:

- (i) Within (3) months of the adoption of this report the NG-CDF Board in conjunction with NG-CDFCs should collaborate with Masaba Primary School to expedite succession proceedings and obtain the title documents for the school.
- (ii) The NG-CDF Board should establish a policy on the procedure of buying land and adhere to Section II (l) (k) of the National Government Constituency Fund Regulations 2016 which provides that **“where a project involves purchase of a parcel of land or a building, ensure that the ownership thereof is duly verified and ownership documents authenticated with relevant government agencies”**.
- (iii) Fund Account Managers should ensure that the PMC's only purchase land in areas where there are clear ownership documents especially in areas where land adjudication has been done.

2.0 Unsupported Procurement on Acquisition of Assets

58. A local company was contracted to construct septic tank, sock pit, four door pit latrine and landscaping at the new CDF building at a cost of Kshs.5, 373,924. However, the tender evaluation minutes were not availed for audit review. Consequently, value for money on this expenditure could not be fully confirmed.

Response by the Fund Account Manager

59. The procurement process was duly followed. The project was advertised in an open tender which attracted five bidders. The successful bidder, Ms. Feiz Holdings Limited was awarded the tender at a cost of Kshs. 5,373,451. The tender evaluation minutes were later availed for review.

Committee observations

60. The Committee observed that:

- (i) The query arose because documents were not submitted during the audit period.
- (ii) The Tender evaluation minutes and Tender documents were, however, later availed to the auditor for review and confirmation.
- (iii) The query was adequately addressed and resolved.

Committee Recommendations

61. The Committee recommends that:

- (i) The Accounting Officer should ensure that the Fund Account Manager adheres to Section 30 of the PFM Act 2012 which provides that **“ For the purposes of this Act, all procurement of goods and services required for the purposes of the national government or a national government entity is to be carried out in accordance with Article 227 of the Constitution and the relevant legislation on procurement and disposal of assets.”**
- (ii) 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.**

3.0 Unveiled Logbook

62. The logbook for Land Rover GK A597V was not availed for audit verification. Further, physical verification could not be done as the vehicle was said to be grounded in a garage in Kisumu.

Response by the Fund Account Manager

63. The logbooks are in the custody of the Board as they are assets of the Board. However, the management obtained a copy of the same from the NG-CDF Board and submitted to the auditors for verification. The vehicle was brought back to the constituency from the Garage.

Committee observation

64. The Committee observed that the query arose because logbook was not submitted during the audit period. It was, however, later submitted to the auditors for review and verification. The query was adequately addressed and resolved.

Committee Recommendation

65. 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.**

4.0 Incomplete Sibumba Water Project

66. A local company was contracted to construct piping works for Sibumba water project at a cost of Kshs.8, 450,000.00. However, the project is not operational and the pipes were destroyed by road works in the constituency. In view of this, the constituents of Sirisia were being denied service delivery from this project hence no value for money on the project

Response by the Fund Account Manager

67. The management acknowledged audit findings. As at the time of audit, the pipes had been destroyed due to the road works that were in view of upgrading the Chwele Lwakhakha road to a tarmac road for the constituents. However, the sub county water officer had noted the same and informed the KeRRA office in Bungoma (project manager) who responded indicating that the contractor would be responsible for the damages and should correct them accordingly. The repairs were to be done as required at the cost of the then contractor on road works. The destroyed pipes were corrected.

Committee observation

68. The Committee observed that the auditor confirmed receipt of the letter from KERRA, minutes, handing /take over report of the contractor to the PMC and completion certificate. Further, the Committee was satisfied by the explanations and documentation availed for audit review. The query was adequately addressed and resolved.

5.0 Budgetary Control Performance

69. The Fund had approved budget of Kshs. 114,152,866 and spent Kshs. 106,463,493 resulting to an under expenditure of Kshs. 7,689,373 or overall budget utilization of 93% which is commendable. Further, of all the budgetary expenditure lines only other grants and transfers expenditure incurred absorption rating 84% which is below 90%. Consequently, the budget target on this line item was not met within the financial year.

Response by the Fund Account Manager

70. The under expenditure was as a result of the delay in the disbursement of funds by the Exchequer. However, the funds were disbursed in the subsequent financial year and were fully utilized. Copies of AIEs, bank statement, minutes of allocation, PIS were submitted to the auditors for verification.

Committee observations

71. The Committee observed that:
- (i) The under absorption of the funds was due to late disbursement of funds by the exchequer.
 - (ii) The funds were disbursed in the subsequent financial year and were fully utilized.
 - (iii) The explanation by the Fund Account Manager was satisfactory; and
 - (iv) Copies of AIEs, bank statement, minutes of allocation, PIS were submitted to the auditors for verification.

Committee Recommendation

72. 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.

6.0 Project Implementation Status

73. During the year under review, the Fund was to implement a total of 185 projects/programmes by different sectors. However, an analysis of implementation status indicates that 48 or 26% of the projects were still ongoing while 137 or 76% of the project had been completed. Therefore, the Fund did not fully meet the budget target and effective delivery of service.

Response by the Fund Account Manager

74. The delays in the implementation of projects resulted from the delays in the disbursement of funds by the ex-chequer. The funds were disbursed in the subsequent financial year and projects implemented accordingly. The completion certificates, PIS reports, minutes of allocation have been availed to the auditors for review.

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 completion certificates, PIS reports, minutes of allocation were availed to the auditors for review. The query was adequately addressed and resolved.

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

75. Ms. Joyce Wanjala the Fund Account Manager took oath of witness and tabled the Kabuchai NG-CDF management responses and supporting documents on the audited accounts of Financial Years 2013/2014 to 2015/2016

FINANCIAL YEAR 2013/2014

1. Unsupported Financial Statements

76. The financial statements for the year ended 30 June 2014 were not supported by a trial balance and ledgers as required. Consequently, it has not been possible to ascertain accuracy and completeness of the financial statement as at June 2014. His opinion was not qualified in respect to these matters.

Response by the Fund Account Manager

77. The trial balance and ledgers as required were submitted and the analysed and itemized expenditure details that ties up to the trial balance were availed to the auditors for review.

Committee observation

78. The Committee observed that the trial balance and ledgers were submitted to the Office of the Auditor General for audit review. The matter query was adequately addressed, and matter resolved.

2.0 Unimplemented Projects

79. Kabuchai CDF had an approved budget of Kshs 79,417,240.00 for the year ended 30 June 2014. However, the Fund spent Kshs. 31,366,981.90 against a budget of Kshs.79,417,240.00 resulting to un-explained under expenditure of the constituents the much-needed service delivery.

Response by the Fund Account Manager

80. The delay in implementation of some projects was due to the delay in disbursement of funds from the ex-chequer. The funds were disbursed in the subsequent financial year and projects were implemented and completed. Copies of the AIE for the balance in question and the completion certificates, Bank statement, minute of allocation were submitted to the auditor for review.

Committee observation

81. 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 AIE and Bank Statements were availed to the auditors for review. The query was adequately addressed and resolved.

3.0 Project Implemented Without Supervision

82. The Fund incurred Kshs. 2,068,089.90 on various emergency projects without involvement of Government Technical Supervision Departments.
83. In the absence of technical supervision, it has not been possible to ascertain whether the projects effectively and efficiently met the intended purposes as at 30 June 2014.

Response by the Fund Account Manager

84. The emergency projects were fully supervised as required by the technical departments. Attached are copies of technical reports from the county public works, and ministry of water who as the project managers.

| No. | Project | Amount | Works |
|-----|-------------------------------------|--------------|--|
| 1. | Lucho primary school | Ksh 400,000 | For renovation of 3 classrooms |
| 2. | Chwele Chiefs' office | Kshs 200,000 | For completion of Chief's office |
| 3. | NG-CDF borehole | Kshs 400,000 | For construction of borehole at the NG-CDF offices |
| 4. | Nakitumba Primary school | Ksh 100,000 | For construction of pit latrines |
| 5. | Sichei primary school | Ksh 100,000 | For construction of pit latrines |
| 6. | Kimalewa primary school | Ksh 100,000 | For construction of pit latrines |
| 7. | Khalaba primary school | Ksh 160,140 | Completion of classrooms |
| 8. | St. Charles Lwanga secondary school | Ksh 304,999 | Completion of classrooms |
| 9. | Chemwa bridge dispensary | Ksh 302,950 | For renovation of Chemwa bridge dispensary |

Committee observations

85. The Committee observed that following physical verification by the Office of the Auditor General, it was established that:
- (i) The emergency projects were fully supervised as required by the technical departments and copies of reports from the Ministry of Public Health, County Public Works, and Ministry of Water were submitted to the auditors for review and verification.
 - (ii) The Committee also observed that the query arose because documents were not submitted during the audit period.
 - (iii) The query was adequately addressed and resolved.

Committee Recommendations

86. The Committee recommends that the Accounting Officer should ensure that Fund Account Managers comply with the provisions of Sections 62 (I) (b) and (c) of the Public Audit Act, No.34 of 2015 which provides that – **“(I) 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 2014/2015

1.0 Presentation and Completeness of the Financial Statements

87. The International Public Sector Accounting Standards cash basis financial statements presentation format prescribed by the National Treasury requires the management to include the action taken on the previous year auditor’s recommendations. In the year 2013/2014, Kabuchai CDF had a qualified (except for) opinion. However, no report on the progress on follow up of the audit issues raised was included in the financial statements for the year under review. In the circumstance, the presentation of the financial statements was not in conformity with IPSAS cash basis prescribed by the National Treasury.

Response by the Fund Account Manager

88. The management admitted that the report on the progress on follow up of the audit issues raised in the FY 2013/2014 was not included in the financial statement for the FY 2014/2015. However, financial statements for the subsequent financial years have had the report on follow up of audit recommendations included without fail. Report for FY 2015/2016 was availed for verification.

Committee observation

89. 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 and resolved.

Committee Recommendations

90. 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 Budget Performance

91. The Fund had an approved budget of Kshs. 162,415,891 but only spent Kshs.132,994,043.80 resulting in an under expenditure of Kshs. 29,421,847.30 as shown in the table.

| Item | Current budget Ksh | Current year actual figures Ksh | Variance Kshs | Difference % |
|-------------------------------------|--------------------|---------------------------------|-----------------|--------------|
| Compensation of employees | 2147438 | 1207515 | 939923 | 44% |
| Use of goods & services | 4705377 | 5737827 | (1032450) | -22% |
| Committee expenses | 5554918 | 4680950 | 873968 | 16% |
| Transfers to other Government units | 68934831 | 46005759 | 22929072 | 33% |
| Other grants & transfers | 74254656 | 67568624 | 6686032 | 9% |
| Social security benefits | 54000 | 28898 | 25102 | 46% |
| Acquisition of Assets | 6764671 | 7764471 | (999800) | -15% |
| Total payment | 162415891 | 132994044 | 29421847 | 18% |

92. Consequently, the Fund had (over)/under expenditure on various budget lines by more than 10% or -10% as analysed in the table. The Fund did not therefore meet its budgetary targets as planned.

Response by the Fund Account Manager

93. The management regretted that the final budget in the statement of appropriation did not reflect a true position. The over expenditure on goods and services (Ksh. 912,449.70) and acquisition of assets (Ksh. 999,800) which relate to the administration and recurrent vote and M&E vote, was as a result of under budgeting at the beginning of the financial year. This is because the budget was based on estimates that could not provide the correct position. However, the compensation of employees and committee expenses under the same vote shows an under expenditure of Ksh.939, 923 & Ksh. 1,153,968 respectively. Consequently, the expenditure was within the budget lines with a balance of Ksh. 181,641 in the vote book.
94. The under expenditure was due to the delay in disbursement of funds from the Ex-chequer. The funds were received in the subsequent financial year and projects fully implemented as per the budget. Copies of AIEs indicating that the funds were delayed were submitted to the auditors for review.

Committee observations

95. The Committee observed that 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) Copies of AIEs indicating that the funds were delayed were submitted to the auditors for review. An amount of Kshs.28,591,408.80 was received on 2nd July 2015
 - (v) The query was adequately addressed and resolved.

Committee Recommendation

96. 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 Project Implementation

97. The CDF implemented a total of 109 projects/programs under various sectors during the financial year. Forty-two (42) or 39% of the projects had not started, thirty-six (36) or 33% of the projects were still ongoing while thirty-one (31) or 28% of the projects had been completed as at the time of audit in February 2016.

| | Total project cost Kshs | Actual/Implemented Projects | | | | |
|---------------------------------------|-------------------------|-----------------------------|------------|------------|-------------|------------------------|
| | | Not started | Ongoing | Completed | Total | % of completed project |
| Primary schools | 23948110 | 23 | 10 | 7 | 40 | 18% |
| Polytechnic | 500000 | - | - | 1 | 1 | 100% |
| Secondary schools | 16003962 | 7 | 3 | 11 | 21 | 525 |
| M&E | 8505592 | - | 6 | - | 6 | 0% |
| Roads | 9000000 | - | - | 2 | 2 | 100% |
| Water | 16713000 | 2 | 7 | 7 | 16 | 44% |
| Bursary | 24217032 | - | 4 | - | 4 | 0% |
| Health | 2800000 | 5 | 1 | - | 6 | 0% |
| Admin | 6861937 | 5 | - | 2 | 7 | 29% |
| CDF Offices | 2500000 | - | 1 | - | 1 | 0% |
| Security | 3316000 | - | 4 | 1 | 5 | 20% |
| Total | 114365633 | 42 | 36 | 31 | 109 | 28% |
| Implementation over budgeted % | | 39% | 33% | 28% | 100% | |

Response by the Fund Account Manager

98. The delay in implementation of some projects was due to the delay in disbursement of funds from the ex-chequer. However, the delayed funds were received in the subsequent financial year and all projects implemented accordingly. The completion certificates for the projects have been availed for review.

Committee observations

99. The Committee observed that following physical verification by the Office of the Auditor General, it was established that:
- (i) The delay in implementation of some projects was due to the delay in disbursement of funds from the Exchequer. However, the projects were later completed and were in use.
 - (ii) The Funds were received in the next financial year and the projects were all implemented and completed. Completion certificates for the projects were availed for review.
 - (iii) After verification of the AIE and bank statement it was confirmed that the funds were received in the subsequent financial year.
 - (iv) The query was adequately addressed and resolved.

FINANCIAL YEAR 2015/2016

1.0 Incomplete Transfer of Ownership of Land Purchased

100. The Fund purchased various pieces of land as highlighted in the table at a total cost of Kshs. 3,800,000. However, the transfer of title deeds had not been completed during the time of audit. In the circumstances, it was not possible to confirm the ownership of the parcels of land.

| Payee | Description | Date | PV No | Amount | Remarks |
|----------------------------|--|-----------------|-------|----------------|---|
| Khatiri primary school | Purchase of land | 17 July 2015 | 6 | 900000 | In the process of acquiring title deeds |
| Marobo girls secondary sch | Purchase of 2 acres land | 17 July 2015 | 5 | 900000 | In the process of acquiring title deeds |
| Chekwanada primary school | Purchase of 1 acre and construction of 2 classroom | 5 January 2016 | 50 | 1000000 | In the process of acquiring title deeds |
| Chekwanada primary school | Purchase of 1 acre and construction of 2 classroom | 27 January 2016 | 69 | 500000 | In the process of acquiring title deeds |
| Madisi AP Camp | Purchase of ½ acre | 27 January 2016 | 65 | 500000 | In the process of acquiring title deeds |
| Total | | | | 3800000 | |

Response by the Fund Account Manager

101. As at the time of audit, the PMCs were still in the process of acquisition of the ownership documents. The challenge in transfer of land ownership documents in Kabuchai constituency was as a result of delays in the land succession process and also most of the lands had NOT been fully paid for given that most of the NGCDF projects are funded in phases. However, the Marobo girl's secondary school had acquired the title deed and is available for review.
102. Khatiri primary school, Chekwanda primary school and Madisi AP Camp were still in process and the Kabuchai NG CDFC had requested for funds through a reallocation to facilitate the pending process of acquisition of ownership documents which is still pending approval.

103. The Chekwanda primary school PV No. 50 of amount Ksh 1,000,000 relates to construction of classrooms and therefore does not relate to the purchase of land. A Copy of the title deed for Marobo secondary school, and progress report on the other projects were submitted to the auditor for review and verification.

Committee observations

104. The Committee observed that following physical verification by the NG-CDF Board Legal Department it was established that:

Khatiri Primary School (Land now under Khatiri Secondary School)

- (i) Agreement for sale dated 5th October, 2015 established that the agreement was executed between Peter Wamalwa Wabala ID. No. 20883336 and Khatiri Secondary School for purchase of 1¼ acres of Kshs. 900,000.
- (ii) The Deputy Principal indicated that the land was purchased for establishment of the secondary school and funding was made through the Khatiri Primary School. He indicated that the delay in transfer of ownership had been occasioned by numerous transitions in the management of the school.
- (iii) The Deputy Principal reported that they had applied for the consent of the Land Control Board (LCB)
- (iv) Agreement for sale, official search and application for consent of Land Control Board to transfer were submitted to the auditors for review.

Marobo Friends Girls Secondary School

- (i) The school confirmed that it had obtained the title deed for Title No. E. BUKUSU/S.NALONDO/7948 registered in the name of Marobo Girls Secondary School.

Chekwanda Primary School

- (i) Agreement for sale dated 10.02.2015 established that the agreement was executed between the school and Nicholas Ntembeya Wakoli of ID No. 2087668 for purchase of ½ an acre for Kshs. 500,000.
- (ii) Head Teacher indicated that FAM had been impelling the school to acquire the title deed. However, they had been having challenges in processing of the titles due to lack of funds
- (iii) Agreement for sale was submitted to the auditors for review and verification.

Madisi AP Camp

- (i) Agreement for sale dated 21.07.2016 established that the agreement was executed between the PMC and Elizabeth Kakuvi for purchase of land measuring 50ft x 100ft to be subdivided from Title No. Sichei/Bokoli Mkt/3/3 for Kshs. 300,000.
- (ii) The PMC reported that they initiated the process of title deed processing

Committee Recommendations

105. The Committee recommends that:

Khatiri Primary School (Land now under Khatiri Secondary School)

- (i) The NG-CDF Board in conjunction with NG-CDFCs should within (3) months of the adoption of this report ensure that **Khatiri Primary School** acquires the title deed for its land.
- (ii) The NG-CDF Board should establish a policy on the procedure of buying land and adhere to Section 11 (1) (k) of the National Government Constituency Fund Regulations 2016 which provides that “where a project involves purchase of a parcel of land or a building, ensure that the ownership thereof is duly verified and ownership documents authenticated with relevant government agencies”.
- (iii) Fund Account Manager should ensure that the PMC’s purchase land in areas where there are clear ownership documents especially in areas where land adjudication has been done.

106. Chekwanda Primary School

- (i) The NG-CDF Board in conjunction with NG-CDFCs should within (3) months of the adoption of this report ensure that **Chekwanda Primary School** acquire the title deed for its land.
- (ii) The NG-CDF Board should establish a policy on the procedure of buying land and adhere to Section 11 (1) (k) of the National Government Constituency Fund Regulations 2016 which provides that “where a project involves purchase of a parcel of land or a building, ensure that the ownership thereof is duly verified and ownership documents authenticated with relevant government agencies”.
- (iii) Fund Account Manager should ensure that the PMC’s purchase land in areas where there are clear ownership documents, especially in areas where land adjudication has been done.

107. Madisi AP Camp

- (i) The NG-CDF Board in conjunction with NG-CDFCs should within (3) months of the adoption of this Report ensure that **Madisi AP Camp** acquire the title deed for its land.
- (ii) The NG-CDF Board should establish a policy on the procedure of buying land and adhere to Section 11 (1) (k) of the National Government Constituency Fund Regulations 2016 which provides that “where a project involves purchase of a parcel of land or a building, ensure that the ownership thereof is duly verified and ownership documents authenticated with relevant government agencies”.
- (iii) Fund Account Manager should ensure that the PMC’s purchase land in areas where there are clear ownership documents especially in areas where land adjudication has been done.

2.0 Budget Performance

108. The Fund had an approved budget of Kshs. 150,673,015 and spent Kshs. 87,211,779 resulting to an under expenditure of Kshs. 63, 461,236 or budget utilization of 42%. Consequently, the budget target was not met, and various projects budgeted for were not implemented within the financial year. It is not clear how the CDF intended to clear this backlog of projects as they would affect the subsequent year's projects implementation.

Response by the Fund Account Manager

109. The budget under performance was due to the delay in disbursement of funds from the NG-CDF Board. The funds were disbursed in the subsequent financial year and the budget fully utilized as required. Copies of the AIEs indicating that the funds delayed were submitted to the auditors for review and verification.

Committee observations

110. The Committee observed that:

- (i) The budget underperformance was due to the delay in disbursement of funds from the NG-CDF Board.
- (ii) Copies of the AIEs proving the delay were submitted to the auditors for review.
- (iii) The AIEs and bank statements confirmed that Funds were received on 12th July 2016.

Committee Recommendations

111. The Committee recommends that:

- (i) 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.

3.0 Project Implementation Status

112. The Fund was to implement a total of 96 projects/programmes in different sectors during the year under review. However, analysis of the project implementation status report revealed that 23 (24%) of projects had not started, 64(67%) were ongoing while 9 (9%) had been completed. Therefore, the Fund did not fully meet the budget targets and thus denying the constituents effective delivery of service.

Response by the Fund Account Manager

113. The delay in implementation of some projects was due to the delay in disbursement of funds from the ex-chequer. The funds were disbursed in the subsequent financial year and the budget fully utilized as required. Completion certificates were availed for review.

Committee observation

114. 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 status of the projects was availed to the Auditors for review and verification. The query was adequately addressed and resolved.

Committee Recommendation

115. 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.

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

116. The Fund Account Manager, Mr. Kirop Musa Merisia, appeared before the Committee on 15th 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 of the Financial Statements

117. 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. 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

118. NG-CDF adopted IPSAS cash reporting framework for the first time in the financial year 2013/14 and the preparation of the cashflow and statement of accumulated funds were not mandatory statement in the template. However, the cash flow statement was later prepared and submitted to the auditor for review.

Committee observation

119. The Committee observed that although the matter stands resolved, it is worth to note that during the year under review preparation of the cash flow was not mandatory statement in the template. NGCDF started using IPSAS cash reporting framework for the first time in the financial year 2013/14.

Committee Recommendations

120. 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 Ownership of Land

121. The Constituency Development Fund Committee purchased various parcels of land during the year worth Kshs.4,000,000. However, the purchase transactions were only supported by sale agreements some of which were not fully signed. Consequently, it has not been possible to confirm the ownership of the parcel of the land worth Kshs.4,000,000 as at 30th June 2014.

Response by the Fund Account Manager

122. Tongaren Constituency is a settlement scheme where most of the land is still under lease hold. There are efforts by the community to convert the land from lease hold to free hold so that title deeds can be acquired. However, the projects undertaken were: Minyali Primary school two and a half acre at SH.1,500,000, Nabiswa Secondary two acres at Ksh.1,000,000, James Mwei Secondary at sh.600,000 and St Johns for disabled one acre at Ksh.500,000 are on their final stages of acquiring the title deeds. The land sale agreement was fully signed awaiting the title deeds processing. The sale agreement and letters from the Chief's were submitted to the auditor for review.

Committee observations

123. The Committee observed that following physical verification by the NG-CDF Board Legal Department it was established that:

Minyali Primary School

- (i) Agreement for sale dated 16.10.2014 established the vendor as Robert Mwisu Barasa of ID No. 20319305 and Minyali Friends Primary School PMC as the purchaser.
- (ii) The purchase price was Kshs. 600,000.
- (iii) The PMC confirmed that the title deed was being processed at the Lands Office and the same had not been issued.

- (iv) Agreement for sale was submitted to the auditors for review and verification.

Nabiswa Secondary School

- (i) The school purchased a 2 acre portion of land which was subdivided from title number BGM/Kabisi/2415 at an agreed price of Ksh 900,000.
- (ii) Agreement for sale dated 18.08.2014 established Eliakim Ilakiti Imaidi of ID No. 0692701 as the Vendor and Friends Secondary School Nabiswa as the purchaser.
- (iii) The school had obtained the title deed, Title No. BUNGOMA/KABISI/3359 registered in the name of the Cabinet Secretary to Treasury as a Trustee for Friends Secondary School Nabiswa at Bungoma District Land Registry on 22.06.2023
- (iv) Agreement for sale and title deed were submitted to the auditors for review and verification.

James Mwei Secondary School

- (i) The school sits on a total of 8.5 acres.
- (ii) 5 acres was donated to the school by the family while the remainder of 3.5 acres was purchased at an agreed price of Kshs. 260,000 per acre thus Kshs. 910,000.
- (iii) Agreement for sale dated 29.07.2009 established that the property was owned by Isaac Tanui.
- (iv) The agreement was between the family of Isaac Tanui and James Mwei Secondary School for purchase of 3.5 acres.
- (v) The school BOM in letter dated 24.08.2023 informed the NG-CDFC through the FAM that the land had been surveyed and they were making efforts to obtain the title deeds.

St. John for Disabled

- (i) Agreement for sale dated 25.11.2014 established that the agreement was executed between the school and the vendor, Edward Wanjala Simiyu.
- (ii) The purchase price was Kshs. 580,800 for 1 acre.
- (iii) An amount of Ksh 450,000 was paid and the vendor acknowledged receipt.
- (iv) In a letter dated 19.06.2023 the school stated it did not have financial capacity at the time to facilitate processing of the title documents.

Committee Recommendations

124. The Committee recommends that:

Minyali Primary School

- (i) The NG-CDF Board in conjunction with NG-CDFCs should within (3) months of the adoption of this report ensure that **Minyali Primary School** acquire the title deed for its land.
- (ii) The NG-CDF Board should establish a policy on the procedure of buying land and adhere to Section II (I) (k) of the National Government Constituency Fund Regulations 2016 which provides that “where a project involves purchase of a parcel of land or a building, ensure that the ownership thereof is duly verified and ownership documents authenticated with relevant government agencies”.
- (iii) Fund Account Manager should ensure that the PMC’s purchase land in areas where there are clear ownership documents especially in areas where land adjudication has been done.

James Mwei Secondary School

- (i) The NG-CDF Board in conjunction with NG-CDFCs should within (3) months of the adoption of this report ensure that **James Mwei Secondary School** acquire the title deed for its land.
- (ii) The NG-CDF Board should establish a policy on the procedure of buying land and adhere to Section 11 (1) (k) of the National Government Constituency Fund Regulations 2016 which provides that “where a project involves purchase of a parcel of land or a building, ensure that the ownership thereof is duly verified and ownership documents authenticated with relevant government agencies”.
- (iii) Fund Account Manager should ensure that the PMC’s purchase land in areas where there are clear ownership documents especially in areas where land adjudication has been done.

St. John for Disabled

- (i) The NG-CDF Board in conjunction with NG-CDFCs should within (3) months of the adoption of this Report ensure that **St. John for Disabled** acquire the title deed for its land.
- (ii) The NG-CDF Board should establish a policy on the procedure of buying land and adhere to Section 11 (1) (k) of the National Government Constituency Fund Regulations 2016 which provides that “where a project involves purchase of a parcel of land or a building, ensure that the ownership thereof is duly verified and ownership documents authenticated with relevant government agencies”.
- (iii) Fund Account Manager should ensure that the PMC’s purchase land in areas where there are clear ownership documents especially in areas where land adjudication has been done.

3.0 Cash and Cash Equivalents

125. The statement of assets and liabilities as at 30th June 2014 reflects cash and cash equivalents balance of Kshs.10,419,796.50. However, included in the balance was unsupported outstanding Imprest of Kshs.1,033,090.00(Note14) held by one officer. As a result, it has not been possible to confirm the completeness of the cash and cash equivalent balance of Kshs.10,419,796.50

Response by the Fund Account Manager

126. As at the end of the financial year, Ksh. 1,033,090 was outstanding imprest since there was an activity that was still ongoing. The Imprest was surrendered and posted in the cashbook and cleared. The payment vouchers and a copy of the cash book page were submitted to the auditor for review.

Committee observations

127. The Committee observed that:

- (i) That imprest was outstanding since there was an activity that was still ongoing.
- (ii) The outstanding imprests were subsequently surrendered and posted to the cashbook.
- (iii) The payment vouchers and a copy of cash book page were verified by the auditor.
- (iv) The query was adequately addressed and resolved.

Committee Recommendation

128. 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."**

FINANCIAL YEAR 2014/2015

1.0 Presentation, Accuracy and Completeness of the Financial Statements

129. The International Public Sector Accounting Standards (Cash basis) Financial statements presentation format prescribed by the National Treasury requires the management to include the action taken on the previous year auditor recommendations. In the year 2013/2014, Tongaren CDF had a qualified Audit Opinion. However, no report on the follow up of audit issues raised was included in the financial statement for the year under review.
130. In the circumstances, the presentation, accuracy and completeness of the financial statements was not in conformity with IPSAS (cash basis) as prescribed by the National Treasury and was not with accordance with Public Finance Management Act, 2012
131. Further, the assets acquired in the year under review was Kshs.545,490 was included in the summary of fixed assets as the balance remains constant for 2014/2015 at Kshs.12,251,190.

Response by the Fund Account Manager

132. At the time of preparation and submission of the financial statements for 2014/15 financial year, the management had not received the previous year certificate and as such was unable to include a report on progress on follow up of auditor recommendations.
133. However, the report on progress on follow up of prior year audit recommendations was adopted and included in the in FY 2015/2016.
134. The corrections were made in the annex II of FY 2015/2016 correcting the error in the summary of Fixed asset of FY 2014/2015 to include Ksh 545,490 for motor bike, adjusting the total to Ksh 12,796,680.

Committee observations

135. The Committee observed that:
- (i) The auditor confirmed inclusion in Financial Statement of 2015/16 extracts.
 - (ii) The auditor confirmed the disclosures were included in the summary of fixed assets register.
 - (iii) Fund Account Manager later prepared and submitted the report on follow-up of audit recommendations to the auditors for review.
 - (iv) The Committee observed that the explanation provided was satisfactory.
 - (v) The query was adequately addressed and resolved.

Committee Recommendations

136. 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

137. During the year under review, the Fund had an approved budget of Kshs.130,914,102 but only spent Kshs.99,114,995 resulting in under expenditure of Kshs.31,799,107. The Fund overspent on transfers of other grants and transfers by Kshs.8,244,488. Consequently, the Fund did not meet its service delivery targets and budgetary objectives if its Constituency.

Response by the Fund Account Manager

138. The delayed implementation was occasioned by delayed disbursement of funds by the exchequer affecting the percentage utilization. However, the various projects and activities were undertaken and completed and are in use. The appropriation statement prepared at the time of preparation of financial statement had an error which led to the indication of over expenditure of Kshs 8,244,488. The appropriation statement was amended to reflect the correct position of the statement of appropriation.

- 1. A796163 KSH 27,381,727.52
- 2. A797059 – KSH 30,381,727.52
- 3. A750390 – KSH 7,300,000
- 4. A759544 – KSH 23,081,727.50
- 5. A796653 – KSH 14,229,036.50
- 6. A790886 – KSH 16,152,091

Committee observations

139. The Committee observed that:

- (i) The explanation provided was satisfactory.
- (ii) The auditor verified the submitted AIEs verified and Bank statements.
- (iii) The query was adequately addressed and resolved.

3.0 Project Implementation and management

140. During the year under review, the Fund was to implement a total of One Hundred and Thirty (130) projects /programmes in various sectors. An analysis of implementation status indicated that Seventy-Two (72) or 55% of projects had not started, four (4) of 3% of the projects was still ongoing, while Fifty-Four (54) of 42% of the projects had been completed. Further, the Fund had not commenced the implementation of various projects amounting to Kshs.25,337,929. In view of the foregoing, the Fund and the constituency did not realize value for money from the incomplete and unimplemented projects.

Response by the Fund Account Manager

141. The delayed implementation was occasioned by delayed disbursement of funds by the ex chequer. The projects in question was completed and in use. The completion certificates were availed for audit review.

Committee observations

142. The Committee observed that:

- (i) Following physical verification by the Office of the Auditor General, it was noted that the projects were completed and were in use. The completion certificates were availed to the Auditors for review and verification.
- (ii) The query was adequately addressed and resolved.

4.0 Unsupported Land Purchase

143. The Fund disbursed Kshs.1,000,000 to Lusokho PAG Primary School PMC for acquisition of land and construction of a classroom. However, Title deed for the land was not provided for audit review.

Response by the Fund Account Manager

144. The land acquired by Lusokho PAG Primary school is adjoined to the school. The school followed all land purchase procedures as indicated by the land sale agreement. However, the owner of the land passed on and succession process while was initiated.

Committee observations

145. The Committee observed that following physical verification by the NG-CDF Board Legal Department it was established that:

- (i) The agreement for sale dated 23.09.2020 established that the agreement was executed between the school and vendor, John Welangai for purchase of 0.14712 ha to be subdivided from L.R Bungoma/Kabisi/643.
- (ii) The purchase price was Ksh 280,000 which was paid by the school and vendor acknowledged receipt.
- (iii) In a letter dated 28.08.2023 the school indicated that the succession proceedings had been concluded and the Administrator of the estate had obtained Confirmation of Grant.
- (iv) The Administrator presented before the Land Control Board the application for consent to subdivide the titled No. Bungoma/Kabisi/643 among nine (9) beneficiaries which include the school.

Committee Recommendations

146. The Committee recommends that:

- (i) The NG-CDF Board in conjunction with NG-CDFCs should within (3) months of the adoption of this report ensure that Lusokho PAG Primary school acquire the title deed for its land.
- (ii) The NG-CDF Board should establish a policy on the procedure of buying land and adhere to Section II (I) (k) of the National Government Constituency Fund Regulations 2016 which provides that **“where a project involves purchase of a parcel of land or a building, ensure that the ownership thereof is duly verified and ownership documents authenticated with relevant government agencies”**.
- (iii) Fund Account Manager should ensure that the PMC’s purchase land in areas where there are clear ownership documents especially in areas where land adjudication has been done.

5.0 Construction of Tongaren Community Cereals Stores

147. A service firm was awarded a labor-based contract a sum of Kshs.1,248,116 for the construction of cereal stores. The project Management Committee (PMC) sourced materials amounting to Kshs.6,739,824 as per the bill of quantities (BQs) prepared by the clerk of works. However, stores records maintained by the PMC were not availed for audit review. Consequently, it was not possible to confirm whether the stores worth Kshs.7,987,939 were received and used for the intended purposes.

Response by the Fund Account Manager

148. The construction of Tongaren community cereals stores was undertaken through labor based where the PMC could source for materials from various hardware’s and stores within the constituency. The PMC did not maintain a stores ledger as the materials were used immediately

for the construction of the cereals store. The project was supervised by the county works officer who ensured everything was as per the requirements of the Bill of quantities.

Committee observations

149. The Committee observed that following physical verification by the Office of the Auditor General, it was noted:
- (i) That the work was supervised by Public Works officer.
 - (ii) BQs, PV, Completion certificate, Photo. PMC Minutes, Photos, construction agreements were submitted to the auditors for review and verification.

Committee Recommendation

150. 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.

FINANCIAL YEAR 2015/2016

1.0 Lack of Land Ownership Documents

151. The Fund Management purchased various pieces of land at a cost of Kshs. 2,800,000 as listed below:

| Payee | Description | Date | Pv no | Amount |
|--------------------------|-----------------------------|------------------|--------|------------------|
| Machakha Primary School | Purchase of 2 acres of land | 14 June 2016 | 290778 | 1,800,000 |
| Namboko Secondary School | Purchase of 2 acres of land | 31 December 2015 | 290727 | 1,000,000 |
| | | Total | | 2,800,000 |

152. However, since the title deeds were not acquired, it was not possible to confirm the ownership of the two parcels of land.

Response by the Fund Account Manager

153. Machakha primary school and Namboko secondary school were given Kshs. 1,800,000 and 1,000,000 respectively for purchase of land. However as at the time of the audit, the schools had not obtained land title deeds. The schools were still the process of processing the title deeds.

Committee observations

154. The Committee observed that following physical verification by the NG-CDF Board Legal Department it was established that:
- (i) Machakha primary school and Namboko secondary school had initiated the process of acquiring the title deeds.

Committee Recommendations

155. The Committee recommends that:

- (i) The NG-CDF Board in conjunction with NG-CDFCs should within (3) months of the adoption of this report ensure that Machakha primary school and Namboko secondary acquire the title deeds for their parcels of land.
- (ii) The NG-CDF Board should establish a policy on the procedure of buying land and adhere to Section 11 (1) (k) of the National Government Constituency Fund Regulations 2016 which provides that **“where a project involves purchase of a parcel of land or a building, ensure that the ownership thereof is duly verified and ownership documents authenticated with relevant government agencies”**.
- (iii) Fund Account Manager should ensure that the PMC’s purchase land in areas where there are clear ownership documents especially in areas where land adjudication has been done.

2.0 Budgetary Control Performance

156. The Fund had an approved budget of Kshs. 164,290,049 and spent Kshs. 95,800,544 resulting to an under expenditure of Kshs. 68,489,506 or budget utilization of 59%. Consequently, the budget targets were not met and various projects budgeted for were not implemented within the year under review. Consequently, the Fund did not fully meet the budget target hence denying the residents of Tongaren effective service delivery.

Response by the Fund Account Manager

157. The Fund had an approved budget of Kshs. 164,290,049. This was made up of Kshs. 128,899,639 for the financial 2015/2016, Kshs.31,798,631, balance of unspent funds for financial year 2014/2015 and other receipts of Kshs. 3,637,616 from re-allocations. Projects could have been implemented within the time frame but the committee in place lapsed on 19th February 2016 with the lapse of CDF Act 2013. The formation of the new committee under the new NG-CDF Act 2015 had to undergo several processes hence the delays. The new committee became effective by June just near the closure of the financial year. The funds from the ex chequer was also received late. However, the projects were funded and completed.

Committee observations

158. The Committee observed that

- (i) The Fund Account Manager provided a satisfactory explanation and the supporting documents i.e AIEs verified and Bank statements were provided and verified by the Office of the Auditor General.
- (ii) The query was satisfactorily addressed.

3.0 Project Implementation Status

159. The Fund was to implement a total of 66 projects/programmes in different sectors during the year under review. An analysis indicated that 3 projects (representing 5%) had not started, 58 projects (88%) were ongoing while 5 (8%) had been completed as at time of audit in February

2017. In the circumstances, it is not clear how the management intended to clear backlog of projects as they would affect the subsequent year's project implementation.

Response by the Fund Account Manager

160. 5% of the projects had not started and 88% of the projects were on-going as at the day of the exercise. This was so due to delays in the formation of the new NG-CDF Committee under the new CDF Act 2015. All projects were implemented and are in use. Copies of completion certificates were availed to the auditors for review.

Committee observation

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

4.0 Incomplete and Poorly Done Projects

161. The Fund undertook the projects listed below;

| | Name of project | Description | Contract sum Kshs. | Remarks |
|---|---------------------------------------|---------------------------------------|---------------------------|--|
| 1 | Mitua Girls High School | Completion of dining hall and kitchen | 1,500,000 | Poor Workmanship |
| 2 | Minyali Primary School | Construction of 2 classrooms | 1,000,000 | Poor Workmanship |
| 3 | Bishop Philip Anyolo Secondary School | Completion of dining hall | 1,000,000 | Floor poorly done, badly cracked |
| 4 | Wekulo-Tabani Road | Grading and Gravelling of Roads | 5,410,000 | All payments made but gravelling was not done. |
| | | | 8,910,360 | |

162. From the above, it was noted that (3) projects were poorly done while one (1) was incomplete. Under the circumstances, there was no value for money on these projects and residents of the Constituency may not have benefited from the projects as intended.

Response by the Fund Account Manager

163. The works for some of the projects had some defects as at the time of audit but since they were under the defects liability period they were corrected. The comments on the actions taken are as below;

| PROJECT NAME | DESCRIPTION | AMOUNT | CORRECTIONS |
|---------------------------------|---------------------------------------|-----------|---|
| Mitua girls high school | Completion of dining hall and kitchen | 1,500,000 | Corrections done on the floor and well painted as recommended by auditors |
| Minyali primary school | Construction of two classrooms | 1,000,000 | The classroom was re-floored as recommended |
| Bishop Philip Anyolo sec school | Completion of dining hall | 1,000,000 | The dining hall and kitchen are still not complete. It was a co-funded project between CDF and PTA. CDF did its activities and the project is on-going as the school is using PTA money for completion. |
| Wekulo-Tabani Road | Grading and gravelling of the road | 5,410,360 | Gravelling was done but washed away by heavy down pour. Tongaren NG-CDF Committee noted the anomaly and will involve heavy compacting in future to avoid such messes |

Committee observations

164. The Committee observed that:

- (i) The defects were corrected within the defect's liability period.
- (ii) The auditors ought to be accompanied by experts i.e Engineers, Architects, and lawyers when undertaking site visits to utilize their expertise.
- (iii) The Fund managers ought to be proactive to flag out poor workmanship and should not pay for works that are substandard.

Committee Recommendations

165. The Committee recommends that:

- (i) The Accounting Officer ensures that all Fund Account Managers only make payments for works based on the completion certificate issued by the works officer.
- (ii) Fund Account Managers ensure that all projects shall be implemented as per the specifications under the BQs and the funds are retained for the defect liability period.
- (iii) The Committee recommends that in line with Section 46(1) of the National Government Constituency Development Fund Act, 2015, the Fund Account Manager and PMCs should consult and involve relevant Government departments in initiation, cost estimation, and implementation of projects to ensure that deserving/priority projects are selected, appropriate budget is provided, and quality works are produced.

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

- 3 Mr. Philip Odida, the Former Fund Account Manager appeared before the Committee on 15th April, 2023 to respond to the audit Matters raised in the report of the Auditor-General on audited accounts for Bumula Constituency for the financial years 2013/14, 2014/15 and 2015/16.

FINANCIAL YEAR 2013/2014

1.0 Going Concern

166. The High court of Kenya in its ruling of 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 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 Constituency Development Fund is doubtful.

Response by the Fund Account Manager

167. The issue of going concern was resolved by the enactment of the NG CDF Act of 2015 and its regulations which aligned the fund functions to National Government functions. The fund continues to receive funding from the National Government.

Committee observation

168. The Committee observed that the matter had been 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 Emergency Works

169. During the year under review, the fund spent Kshs. 1,650,000.00 on emergency projects in various schools for renovation/reconstruction of classrooms. However, the supporting documents and technical supervision report of successful completion of the projects were not made available for audit review. Consequently, it has not been possible to confirm whether the emergency project works worth Kshs. 1,650,000 were properly sourced and completed as intended.

Response by the Fund Account Manager

170. The Kshs. 1,650,000 spent on emergency was requested by the respective institutions and the projects were supervised by the technical departments. The PMC's of these projects availed the supporting documents and technical supervision report of successful completion from the Ministry of works to the auditors for review.

Committee observation

- (i) The Committee observed that the query arose because the supporting documents and technical supervision report of successful completion of the projects were not made available for audit review. The documentation was later submitted to the auditor for audit review and verification.

Committee Recommendations

171. The Committee recommends that 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 Unapproved Over-Expenditure

172. During the year under review, the fund failed to adhere to the budget ceilings of Kshs. 18,370,730.00 and incurred an unapproved over expenditure of Kshs. 11,594,844.24 on three (3) items of Roads projects, Transfer to tertiary institutions and health facilities. No explanation has been given for the over expenditure.

Response by the Fund Account Manager

173. Kshs. 11,594,844.24 was part of the expenditure of the roll over balances of Ksh. 47,663,686.50 received in 2013/2014 and the cash book opening balance of Ksh.3, 104,285.85. Therefore, the expenditure of Ksh. 11,594,844.24 was part of the approved expenditure for the constituency. The AIE of Ksh. 47,663,686 was availed to the auditors for review.

Committee observation

174. The Committee observed that the auditors confirmed that the expenditure was part of the approved expenditure for the constituency. The query was adequately addressed, and resolved.

FINANCIAL YEAR 2014/2015

1.0 Presentation, Accuracy, And Completeness Of Financial Statements

175. The International Public Sector Accounting Standards (IPSAS)-Cash Basis financial statements presentation format prescribed by the National Treasury require the management to include among the financial statements presented for audit, a report on action taken on the previous year audit's recommendations. In the year 2013/2014, Bumula CDF had a qualified opinion. However, the report on follow-up of the audit issues raised was not included in the financial statements for the year under review. Therefore, presentation of the financial statements does not confirm to IPSAS (Cash Basis) prescribed by the National Treasury and Public Finance Management Act 2012.

176. In addition, the statement of appropriations is not complete as it does not disclose both the final budgeted and actual receipts. In addition, the opening balances differ with the last audited balances and the causes and details of the variances were not presented for audit review. Further, the statement of management responsibilities was not signed by management as required. Consequently, the presentation, accuracy, and completeness of the financial statements for the year ended 30 June 2015 could not be confirmed.

Response by the Fund Account Manager

177. As at the time of preparation of the financial statements, the constituency had not received the final certificate for financial year 2013/2014. However, the report has been prepared and availed to the auditor for review. The appropriation statement was amended and submitted to the auditors for review.
178. The statement of management responsibilities was signed by the respective officers and submitted for review.

Committee observation

179. The Committee observed that the auditor confirmed inclusion in the financial statement of 2015/16 in line with the template, the corrected appropriation statement and the duly signed statement of responsibilities. The query was adequately addressed and resolved.

2.0 Budgetary Control and Performance

180. During the year under review, the Fund had an approved budget of Kshs.173, 813,548 but only Kshs. 156,445,618 was spent thus resulting in under-expenditure of Kshs. 17,367,931. The recorded expenditure variances of more than 10% on various budget lines resulting to net under-expenditure of Kshs. 17,367,931 (or-10% of annual budget). In the circumstances the Fund did not meet its budgetary targets and service delivery obligations to the constituents

Response by the Fund Account Manager

181. The underutilization arose due to delays in disbursement of funds to the constituency. However, the funds were disbursed in the subsequent year and pending projects implemented.

Committee observations

182. The Committee observed that:
- (i) The query resulted from the late disbursement of funds to the constituency.
 - (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 copies of AIE and bank statements to the auditor for review and verification.

Committee Recommendation

183. 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 And Management

184. The Fund implemented a total of one hundred and fifty (150) projects/programmes budgeted to cost Kshs. 109,959,631 under various sectors during the financial year. Fifty-four (54) or 36% of the projects had been completed as at the time of audit in February 2016, while ninety-five (95) or 63% of the projects were ongoing while work on one (1) had not started as shown below: The constituents did not obtain the planned and budgeted services as 64% of the projects were not completed by 30 June 2015 as expected.

Response by the Fund Account Manager

185. During the time of audit, the management had not received the entire budget for the financial year. However, the funds were fully disbursed and pending projects duly implemented and completed. The completion certificates were availed to the auditors for review.

Committee observation

186. 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 A.I.E, PIS, Minutes of allocation, Completion certificates and PMC minutes were availed to the Auditors for review and verification. The query was adequately addressed and resolved.

4.0 Unsupported Committee Expenditure

187. During the financial year under review, the Fund incurred committee expenditure amounting to Kshs. 9,681,900 as reported in the financial statements. However, only schedules and supporting documentation presented for audit was for expenditure totaling to Kshs. 5,803,000 and therefore the balance amounting to Kshs. 3,878,900 was not supported. Consequently, the propriety of the expenditure amounting to Kshs. 3,878,900 could not be confirmed.

Response by the Fund Account Manager

188. Ksh. 9,681,900 was the actual expenditure under the committee expenses incurred during the year. The supporting documents of Ksh. 3,878,900 were misplaced in the district treasury office but were retrieved. The payment vouchers to support the expenditure availed to the auditors for review.

Committee observation

189. The Committee observed that the copies of payment vouchers and cash book extract were submitted to the auditor for review and verification. The query was adequately addressed and resolved.

FINANCIAL YEAR 2015/2016

3.0 Budgetary Control Performance

190. The Fund had approved budget of Kshs. 144,208,648.00 and spent Kshs. 130,205,119 resulting to under expenditure of Kshs. 14,003,529 or budget utilization of 90%. Consequently, the budget target was not met, and various projects budgeted for were not implemented within the year under review. It's not clear how the CDF intended to clear this backlog of projects as they will affect subsequent year's project implementation.

Response by the Fund Account Manager

191. The underutilization arose due to delays in disbursement of funds to the constituency. However, the funds were disbursed in the subsequent year and pending projects implemented.

Committee observation

192. The Committee observed that this was occasioned by the late disbursement of funds by the National Treasury. The projects were implemented in the subsequent financial year. The completion certificates were availed to the auditors for review.

Committee Recommendation

193. 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 Implementation Status

194. The Fund was to implement a total of 181 projects/ programmes in different sectors during the financial year. Further analysis indicated 44(24%) of the projects were still ongoing and 137(76%) had been completed. Therefore, the Fund did not fully meet the budget target, hence denying the constituents effective service delivery.

Response by the Fund Account Manager

195. During the time of audit, the management had not received the entire budget for the financial year. However, the funds were fully disbursed and pending projects duly implemented and completed. The completion certificates were availed the auditors for review.

Committee observation

196. 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 projects was availed to the Auditors for review and verification. The query was adequately addressed and resolved.

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

197. Mr. Kodii K. Duncan ,the Fund Account Manager, , appeared before the Committee on 17th April, 2023, to respond to the audit matters raised in the report of the Auditor General for Webuye East Constituency for the financial years 2013/2014, 2014/2015 and 2015/2016.

FINANCIAL YEAR 2013/2014

1.0 Under Expenditure

198. The Fund spent Kshs.16, 839,428.25 on four (4) expenditure items against a budget of Kshs.19,175,549.00 resulting to unexplained under expenditure of Kshs.2,336,120.75.

Response by the Fund Account Manager

199. The under expenditure of the budget was due to the delay in disbursement of funds from the Exchequer. Procurement processes take long thus giving limited time to fully utilize the funds.
200. The under expenditure was on approved items (i) Lockable school desks Ksh1, 500,000, (ii) Emergency Ksh 270,000, (iii) Recurrent Ksh 61,120 and (iv) Outstanding imprest Ksh. 505,000. However, the projects were implemented to completion and outstanding imprest was surrendered in the subsequent year 2014/2015.

Committee observations

201. The Committee observed that:
- (i) The under expenditure was due to late disbursement of funds from the Exchequer.
 - (ii) The management submitted AIEs, PV for the Messo contractor and Cashbook for surrender of imprest.
 - (iii) The auditor confirmed that the projects were implemented to completion and outstanding imprest was surrendered in the subsequent year 2014/2015.

Committee Recommendations

202. The Committee recommends that:
- (i) The National Treasury shall ensure timely disbursement of funds to the National Government Constituencies Development Fund Board for immediate release to the constituencies
 - (ii) 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.”

2.0 Accuracy of the Financial Statements

202. Note 18.4 to the financial statements described as Funds due for projects. However, included is an amount of Kshs. 270,000.00 and Kshs.61, 120.00 which belong to emergency and recurrent funds respectively and not funds to projects? Further, the funds did not prepare statements of changes in net assets as at 30 June 2014. In the circumstances, the accuracy of the financial statements as at 30 June 2014 could not be confirmed.

Response by the Fund Account Manager

203. Section 25(6) of the CDF Act has office administration and recurrent costs of NGCDFC as eligible of project at 6%. Further, section 8 of the NGCDF Act and in line with section 25 (11) of the Act allows emergency reserve at 5% which was unutilized at the end of the year.
204. The statement of changes in net assets could not be included because there was no asset acquisition in the year. However, the document was prepared in the subsequent years. An extract of the report for FY 2015/16 is included in the annex below.

Committee observation

205. The Committee observed that the statement of Summary of fixed Assets was availed to the auditor for review and verification. The query was adequately addressed and resolved.

Committee Recommendations

206. The Committee recommends that the Accounting Officer should ensure that the Fund Account Managers:
- (i) Maintain 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".

FINANCIAL YEAR 2014/2015

1.0 Presentation and Disclosure of the Financial Statements

207. The International Public Sector Accounting Standards (Cash Basis) financial statements presentation format prescribed by the National Treasury requires, the management to include among the financial statements presented for audit a report on action taken to address previous year auditor's recommendations.
208. In the year 2013/2014, Webuye East CDF had a qualified audit report. However, a report on follow-up on the audit issues raised was not included for the year under review. In the circumstances, the presentations of the financial statements are not in conformity with IPSAS (Cash Basis).

Response by the Fund Account Manager

209. During the preparation of financial statement by the constituency, the report on follow up on audit issues was not included because the certificate had not been received. However, the anomaly was corrected in the subsequent year and the follow up report for FY 2015/16 was submitted to the auditors for review.

Committee observation

210. The Committee observed that the anomaly was corrected in the subsequent year and the follow up report for FY 2015/16 was attached and presented for review. The query was adequately addressed and resolved.

Committee Recommendations

211. The Committee recommends that:
- (i) The NG-CDF Board should ensure that the Fund Account Managers: -
- a) Maintain 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 Budgetary Control and Performance

212. The Fund's approved budget for the year under review was Kshs. 104,579,078.00 but expenditure incurred totalled Kshs. 76,136,314.80 thus resulting in under – expenditure of Kshs 28,442,763.20. The Fund recorded (over)under-expenditure on various budget lines analysed in the Financial Statements.
213. The Fund did not acquire any assets during the year under review though it had an approved budget for item totalling to Kshs. 7,000,000. No explanation was provided for the anomaly. As a result of the under expenditure, the Fund failed to meet its performance targets and deliver expected services to constituents as planned.

Response by the Fund Account Manager

214. The actual total allocation for the financial year was Kshs. 102,242,954.00. The under expenditure was Ksh. 26,106,190.20 and was due to the delay in disbursement of funds from the Exchequer.
215. A sum of Ksh 15,560,739.20 due to the constituency was received on 18/9/ 2015 with AIE NO 796171 and the constituency had a balance of Ksh. 10,545,451.00 which was unutilised as at 30th June 2015. The pending projects were implemented in the subsequent year 2015/2016 and were completed and in use.
216. The Kshs. 7,000,000.00 was construction of NG-CDF office which was completed and in use. Malomonye Primary School Ksh 700,000 –Completion of 3 classes, Lumuli SDA Ksh 750,000- 1 acre purchase of land, Nabuyole Pefa, Ksh 2,000,000– Completion of ground floor for classrooms, St Cecilia Misikhu Girls Ksh 5,000,000 –Completion of ground floor.

217. Code list and completion Certificates were submitted to the auditors for review.

Committee observations

218. The Committee observed that:

- (i) The auditor confirmed that the query arose due to the delay in the disbursement of funds from the Exchequer.
- (ii) Following physical verification by the Office of the Auditor General it was established that the following projects were completed and completion certificates were availed to the auditors for review and verification: NG-CDF office block, Malomonye Primary School, Nabuyole Pefa, St Cecilia Misikhu Girls and the purchase of Lumuli SDA 1-acre parcel of land.
- (iii) The Fund Account Manager provided a satisfactory explanation. The query was satisfactorily addressed.

3.0 Project Implementation

219. The CDF implemented a total of 56 projects /programs by different sectors during the financial year. As at the time of audit in February 2016, 29 or 52% of the projects had been completed while works on 27 (or 48%) of the projects were on-going.

Response by the Fund Account Manager

220. During the time of audit, the projects were on-going. The delay was due to late disbursement of funds. However, all the projects were completed as per the project status of 2014/2015. Project Implementation status, List of Projects and completion certificates were submitted to the auditor for review.

Committee observation

221. The Committee observed that the auditor confirmed that the projects were completed and that the management submitted the following: Project Implementation status, List of Projects and completion certificates for Kshs 92,352,148. Photos, code list and the completion certificates numbered as per the code list, other supports logbook purchase tender documents, title deeds. The query was adequately addressed and resolved.

222. Undisbursed Allocation

The Fund received Kshs.92, 242,956.75 in the year against total allocation of Kshs.102, 242,954.00 resulting in undisbursed funds of Kshs. 10,199,997.25. No explanation was provided for underfunding.

Response by the Fund Account Manager

223. There was a delay in disbursement of the funds. However the amount of Ksh 10,000,000 was received in the subsequent financial year.

Committee observations

224. The Committee observed that:

- (i) The auditor confirmed that the funds were received late due to delay from the exchequer.
- (ii) The management submitted the AIE no A 796254 Bank statements to the auditor for review and verification. The query was adequately addressed and resolved.

FINANCIAL YEAR 2015/2016

Other Matters

1.0 Project Implementation Status

225. The Fund was to implement a total of 57 project/programmes by different sectors during the financial year. Further analysis indicated that 37 or 65% of the projects were still on-going and 20 or 35% of the projects had been completed. Therefore, the Fund did not fully meet the budget target and thus denying the constituents effective service delivery.

Response by the Fund Account Manager

226. During the time of audit, the projects were on-going. The delay was due to late disbursement of funds. All the projects were completed as per the project implementation status of 2015/2016.

Committee observations

227. The Committee observed that the audit was conducted when the projects were on-going and the in-addition funds were delayed from the ex-chequer. However, projects were later completed and in use as per the submitted AIE and bank statements, PIS and list of Projects together with completion certificates.

Committee Recommendations

228. 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 practicality of the cost estimates.
 - (ii) The NG-CDF Board should come up with a realistic policy framework of costing projects for each constituency which is informed by cost of materials, cost of transportation, taxes, topography of each constituency and reports from the relevant Government department.

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

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

FINANCIAL YEARS 2013/2014

1.0 Under Expenditure

230. The Fund spent Kshs. 66,247,782 against a budget of Kshs 77,167,470 resulting to unexplained under expenditure of Kshs.10, 919, 687.40 for the year ended 30 June 2014.

Response by the Fund Account Manager

231. AIE No. A735986 for the financial year ended 30 June 2014 of Ksh. 23,150,241 due to the constituency was received on 5th June 2014, which was inadequate time to spend all the funds before the end of the financial year hence resulting in unutilized balance of Kshs. 10,919, 687.

Committee observation

232. The Committee observed that the management submitted the AIE and bank statement to the auditor proving that the funds were received on 6 June 2014. The query was satisfactorily addressed.

Committee Recommendation

233. 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 Accuracy and Completeness of Financial Statements

234. The statements of receipt and payments reflects a net surplus of Kshs. 10,919,687.40 as at 30th June 2014. Further, note 18.4 of the Financial statement described as Funds due for projects includes four (4) items described as Emergency, Monitoring and Evaluation, Office Administration and office land amounting to kshs.1,264,466.00 Kshs. 733,713.00, kshs.1,695,765.40 and kshs.100,000.00 respectively which do not belong to the category. In the circumstances, it was not been possible to confirm the accuracy and completeness of the financial statements as at 30 June 2014.

Response by the Fund Account Manager

235. As per the IPSAS template unutilized funds included bank balance of Kshs. 10,919,687.40. Section 25(6) of the CDF Act allows office administration and recurrent costs of NGCDFC as eligible of project at 6% of the allocation, section 24 of the NGCDF Act and in line with section 25 (2) of the Act allows emergency reserve at 5%, section 25(9) of the Act allows 3% of monitoring evaluation and capacity building, section 25(5) of the NGCDF Act 2015 provides for construction of NGCDF office as an eligible project.

Committee observation

236. The Committee observed that the auditor confirmed that the NG-CDF Act recognized the items as projects and that is why the management used the term projects. The query was adequately addressed and resolved.

FINANCIAL YEAR 2014/15

1.0 Budgetary Control and Performance

237. During the year under review the Fund's approved budget amounted to Kshs. 121,881,840 while actual expenditure was Kshs. 93,627,689 resulting in under expenditure of Kshs. 28,254,151. Further, the Fund spent Kshs. 6,415,646 on roads and transfers to tertiary institutions but the expenditure was not budgeted for. As a result the under expenditure, the residents of Webuye West Constituency did not obtain the important Public services equivalent to the unspent amounting to kshs. 28,254,151.

Response by the Fund Account Manager

238. AIE No. A796172 for the financial year ended 30 June 2015 of Ksh. 27,739,288 due to the constituency was received on 29th June 2015 and bank balance of Ksh. 514,863 totaling to Ksh. 28,254,151, which was inadequate time to spend the funds before the end of the financial year hence resulting in unutilized balance of ksh 28,254,151.

239. The amount of Kshs. 6,415,646.00 on roads and transfers to tertiary institutions was budgeted and approved in F/Y 2014/2015 Code list provided for (Wanangwe Bridge in Stikho ward, Elis-Choko -Bunangeni Road).

Committee observation

240. The Committee observed that the query resulted from the late disbursement of funds by the ex-chequer. The auditor verified the AIE and bank statement and confirmed that the funds were received late.

Committee Recommendation

241. 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.

2.0 Projects Implementation Status

242. The Fund planned to implement 81 projects costing Kshs. 110,957,158 during the year under review. However, the project implementation status report dated 30 June 2015 indicated that only 42 projects were completed while the balance totalling 39 were at various stages of completion.

Response by the Fund Account Manager

243. As of the time of audit, there were 36 ongoing projects which were completed and in use. The delay was due to late disbursement of funds by the Ex-chequer. The amount of Ksh. 36,363,644.10 A.I.E no. A855573 due to the constituency had not been disbursed which affected project implementation. However, the funds were received in 2016/17 F/Y on 9/2/17 and used on the relevant projects.
244. One major project Makhese Kibingei Road- Grading and spot gravelling 7km road was reallocated using Ref:NG-CDF BOARD/WEBUYE WEST/VOL/38 to various institutions.

Committee observation

245. The Committee observed that the auditor confirmed that the funds were received late in May 2015 after verifying the submitted AIE and bank statement. The auditor confirmed that all projects for the year 2014/2015 were completed, handed over and in use.

Committee Recommendation

246. 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 2015/2016

Other Matters

1.0 Budgetary Control Performance

247. The Fund had an approved budget of Kshs. 145,814,434 and spent kshs.131,373,176 resulting to under expenditure of kshs.14,441,258 or budget utilization of 90%. Consequently, the budget was not met and various projects budgeted were not implemented within the financial year. It is not clear how the CDF intended to clear this backlog of projects as they will affect the subsequent year's project implementation.

Response by the Fund Account Manager

248. AIE No. A825689 for the financial year ended 30 June 2016 of Ksh. 29,610,824 due to the constituency was received on 30th May 2016 which was inadequate to spend all the funds before the end of the financial year hence resulting in unutilized balance of Ksh 14,441,258.

Committee observation

249. The Committee observed that the AIE and bank statement proving delay in the disbursement of funds were availed and verified by the Office of the Auditor General. The query was adequately addressed and resolved.

2.0 Project Implementation Status

250. The Fund was to implement a total of 68 projects/ programmes by different sectors during the year under review. Further analysis indicated that 1 major project had not started, 36 (53%) of the projects were still ongoing and 31 (46%) had been completed. Therefore, the Fund did not fully meet the budget target and hence denying the constituents effective delivery of service.

Response by the Fund Account Manager

251. As of the time of audit, there were 36 ongoing projects which were later completed and in use. The delay was due to late disbursement of funds by the Ex-chequer. The amount of Ksh. 36,363,644.10 A.I.E no. A855573 due to the constituency had not been disbursed which affected project implementation. However, the funds were received in 2016/17 F/Y on 9/2/17 and used on the relevant projects. Code list and completion certificates were submitted to the auditor for review.
252. One major project Makhese Kibingei Road- Grading and spot gravelling 7km road was reallocated using Ref: NG-CDF BOARD/WEBUYE WEST/VOL/38 to various institutions.

Committee observation

253. The Committee observed that following physical verification by the Office of the Auditor General, it was established that the funds were received late. However, the projects were later completed. The query was adequately addressed and resolved.

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

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

FINANCIAL YEAR 2013/2014

1.0 Unsupported and Incomplete Financial Statements

255. The finalized statements for the year ended 30 June 2014 did not include statement of cash flows and statement of changes in net assets as required by IPSAS. Further no trial balance and ledgers were provided for audit review to support the financial statements balances. In view of the foregoing, it is not possible to ascertain accuracy and correctness of the financial statements as at 30 June 2014.

Response by the Fund Account Manager

256. The template provided by the IPSAS Board did not have the statement of net assets in the cash basis of reporting. But the cash flow statement was availed for auditor's review. The trial balance does not form part of the financial statements but was availed for review. The constituency maintains an annual expenditure return that serves as a ledger and forms the basis of the preparation of financial statements.

Committee observation

257. The Committee observed that the Fund Account Manager provided a satisfactory explanation and the query was adequately addressed and resolved.

2.0 Project Implemented Without Technical Supervision

258. During the year under review the fund incurred Kshs 3,255,000 on water and emergency projects without involvement of technical supervision. In the absence of technical supervision and submission of certificates of work completion, it has not been possible to ascertain the propriety of the works expenditure and whether the projects effectively and efficiently met the intended purposes.

Response by the Fund Account Manager

259. Emergency projects of Kshs 2,000,000, were implemented with the supervision of the relevant technical departments as required by law. The completion certificates were availed to the auditors for review.
260. The water projects of Kshs 1,255,000 involved protection of water springs through fencing and construction of water springs and implemented with the supervision of technical department as required by the law. The completion certificates were availed to auditors for review.

Committee observation

261. The Committee observed that the Fund Account Manager's explanation was satisfactory and the management had submitted completion certificates to auditors for review and verification.

Committee Recommendation

262. The Committee recommends that the Accounting Officer ensures that all Fund Account Managers always engage and seek assistance from the relevant Government departments in project implementation as per Section 36(1) of the National Government Constituency Development Fund Act, 2015.

3.0 Unsupported Land Acquisition

263. During the year under review the fund disbursed a total of Kshs. 2.4 million to various institutions for purchases of land on which CDF projects were to be erected. However, no title documents were availed for audit review. In the circumstances it has not been possible to confirm the propriety of the expenditure on acquisition of land as at 30 June 2014.

Response by the Fund Account Manager

264. During the year under review the fund disbursed a total of Kshs. 2.4 million to various institutions for purchases of land on which CDF projects were to be erected. However, no title documents were availed for audit review.
265. In the circumstances it has not been possible to confirm the propriety of the expenditure on acquisition of land as at 30 June 2014.

Committee observations

266. The Committee observe that following physical verification by the NG-CDF Board it was established that:

Siloba Primary School

- (i) The Head Teacher stated he was collaborating with the seller to transfer the land.
- (ii) It was reported that survey was completed.

Matumbufu Girls Secondary School

- (i) Agreement for sale dated 09.03.2016 established that the agreement was executed between the school and Chrispnus Nyongesa Ruchu of I.D No. 11659994 for purchase of Title No. E.BUKUSU/N.SANG'ALO 5070 registered in the name of Fredrick Wanyama Ruchu (deceased) for Kshs 600,000.
- (ii) In a letter dated 04.07.2023 the school reported that the sucession process had been initiated, which would facilitate title processing.
- (iii) Agreement for sale and a letter dated 04.07.2023 were submitted to the auditor for review and verification.

St Sarah Namisi Secondary School

- (i) Agreement for sale dated 01.10.2014 established that agreement for sale was executed between the school and Sylvester Wanjala Okinda of I.D No. 068609 for purchase of 0.51 ha for Kshs. 390,000.
- (ii) it was established that possession was handed over to the school and there was no dispute that would cause delay in transfer of the land.
- (iii) However, it was reported that the seller did not have funds to effect transfer in favour of the school.

Bukananachi Friends Secondary School

- (i) Agreement for sale dated 10.02.2016 established that agreement was executed between the school and Saul Muricho Makokha of ID No. 8012533 for purchase of ¾ acres for 770,000.
- (ii) It was reported that the registered owner was deceased and family had initiated succession proceedings.
- (iii) The seller was also deceased but the family was not opposed to transferring the land to the school.
- (iv) The agreement for sale and official search were submitted to the auditor for review.

Fuchani Secondary School

- (i) The Fund Account Manager informed the Board that the school had obtained the title deed for Title No. E. BUKUSU/E.SANGALO/4601 registered in the name of the Cabinet Secretray to the Treasury(As a trustee for Friends Secondary School Fuchani)
- (ii) The title deed, agreement for sale and letter dated 03.07.2023 were submitted to the auditor for review and verification.

Committee Recommendations

Siloba Primary School

267. The Committee recommends that:

- (i) The NG-CDF Board in conjunction with NG-CDFCs should within (3) months of the adoption of this Report ensure that Siloba Primary School acquire the title deed for its land.
- (ii) The NG-CDF Board should establish a policy on the procedure of buying land and adhere to Section II (I) (k) of the National Government Constituency Fund Regulations 2016 which provides that **“where a project involves purchase of a parcel of land or a building, ensure that the ownership thereof is duly verified and ownership documents authenticated with relevant government agencies”**.
- (iii) The Fund Account Manager should ensure that the PMC’s purchase land in areas where there are clear ownership documents especially in areas where land adjudication has been done.

Matumbufu Girls Secondary School

268. The Committee recommends that:

- (i) The NG-CDF Board in conjunction with NG-CDFCs should within (3) months of the adoption of this Report ensure that Matumbufu Girls Secondary School acquire the title deed for its land.
- (ii) The NG-CDF Board should establish a policy on the procedure of buying land and adhere to Section II (l) (k) of the National Government Constituency Fund Regulations 2016 which provides that **“where a project involves purchase of a parcel of land or a building, ensure that the ownership thereof is duly verified and ownership documents authenticated with relevant government agencies”**.
- (iii) Fund Account Managers should ensure that the PMC’s purchase land in areas where there are clear ownership documents especially in areas where land adjudication has been done.

St Sarah Namisi Secondary School

269. The Committee recommends that:

- (i) The NG-CDF Board in conjunction with NG-CDFCs should within (3) months of the adoption of this Report ensure that St Sarah Namisi Secondary School acquire the title deed for its land.
- (ii) The NG-CDF Board should establish a policy on the procedure of buying land and adhere to Section II (l) (k) of the National Government Constituency Fund Regulations 2016 which provides that **“where a project involves purchase of a parcel of land or a building, ensure that the ownership thereof is duly verified and ownership documents authenticated with relevant government agencies”**.
- (iii) Fund Account Managers should ensure that the PMC’s purchase land in areas where there are clear ownership documents especially in areas where land adjudication has been done.

Bukananachi Girls Secondary School

270. The Committee recommends that the NG-CDF Board in conjunction with NG-CDFCs should within (3) months of the adoption of this Report ensure that Bukananachi Girls Secondary School acquire the title deed for its land.

FINANCIAL YEAR 2014/2015

1.0 Accuracy, Completeness and Presentation of the Financial Statements

271. The international Public Sector Accounting Standards (IPSAS) cash basis financial Statement presentation format prescribed by the Public Sector Accounting Standards Board (PSASB) requires the management to include among the financial statements presented for audit, a report on actions taken in regard to the previous year audit recommendations. In the year 2013/2014’ the financial statements of Kanduyi CDF received a qualified audit opinion. However, no report on follow-up of audit issues raised in the year was included in the financial statements for the

year under review. As a result, the financial statements did not comply with IPSAS cash basis format prescribed by PSASB.

272. Further, the statement of appropriation for the year under review was not complete as it does not disclose both the final budgeted receipts and actuals. In addition, the summary of fixed assets register reflects a closing balance of Kshs 26 955 551. However, the opening fixed asset balance was Kshs 5,022,480 and asset acquired during the year amounted to Kshs 20,200,000 resulting in total assets balance of Kshs 25,222,480. The resultant difference of Kshs 1,733,075 from the balance of Kshs 26,955,551 reflected in the financial statements was explained. Consequently, the accuracy, completeness, and presentation of the financial statement for the year ended 30th June 2015 could not be confirmed

Response by the Fund Account Manager

273. As at the time of preparation of the financial statements, the constituency had not received the final certificate for financial year 2013/2014 hence did not prepare the report on follow up of audit recommendations. However, the report has been prepared and availed to the auditors for review.
274. The statement of appropriation for the year under review was been completed with the disclosure of final budgeted receipts and actuals and presented to auditor for review. The fixed assets summary was rectified to reflect the true balances.

Committee observation

275. 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

276. The Committee recommends that:
- (i) The NG-CDF Board should ensure that the Fund Account Managers:
 - a) Maintain 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

277. The Kanduyi CDF budget for the year under review was Kshs 90,620,711. However, the Fund failed to meet budgetary targets and incurred over and under expenditures on various items as shown in the table below.

| Item | Actual(Kshs) | Budgeted(Kshs) | Variance(Kshs) | % |
|-----------------------------|-------------------|-------------------|---------------------|-------------|
| Roads Projects | - | 3,100,000 | (3,100,000) | -100.00% |
| Secondary School Bursary | 771,000 | 3,723,928 | (2,952,928) | -79.00% |
| Sports Projects | 800,000 | 2,617,914 | (1,817,914) | -69.44% |
| Compensation of Employees | 1,539,622 | 4,200,000 | (2,660,378) | -63.34% |
| Transfer to Primary Schools | 18,603,500 | 45,380,082 | (26,776,582) | -59.01% |
| Environment Projects | 1,716,905 | 2,617,914 | (901,009) | -34.42% |
| Emergency Projects | 4,000,000 | 5,400,259 | (1,400,259) | -25.93% |
| Tertiary Bursary | 14,046,875 | 11,000,000 | 3,046,875 | 27.70% |
| Committee Expenses | 8,892,156 | 4,726,871 | 4,165,285 | 88.12% |
| Agriculture (Food Security) | 4,000,000 | 2,000,000 | 2,000,000 | 100.00% |
| Use of goods & Services | 6,955,067 | 2,853,743 | 4,101,324 | 143.72% |
| CDF Office projects | 17,900,000 | 3,000,000 | 14,900,000 | 496.67% |
| Sub-Total | 79,225,125 | 90,620,711 | (11,395,586) | -13% |

278. As the table shows, the Fund incurred under-expenditure in road projects - Kshs. 3,100,000, sports projects - Kshs 1,817,914, grant transfers to primary schools - Kshs. 26,776,582, emergency projects - Kshs. 1,400,259, compensation of employees Kshs. 2,660,375 and environment projects - Kshs. 901,009 all totaling Kshs. 39,609,070.

279. Further, the Fund incurred over-expenditure totaling to Kshs. 28,213,484 in relation to use of goods and services, agriculture, and CDF office projects. Overall, the Fund incurred net under-expenditure amounting to Kshs. 11,395,586. As a result, the Fund did not meet its budgetary objectives and failed to deliver important public services expected by the constituents.

Response by the Fund Account Manager

280. Due to delay in disbursement from the ex-chequer, the management was not able to achieve full budgetary targets. But the projects were implemented.

Committee observation

281. The Committee observed that the slow pace in implementation was due to delays in exchequer releases but the projects were implemented in the subsequent financial years and completed

Committee Recommendation

282. 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 Project Implementation and Management

283. The Fund had planned to implement a total of 124 projects/programs in various sectors during the financial year under review. However, work on sixty-two (62) or 50% of the projects did not commence; sixty (60) or 48% of the projects were ongoing while only two (2) or 2% of the projects were complete as at the time of audit in February 2016.

| Sector | Budgeted projects/programmes | Amount (Kshs.) | Actual/implemented Projects | | | |
|-------------------|------------------------------|----------------|-----------------------------|---------|-----------|-------------------------|
| | | | Not Started | Ongoing | Completed | % of completed projects |
| Sports | 1 | 2,617,914 | - | 1 | - | 0% |
| Primary Schools | 62 | 44,542,151 | 40 | | | 0% |
| Secondary Schools | 43 | 33,375,000 | 18 | 25 | - | 0% |
| Education | 3 | 837,931 | 3 | - | - | 0% |
| Roads | 1 | 3,100,000 | 1 | - | - | 0% |
| Environment | 1 | 2,617,914 | - | 1 | - | 0% |

| | | | | | | |
|--|-------------|-------------------|------------|------------|-----------|-----------|
| Security | 10 | 4,600,000 | - | 10 | | |
| Agricultural Projects | 1 | 2,000,000 | - | 1 | - | 0% |
| Others | 2 | 5,300,000 | - | - | 2 | 100% |
| TOTAL | 124 | 98,990,910 | 62 | 60 | 2 | 2% |
| % implementation over Budgeted projects | 100% | | 50% | 48% | 2% | 2% |

284. The plausible explanation has been provided for the slow pace in implementation of the projects. In the circumstance-the Fund did not meet its project implementation and failed to deliver important public services to the constituents.

Response by the Fund Account Manager

285. The slow pace in implementation was due to slow funding from the ex-chequer but the projects were implemented in the subsequent financial years and completed.

Committee observation

286. The Committee observed that delay in the implementation of the projects was due to slow funding from the ex-chequer but the projects were implemented in the subsequent financial years and completed.

Committee Recommendation

287. 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.

4.0 Projects Implemented on Lands Without Title Deeds

288. During the year under review the Fund disbursed a total of Kshs. 1,300,000.00 to three security projects for purchase of land and construction. However, title deeds for the lands bought were not procured thus casting doubt on public ownership of the plots where the project building were to be constructed.

| Name | Project type | Amount (Kshs) |
|--------------------------------|---------------------------------|------------------|
| Bukembe AP line | Construction of police quarters | 500,000 |
| Mayanja AP post | Construction of police quarters | 500,000 |
| Samoya Assistant Chiefs office | Purchase of half acre land | 300,000 |
| | Total | 1,300,000 |

289. Consequently, the propriety of the expenditure totaling to Kshs 1,300,000 could not be ascertained.

Response by the Fund Account Manager

290. The constituency land purchases for the security projects were done with due process before the payment to the respective sellers. The process of acquiring the title deed was ongoing as this land were under the succession process. The land sale agreements for Bukembe AP line, Mayanja AP post and Samoya Assistant Chiefs office were availed to the auditors for review.

Committee observation

291. The Committee observed that following physical verification by the NG-CDF Board, it was established that:

Bukembe AP Line

- (i) It was reported by the Chief that construction was undertaken on public land under administration of the County Government under title No. East Bukusu/ North Sangalo/58.
- (ii) The Chief obtained an official search on the property confirming the land as public land registered in the name of Bungoma County Council.
- (iii) Official search dated 27.06.2023 was availed to the auditor for review and verification.

Mayanja AP Post

- (i) It was reported that the portion on which the construction was done was under Title No. East Bukusu/North Kanduyi/No. 1094, which is registered in the name of Sango Cotton Cooperative Society.
- (ii) It was further reported that there was a dispute on ownership of the land between the government and cooperative society and this dispute was referred to the Attorney General for guidance.

Samoya Assistant Chiefs office

- (i) It was reported that the parcel of land had been under succession which was completed and confirmation of Grant issued by the Court.

- (ii) The Chief indicated that the only issue holding the process was the seller did not have financial capacity to fund transfer and subdivision of the property.

Committee Recommendations

Bukembe AP Line

292. The Committee recommends that:

- (i) The NG-CDF Board in conjunction with NG-CDFCs should within (3) months of the adoption of this Report ensure that the Chief's camp acquires an allotment letter for the portion where construction was done.
- (ii) The NG-CDF Board should establish a policy on the procedure of buying land and adhere to Section 11 (l) (k) of the National Government Constituency Fund Regulations 2016 which provides that "where a project involves purchase of a parcel of land or a building, ensure that the ownership thereof is duly verified and ownership documents authenticated with relevant government agencies".
- (iii) Fund Account Managers should ensure that the PMC's purchase land in areas where there are clear ownership documents especially in areas where land adjudication has been done.

293. Mayanja AP Post

294. The Committee recommends that the NG-CDF Board should follow up on the guidance from the Attorney General with a view to solving the dispute of ownership between the government and Sango Cotton Cooperative Society.

Samoya Assistant Chiefs office

295. The Committee recommends that the NG-CDF Board in conjunction with NG-CDFCs should within (3) months of the adoption of this Report ensure that the Samoya Assistant Chiefs office acquires title documents.

FINANCIAL YEAR 2015/2016

1.0 Lack of Land Ownership Documents

296. Disbursements amounting to Kshs.3, 800,000 as analysed in the table were made to various institutions in respect of purchase of land parcels. However, the deeds were not availed for audit verification.

| INSTITUTION | AMOUNT |
|---------------------------------|------------------|
| St. Teresa Siso High School | 2,000,000 |
| Wacheka Secondary School | 500,000 |
| Kisuluni Mixed Secondary School | 1,300,000 |
| TOTAL | 3,800,000 |

Consequently, the ownership of the parcels of land could not be confirmed.

Response by the Fund Account Manager

297. The title deed for St. Teresa's Sio High school was acquired and availed to the auditor for review.
298. The title deeds for Kisuluni mixed secondary school and Wacheka secondary school were being processed and the land purchase agreement for the schools was availed to the auditors for review.

Committee observation

299. The Committee observed that following physical verification by the NG-CDF Board it was established that:

St Theresa Sio High School

- (i) The Principal confirmed that the school had obtained the title deed Title No. E. BUKUSU/S.KANDUYI/21553 registered in the name of St. Teresa's Sio High School at Bungoma Land Registry on 4th September, 2018.
- (ii) The Title deed was submitted to the auditor for review and verification.

Wacheka Secondary School

- (i) Agreement for sale dated 14.03.2016 established that the agreement was executed between the school and David Waswa Barasa for purchase of one (1) acre for Kshs 480,000.
- (ii) It was established that the registered owner was deceased and seller was a beneficiary of his estate.
- (iii) The Principal indicated that the seller issued conditions to the school that in order to sell them the acre funded by NG-CDF, they would have to also purchase another one acre.
- (iv) It was reported that this second acre had no agreement for sale.
- (v) The school had been funding it in instalments and was in arrears.

Committee Recommendations

300. The committee recommends that:
- (i) The NG-CDF Board in conjunction with NG-CDFCs should within (3) months of the adoption of this report ensure that Wacheka secondary School acquires title documents and is listed as a beneficiary in the succession proceedings.
 - (ii) The NG-CDF Board should establish a policy on the procedure of buying land and adhere to Section II (1) (k) of the National Government Constituency Fund Regulations 2016 which provides that **"where a project involves purchase of a parcel of land or a building, ensure that the ownership thereof is duly verified and ownership documents authenticated with relevant government agencies"**.

- (iii) Fund Account Managers should ensure that the PMC's purchase land in areas where there are clear ownership documents especially in areas where land adjudication has been done.

2.0 Delayed Construction and Completion of Kimukung Coffee Factory

301. The CDF management contracted M/S Kamata Engineers LTD towards proposed construction and completion of Kimukung Coffee Factory at a contract sum of Kshs. 8,584,404. However, the project commenced on 27 September 2014 with an expected completion date of 15 April 2015 but as at the audit the project remained incomplete with the value of works certified and paid amounting Kshs. 7,453,476. In view of the foregoing, the desired services arising from this project may not have been achieved.

Response by the Fund Account Manager

302. The contract sum for the project was Ksh. 8,584,404 and this was to be funded in phases. As at the time of audit the committee had paid Ksh. 7,453,476. The committee was to allocate Kshs 1,084,404 to complete the project in the financial year 2016/2017 however, the project was not approved as it fell under the devolved functions and has since not been completed.

Committee observation

303. The committee observed that although the project was allocated Kshs 1,084,404 for completion in the financial year 2016/2017. The request was not approved as it fell under the devolved functions. The project stalled.

Committee Recommendation

304. The Committee recommends that within three (3) months upon adoption of this report. Kanduyi Constituency should initiate handing over process of the Kimukung Coffee Factory for onward management by Bungoma County Government.

Other Matters

1.0 Budgetary Control Performance

305. The Fund management had an approved budget of Kshs. 208,513,022 and spent Kshs. 128,878,063 resulting to an under expenditure of Kshs. 79,634,959 or overall budget utilization of 62%. Further all budgetary expenditure items registered an absorption rating of below 80%. Consequently, the budget targets were not met, and various projects budgeted for were not done within the financial year. It is not clear how the CDF intended to clear this backlog of projects as they would affect 2016/2017 project implementation.

Response by the Fund Account Manager

306. The under absorption of the budget was due to the delay in funding from the ex-chequer. At the end of the financial year, Kshs 69,905,812 was outstanding balance due to be disbursed to the constituency. The projects were later funded and implemented into completion. AIEs proving late disbursement were submitted to the auditor for review and verification.

Committee observation

- (i) The Committee observed that this was occasioned by the late disbursement of funds by the National Treasury. The Fund Account Manager availed the AIEs to the Office of the Auditor General for review and verification, and the projects were implemented in the subsequent financial year.

Committee Recommendation

- 307. 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 Implementation Status

- 308. The Fund Management was to implement a total of 117 projects/programmes in different sectors during the year under review. Further analysis indicated that 2 (representing 2%) of the projects had not started 33 (28%) were still ongoing while 82 (70%) of the project had been completed. Therefore, the Fund did not fully meet the budget targets and effective delivery of service.

Response by the Fund Account Manager

- 309. This was occasioned by delay in disbursement of funds from the CDF Board. The completion certificates for the projects AIES for late disbursements were availed to the auditors for review.

Committee observation

- 310. The Committee observed that delay in the implementation of the projects was due to late disbursement of funds by the exchequer and the projects are complete and in use.

Committee Recommendation

- 311. The Committee recommends that the National Treasury shall ensure timely disbursement of funds to the National Government Constituencies Development Fund Board for immediate release to the constituencies.

3.0 Undisbursed Allocation

- 312. The Fund received Kshs.108, 265,247 in the year against total national allocation of Kshs.138, 905,812 resulting to an undisbursed allocation of Kshs.30, 649,565. This would likely hinder implementation of identified projects and subsequently have an impact on delivery of services.

Response by the Fund Account Manager

- 313. This was occasioned by delay in disbursement of funds from the exchequer. But the funds were disbursed, and the projects implemented 100%.

Committee observation

314. The Committee observed that the query arose because of late disbursements of funds by the exchequer. However, the projects were later implemented.

Committee Recommendation

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

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

316. The Fund Account Manager, Mr. Paul Adome, appeared before the Committee on 17th April 2023, to respond to the audit matters raised in the report of the Auditor General for Kimilili Constituency for the financial years 2013/2014, 2014/2015 and 2015/2016.

FINANCIAL YEAR 2013/2014

1.0 Unsupported Financial Statements

317. The trial balance and ledgers to support the financial statements figures as at 30th June 2014 were not provided for audit review. Consequently, it has not been possible to ascertain the accuracy and competency of the financial statement as at 30th June 2014.

Response by the Fund Account Manager

318. The trial balance and ledger was availed to the auditors for review. The constituency keeps an annual expenditure return that is used as the ledger to form the basis of the preparation of the financial statement at the end of financial year.

Committee observation

319. The Committee observed that the trial balance and ledger were availed and reviewed by the office of the Auditor General. The query was adequately addressed and resolved.

Committee Recommendation

320. The Committee recommends that the Accounting Officer ensures that the Fund Account Managers 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".

2.0 Unexplained Under Expenditure

321. The Fund spent Kshs. 35,906,653.90 against an approved budget of Kshs. 67,959,286.00 resulting in unexplained under expenditure of Kshs. 32,052,632.10. As a result, the constituents of Kimilili were denied the planned and promised services as at 30th June 2014.

Response by the Fund Account Manager

322. The amount of Kshs. 40,775,570 was received end of June, 2014 and procurement process from tendering to awarding of contracts takes time thus delaying in the expenditure of the funds in the financial year. However, the projects were funded in the subsequent year, completed and in use.

323. AIEs NO. A750005 and A735971 amounts Kshs. 20,387,785.80 and Kshs. 20,387,785.80 was received on 12th June, 2014 and 29th June, 2014 respectively.

Committee observation

324. The Committee observed that the delay in the expenditure of funds was because the AIEs were received late. AIEs NO. A750005 and A735971 amounting to Kshs. 20,387,785.80 and Kshs. 20,387,785.80 were received on 12th June 2014 and 29th June 2014 respectively.

Committee Recommendation

325. 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 Projects Implemented Without Technical Department Involvement

326. The Fund incurred Kshs. 2,500,000 on educational institution projects without involvement of the Government Technical Departments. In the absence of technical supervision. It has not been possible to ascertain whether the projects effectively and efficiently met the intended purpose as at 30th June 2014.

Response by the Fund Account Manager

327. The Constituency implemented through Project Management Committees with the assistance of the relevant Department of Public Works in the County Government. Copy of attendance register and procurement minutes were submitted to the auditor for review and verification.

Committee observation

328. The Committee observed that the copy of the Project Management Committee attendance submitted by the Fund Account Manager register resembled visitors' book. Therefore, the Committee could not ascertain if the relevant Department of Public Works in the County Government provided technical supervision.

Committee Recommendation

329. The Committee recommends that the accounting officer ensures that all Fund Account Managers always engage and seek assistance from the relevant Government departments in project implementation as per Section 36(1) of the National Government Constituency Development Fund Act.

4.0 Single Sourcing Contract

330. The Fund awarded a firm a contract for installation of solar streetlamps at a cost of Kshs. 2,000,000 through single sourcing. Consequently, it was not possible to ascertain whether the Fund got value for money under this expenditure.

Response by the Fund Account Manager

331. The Constituency used tendering process of requesting for quotations and received bids from three firms as follows:

- i. Shenzen Solar Power-China
- ii. Tellux AB Sweden
- iii. Boading Haosheng Optoelectronic Tech. China

332. The Evaluation and awarding processes were followed and Tellux AB-Sweden was awarded the contract after emerging as the lowest bidder and had met all the requirements.

333. The firm completed the installation of the solar streetlamps and are in use.

Committee observation

334. The Committee observed that the Fund Account Manager provided a satisfactory explanation and the query was adequately addressed and resolved.

5.0 Projects Implemented on Land without Title Documents

335. During the year, the Fund disbursed a total of Kshs. 1,125,000.00 to the following institutions for purchase of land;

- i. Friends Kamaselio Sec 380,000.00
- ii. Kambini Secondary 365,000.00
- iii. Mwangale DEB Primary 380,000.00

336. However, no title documents were made available for audit review. In the circumstances, it was not possible to confirm that the funds were used for the intended purpose and were properly accounted for as at 30th June 2014.

Response by the Fund Account Manager

337. During the time of audit, the title deeds for the three schools had not been processed. This is due to partial funding and long succession process. However, the Fund managed to obtain title deed for Friends Kamaselio Secondary School and Mwangale DEB Primary School.

338. The land sale agreement for Kambini Secondary was availed to the auditors for review. The land was still under succession process.

Committee observation

339. The Committee observed that following physical verification by the NG-CDF Board Legal Department it was established that:

Friends Kamaselio Secondary School

340. The Principal of the school confirmed that the school had obtained the title deed Title No. Kimilili/Sikhendu/3401 registered in the name of the Cabinet Secretary to Treasury as Trustee for Friends Kamasielo Secondary School.

Kambini Primary School

341. The Head Teacher informed the Board that the school was having challenges obtaining the title deed as the registered owner of the land was deceased.
342. The sellers were beneficiaries of the estate and they had commenced succession proceedings, however, the appointed administrator of the estate passed away in 2021 before the completion of succession proceedings and transfer in favour of the school.
343. The Head Teacher informed the Board that the school intends to engage the DCC to assist in expediting the process and giving guidance.
344. The Petition for Letters of Administration indicated that the school was listed as a beneficiary of the estate as a purchaser.
345. Petition for Letter of Administration was submitted to the auditors for review and verification.

Mwangale DEB Primary School

346. The Fund Account Manager informed the Board that the school had obtained the title deed Title No. Kimilili/kamukuywa/4795 registered in the name of Mwangale D.E.B Primary School.

Committee Recommendation

347. The Committee recommends that the NG-CDF Board in conjunction with NG-CDFCs should within (3) months of the adoption of this report ensure that Kambini Primary School acquires title documents

FINANCIAL YEAR 2014/2015

1.0 Presentation, Accuracy and Completeness of the Financial Statements

348. The International Public Sector Accounting Standards (Cash Basis) financial statements presentation format prescribed by the Kenya Public Sector Accounting Standards Board requires the management to include among the financial statements presented for audit a report on action taken on the previous year auditors' recommendations. In the year 2013/2014, Kimilili CDF had a qualified opinion. However, the report on follow-up of audit issues raised was not included in the financial statements for the year under review.

349. In the circumstance, the presentation of the financial statements does not conform to IPSAS (cash basis) reporting format.

Response by the Fund Account Manager

350. During preparation of financial statements for the year ended 30th June 2015, the audit certificate for the year ended 30th June 2014 had not been received by the constituency. However, the financial statements were reviewed and the report on follow up of audit issues included.

Committee observation

351. The Committee observed that the Constituency office now complies with the International Public Sector Accounting Standards in preparing and presenting financial statements.

Committee Recommendations

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

- (i) Maintains 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 Fixed Assets

353. During the year under review the Fund purchased fixed assets worth Kshs. 4,743,635. However summary of fixed assets reflects cumulative assets valued at Kshs. 13,880,199 as at 30th June 2015 with an opening balance of Kshs. 10,200,000 thus suggesting an increase of Kshs. 3,680,199. The resulting difference of Kshs 1,063,436 between the purchased assets balance amounting to Kshs. 4,743,635 and the increase amounting to Kshs. 3,680,199 shown in the notes to the accounts has not been explained. As result, the accuracy and completeness of the summary fixed assets cannot be ascertained.

Response by the Fund Account Manager

354. This was an error of omission during preparation of the financial statements. However, the error was corrected as indicated in the revised financial statement and a summary of fixed asset register.

Committee observation

355. The Committee observed that the query arose because of an error of omission during preparation of the financial statements. The error was rectified and revised financial statement and a summary of fixed asset register submitted to the Office of the Auditor General for review. The query was adequately addressed and resolved.

3.0 Budgetary Control and Performance

356. The Fund's approved budget was Kshs. 129,059,165 but only Kshs. 92,425,674 was spent thus resulting in under expenditure of Kshs. 36,633,491. Further, various projects valued at 36,633,491 were not implemented in the financial year. It was not clear how the Fund intended to complete the backlog of unimplemented projects.
357. Further, the CDF received the disbursement amounting to Kshs. 72,754,899 in the year against a total of Kshs. 97,006,533. Resulting in an undisbursed allocation of Kshs. 24,251,634. The under-expenditure constrained service delivery to the constituents.

Response by the Fund Account Manager

358. The constituency did not receive all budget funding for the financial year, due to delay of disbursement of funds from the exchequer. The funds were received in the subsequent financial year and all the projects have been completed and are in use.

Committee observations

359. The Committee observed that:
- (i) This was occasioned by the late disbursement of funds by the National Treasury.
 - (ii) The Fund Account Manager availed AIE A790787 received on 6/8/2015 after the end of the financial year 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

360. 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.

4.0 Project Implementation and Management

361. The CDF implemented a total of 144 projects / programs by different sectors during the financial year. As at the time of audit in February 2016, work on 25 or 17% of the projects had not started, 65 or 45% were on-going while 54 or 38% had been completed. The Fund did not explain how it planned to implement 62% of its projects planned for implementation in the year under review.

Response by the Fund Account Manager

362. During the time of audit, the projects were on-going. However, the projects were completed and are in use. The PIS and completion certificates were submitted to the auditors for review and verification.

Committee observation

363. The Committee observed that the audit was undertaken while the projects were on-going. The projects were later completed and are in use. The management submitted to the auditor PIS and completion certificates for audit and review.

Committee Recommendation

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

FINANCIAL YEAR 2015/2016

Other Matters

1.0 Budgetary Control Performance

365. The Fund had an approved budget of Kshs. 139,433,591 and spent Kshs. 118,878,508 resulting to under expenditure of Kshs. 20, 555,083 or overall budget utilization of 85%. further, four (4) out of five (5) budgetary expenditure items registered absorption rating below 90%. This includes compensation of employees, use of goods and services, other grants and transfers and acquisition of assets with absorption level at 54%, 53%, 86% and 85% respectively. Consequently, the budget target was not met and various projects budgeted for were not implemented within the financial year.

Response by the Fund Account Manager

366. The Fund Account Manager submitted that the budget under expenditure was as a result of failure to implement a number of approved projects and activities due to delay in disbursement of funds by the exchequer. For instance, the AIE of Kshs. 50,611,100 for the second half of 2015/16 was received on 28th June, 2016 as indicated. However, the Constituency received the funds and implemented the projects to completion. Copies of completion certificates and CDFC minutes were submitted to the auditors for review and verification.

Committee observation

367. The Committee observed that Underutilization and over expenditure of the funds were due to late disbursement of funds by the NG- CDF Board and the National Treasury hence rollover of Funds from subsequent years due to late receipts.

Committee Recommendation

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

2.0 Project Implementation Status

369. The Fund management was to implement a total of 86 projects/ programs by different sectors during the year under review. However, analysis indicate that 2 (3%) of the projects had not started, 23 (27%) were on-going and 61 (71%) had been completed. Therefore, the Fund did not fully meet the budget target and thus denying the constituent of Kimilili effective service delivery.

Response by the Fund Account Manager

370. The funds were received and allocated to the specific projects for implementation to completion. The completion certificates were submitted to the auditor for review and verification.

Committee observation

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

3.0 Undisbursed Allocation

372. The Fund received Kshs. 101,611,100 in the year under review against total national allocation of Kshs. 102,711,100 resulting in an undisbursed allocation of Kshs. 1,100,000. This may have hindered the implementation of projects in the year under review and subsequently have an impact on the following year's delivery of targets.

Response by the Fund Account Manager

373. The undisbursed allocation of Kshs. 1,100,000.00 for the year 2015/2016 was meant for proposed Lutonyi Sports ground Kshs 600,000 and Audit fees Kshs 500,000. The Constituency sort approval to reallocate the Audit fee to Daraja Mungu Dispensary. The AIE and approval letters from the Board were submitted to the auditor for review and verification.

Committee observation

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

2.9 REPORTS ON THE AUDITED ACCOUNTS FOR MT. ELGON CONSTITUENCY NG- CDF FOR THE FINANCIAL YEARS 2013/2014, 2014/2015 AND 2015/2016

375. The Fund Account Manager, Ms. Carolyn Wanyonyi, appeared before the Committee on 14th April 2023, to respond to the audit matters raised in the report of the Auditor General for Mt. Elgon Constituency for the financial years 2013/2014, 2014/2015 and 2015/2016.

FINANCIAL YEAR 2013/2014

1.0 Irregular Procurement

376. During the year the Fund incurred kshs 2,000,000 for construction of 2 classrooms at Kapkerwa primary school. However, the procurement for supply of materials and labour contracts were not availed for audit review. Further the technical departments were not involved in procurement and supervision of the project. Thus, it was possible to confirm whether the project was properly sourced and effectively met the intended purpose.

Response by the Fund Account Manager

377. At the time of audit the project was still on-going hence the procurement records (filled BoQs, tender analysis and interview questioners report and tender award minutes), were still held by the PMC. However, they were availed to the auditors for verification. The ministry of public works officers did develop the BoQ and the drawing for the construction of the classrooms were provided to the auditors for review.

Committee observations

378. The Committee observed that:

- (i) This was an issue of documents not being produced during audit period.
- (ii) The ministry of public works officers did develop the BoQ and the drawing for the construction of the classrooms were provided to the auditors for review.

Committee Recommendation

379. The Committee recommends that the Fund Account Managers 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.

Other Matters

2.0 Going Concern

380. The High Court ruling on Petition 71 of 2013 held that the CDF Act 2013 is unconstitutional rendering the existence of the fund unconstitutional as a result the going concern status of Mt Elgon CDF is doubtful.

Response by the Fund Account Manager

381. CDF continued operating under the CDF act of 2013 until the enactment of the National Government Constituencies Development Act 2015 and amended 2022 which supports the fund to date.

Committee observation

382. 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.

3.0 Under Expenditure

383. Mt Elgon CDF approved budget was Kshs 140,861,686 for the year under review. However, the Fund spent 105,547,912 resulting to an unexplained under expenditure of kshs 35,313,774 approximately 25% of the total budget. The low absorption rate denied the constituents the much-needed service delivery. No explanation was given for the low absorption rate of the fund.

Response by the Fund Account Manager

384. The last quarter AIE no. A75006 amounting to Kshs 26,345,620.50 was received on 19th June 2014 which was 11 days to the closure of the financial year thus delayed the spending. However, the funds were spent on the intended projects the next financial year that is 2014/15

Committee observation

385. The Committee observed that the query arose due to delayed exchequer releases and as such the query was adequately addressed and resolved.

Committee Recommendation

386. The Committee recommends that the National Treasury should ensure timely exchequer releases for implementation of approved and budgeted for projects.

FINANCIAL YEAR 2014/2015

1.0 Accuracy, Completeness And Presentation Of The Financial Statements

387. In the year 2013/2014, Mt Elgon CDF had a qualified opinion, however no report on the follow up of audit issues raised was included in the financial statement for the year under review.

Response by the Fund Account Manager

388. As at the time of preparing the financial statements, the audit report had not been received and it was not possible to incorporate the audit issues raised. However, the report on follow up of audit issues had not been incorporated in the financial Statement Template until 2015/2016 which later done.

Committee observation

389. 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

390. 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 Statement of Appropriation

391. The statement of appropriation disclosed actual receipts of 120,132,556 which differed with Kshs 127,094,119 shown in the statement of receipts and payments and cash flow statement. The difference of Kshs 7,038,734 was not explained.

Response by the Fund Account Manager

392. The actual receipts under Statement of Appropriation ought to be Kshs 127, 094, 119 and not Kshs 120,132,556. The anomaly in the Statement of Appropriation was corrected and presented for audit review. A copy of the appropriation statement was provided to the auditors for review and verification.

Committee observation

393. The Committee observed that the query was adequately addressed and resolved.

3.0 Fixed Asset Register

394. The summary of fixed assets register showed opening balance of Kshs 105, 347,600 which differed with the audited closing balance of 2013/2014 of Kshs 15,347,600 by 90,000,000. The variance was not explained. Consequently, the accuracy and completeness of the financial statements as at 30th June 2015 could not be confirmed.

Response by the Fund Account Manager

395. The correct additions for the value of all assets was Kshs 15,347,600 and not Kshs 105, 347,600 as disclosed which was as a result of typing error where the value of Building and structures was put at Kshs. 100,000,000 instead of KES 10,000,000. A copy of the corrected summary of fixed assets register was provided to the auditors for review and verification.

Committee observation

396. The Committee observed that the query was a result of a typo error which was later corrected. The revised financial statement was later revised and approved. The query was adequately addressed and resolved.

Budgetary Control and Performance

397. The Fund approved budget was Kshs 162,286,040 but it spent only Kshs 120,132,556 resulting in an overall under expenditure of Kshs 42,153, 484. Further the fund had over/ under utilization on various budget lines by more than 10% or -10% As a result the fund did not meet its planned and budgeted service delivery to the constituents.

Response by the Fund Account Manager

398. Overall, under expenditure of Kshs 42,153, 484 in the year under review was as a result of the following:

- i. AIE no A797151 received at the end of the financial year. Hence the projects could not be implemented within the financial year due to the procurement processes.
- ii. The budget for compensation of employees was not fully met since gratuity had been factored on and was not yet due for payment, thus underutilization.

Committee observation

399. The Committee observed that the query was adequately addressed and resolved.

5.0 Project Implementation and Management

400. The Fund had planned to implement a total of 67 projects by different sectors during the year under review. Four (4) or 6% of the projects had not started, twenty-five(25) or 37% of the projects were on going while thirty eight (38) or 57% of the projects had been completed as a the time of Audit .In the circumstance, the constituents did not receive the planned and budgeted services due to project delays and there was no realisation of value for money.

Response by the Fund Account Manager

401. The projects did not start due to late disbursement from the exchequer. The on-going projects took long duration to complete because of the long rains in the constituency that delayed delivery of material in time. However, the projects were completed and in use.

Committee observation

402. The Committee observed that the projects delayed due to delayed funding from the ex-chequer. However, projects were completed and in use as per the completion certificates provided. The management also submitted AIE No A797151 of Kshs 31,773,529.5 which confirmed that the funds were received during the closure of the financial year the query was adequately addressed and resolved.

Cheptais CDF office

403. The Funds office situated at Cheptais was constructed at a cost of Kshs. 10,000,000 in 2010/2011. However, to date, the premises remain unoccupied. Further, title documents for the land where the office is constructed were not provided.

Response by the Fund Account Manager

404. The land where the office was constructed was under succession and the process was not completed for the constituency to acquire the title deed. However, the sale agreement was provided for review. The office was in use by the Mt. Elgon Constituency Staff.

Committee observation

405. The Committee observed that following physical verification by the NG-CDF Legal Department it was established that:

- i. The office was in possession of two agreements for sale as follows:
 - a) Agreement for sale dated 21.02.2010 between Wycliffe Ngweyo ID No. 929899 and Cheptais CDF Office for purchase of 0.186 ha at Kshs. 480,000; and
 - b) Agreement for sale dated 21.10.2011 between Wycliffe Ngweyo of ID No. 929899 and Cheptais CDF Office for purchase of 2.665 and 2.4 ha at Ksh. 1,230,000.
- ii. The Vendor was deceased and his estate was subject to succession proceedings and this included the land on which the office was constructed.
- iii. It was reported by the administrator of the estate, Nathan Kamwanja Kubuwuon, son to the deceased, that succession proceedings were initiated in Sirisia. Principal Magistrate's Court Succession Case No. 45 of 2018.
- iv. The administrator had been issued with Grant of Letters of Administration on 08.06.2023 and the matter would come up for confirmation of Grant in December 8 2023.
- v. Succession process awaits confirmation of Grant. Grant of Letters of Administration were issued in June 2023 and a six (6) months period was required to lapse for the same to be confirmed.
- vi. It was expected that the Grant would be confirmed in December 2023 and land transfer process would follow thereafter, which expected issuance of title in January 2024.

Committee Recommendations

406. The Committee recommends that:

- (i) The NG-CDF Board in conjunction with NG-CDFCs should within (3) months of the adoption of this report ensure that Cheptais CDF office acquires title documents.
- (ii) The NG-CDF Board should establish a policy on the procedure of buying land and adhere to Section 11 (1) (k) of the National Government Constituency Fund Regulations 2016 which provides that "where a project involves purchase of a parcel of land or a building, ensure that the ownership thereof is duly verified and ownership documents authenticated with relevant government agencies".
- (iii) Fund Account Managers should ensure that the PMC's purchase land in areas where there are clear ownership documents especially in areas where land adjudication has been done.

FINANCIAL YEAR 2015/2016

1.0 Purchase of Land by Chebich Primary School

407. The Fund purchased a parcel of land on behalf of Chebich Primary School at a cost of kshs 450,000 but the title deed had not been transferred to the school as at the time of Audit. In the absence of the title deed, it was not possible to confirm the ownership of the land.

Response by the Fund Account Manager

408. The process for the acquisition of the land were done and the land was under the succession process hence the title deed was not yet ready. The sale agreement and the survey report were submitted to the auditor for review.

Committee observation

409. The Committee observed that following physical verification by the NG-CDF Board Legal Department it was established that:

- (i) The agreement for sale dated 12.04.2016 established that the agreement was executed between the school and vendor, Eliud Keton Mengwa of ID No. 10371661 for purchase of land measuring 1 acre to be subdivided from Title No. Elgon/Kapkateny/555 at Kshs. 450,000.
- (ii) It was established that the vendor was not registered owner of the land, but had beneficiary interest.
- (iii) The Chairperson of the BOM, who is also a family member, undertook to initiate a family meeting to deliberate and fast track the succession proceedings with the help of the Area Chief and the District County Commissioner and ensure that the parcel purchased by the school is registered in the name of the school.

Committee Recommendations

410. The Committee recommends that:

- (i) The NG-CDF Board in conjunction with NG-CDFCs should within (3) months of the adoption of this report ensure that Cheptais CDF office acquires title documents.
- (ii) The NG-CDF Board should establish a policy on the procedure of buying land and adhere to Section 11 (1) (k) of the National Government Constituency Fund Regulations 2016 which provides that "where a project involves purchase of a parcel of land or a building, ensure that the ownership thereof is duly verified and ownership documents authenticated with relevant government agencies".
- (iii) Fund Account Managers should ensure that the PMC's purchase land in areas where there are clear ownership documents especially in areas where land adjudication has been done.

2.0 Undisbursed Allocation

411. The Fund received Kshs 67,000,000 in the year under review against total national allocation of Kshs 177, 591, 832 resulting to an undisbursed allocation of Kshs 127, 094,119. This situation would hinder the implementation of the years projects and subsequently have an impact on subsequent years delivery targets.

Response by the Fund Account Manager

412. The allocation for Mt. Elgon Constituency during the year was Kshs. 177,591,832 of which Kshs. 67,000,000 was received during the financial year. Kshs. 127,094,119 was received in the subsequent financial years and the various projects and activities undertaken and completed.

Committee observation

413. The Committee observed that the management provided satisfactory explanation and they submitted confirmed AIE No A820984 for 17,000,000 A825938 for 67,345,590 A8556668 for 40,948,275.1 to the auditors for review and verification. The query was adequately addressed, and the matter was resolved.

Other Matters

1.0 Budgetary Control Performance

414. The Fund had approved budget of Kshs 177,591,832 and spend Kshs 90,748,107 resulting to under expenditure of kshs 86,843,724 or overall budget utilization of 51%. Further, all budgetary expenditure items incurred adsorption rating below 90%. Consequently, the budget target was not met and various projects budgeted for were not implemented within the year under review\ and the residents of the constituency may not have obtained the much desired services.

Response by the Fund Account Manager

415. This was due to late disbursement of funds as follows:-

- a) AIE No 820984 ksh 17,000,000
- b) AIE no. A825938 Ksh 67,345,590
- c) Code list approval NGCDF BOARD Mt Elgon Volume. I/030-Kshs. 1,348,456.
- d) AIE 855668 OF Kshs.40,948,275.10

416. However, the projects were implemented in the subsequent financial years.

Committee observations

417. The Committee observed that:

- (i) The query arose because 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 copies of AIEs and the completion certificates.

Committee Recommendation

418. 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.

1.0 Projects Implementation Status

419. During the year under review, the Fund had not commenced implementation of various projects and programs amounting to Kshs 49,723,810.00 representing 74% of funds received. Therefore, the fund did not fully meet the budget targets and effective delivery of service.

Response by the Fund Account Manager

420. The overall under expenditure of Kshs 42,153, 484 in the year under review was as a result of the following:
- i. AIE no 2014/2015/933 A 797151 received at the end of the financial year. Hence the projects could not be implemented within the financial year due to the procurement processes.
 - ii. The budget for compensation of employees was not fully met since gratuity had been factored on and was not yet due for payment, thus underutilization.

Committee observation

421. The Committee observed that the management provided satisfactory explanation and they submitted confirmed AIEs to the auditors for review and verification. The query was adequately addressed, and the matter was resolved.

3.0 CHAPTER THREE

3.1 GENERAL OBSERVATIONS AND RECOMMENDATIONS

422. During the examination of these reports, the Committee made the following general observations and recommendations, which cut across the nine (9) Constituencies in Bungoma County.

1.0 Outstanding Land Issues

Committee observation

423. The Committee observed that during the period under review all the nine (9) Constituencies in Bungoma County had outstanding land issues, i.e., transfer, succession, and acquisition of the title deeds for all the land purchased.

Committee Recommendation

424. The NG-CDF Board in conjunction with NG-CDFCs should within (3) months of the adoption of this report ensure that the Project Management Committees have been guided as follows:

- (i) Where land is under succession, the respective PMCs are guided on the succession process and advised to ensure their respective institutions are listed as beneficiaries of the estate; and
- (ii) where transfers are pending, the respective PMCs are advised on the land transfer processes and guided to collaborate with the NG-CDFs to facilitate expeditious processing of the title documents for their respective institutions.
- (iii) The NG-CDF Board should establish a policy on the procedure of buying land and adhere to Section 11 (1) (k) of the National Government Constituency Fund Regulations 2016 which provides that “where a project involves purchase of a parcel of land or a building, ensure that the ownership thereof is duly verified and ownership documents authenticated with relevant government agencies”.
- (iv) Fund Account Managers should ensure that the PMC’s purchase land in areas where there are clear ownership documents especially in areas where land adjudication has been done.

2.0 Reallocation and use of Emergency Funds

Committee observation

425. 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

426. 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"**

3.0 Pending Ongoing Projects

Committee observation

427. 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

428. 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.

4.0 Cooperation between the Internal Auditors, Office of the Auditor General and the NG-CDF Board.

Committee observation

429. The Committee observed that:

- (i) There was inadequate 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.
- (ii) 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

430. The Committee recommends that:-

- (i) the NG-CDF 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 observation

431. The Committee observed that:

- (i) 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) 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

432. 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.
- (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.

5.0 Capacity Building of Fund Account Managers

Committee observation

433. The Committee observed that some Fund Account Managers were ill-prepared during the examination of the Reports of the Auditor General on the accounts of the National Government Constituencies Development Fund for the Constituencies.

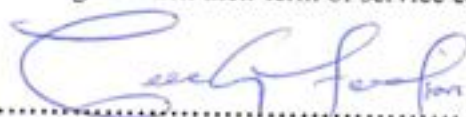
Committee Recommendations

434. The Committee recommends that:

- (i) The NG-CDF Board should conduct continuous capacity building on financial reporting standards, record keeping and other necessary training for the Fund Account Managers, Project Management Committees (PMC) and other NG-CDF Constituency staff.
- (ii) The NG-CDF Board should strengthen the link between the Board, the Office of the Auditor General and the Fund Account Managers, particularly regarding the timely response to audit queries.
- (iii) The NG-CDF Board and its Internal Audit Department should improve on the post audit correction of irregularities cited in the Auditor General's Reports.

- (iv) The NG-CDF Board should ensure there a structured handover process between Fund Account Managers when their term of service comes to an end.

SIGNATURE.....



DATE.....

6th March, 2024

HON. DR. GIDEON MULYUNGI, CBS, EBS, MP
CHAIRPERSON, DECENTRALIZED FUNDS ACCOUNTS COMMITTEE

