

# REPORT OF THE AUDITOR-GENERAL ON COUNTY ASSEMBLY OF NYERI FOR THE YEAR ENDED 30 JUNE 2018

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## REPORT ON THE FINANCIAL STATEMENTS

### Qualified Opinion

I have audited the accompanying financial statements of County Assembly of Nyeri set out on pages 1 to 24, which comprise the statement of financial assets as at 30 June 2018, and the statement of receipts and payments, statement of cash flows, statements of comparison of budget and actual amounts – recurrent, development and combined for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of the County Assembly of Nyeri as at 30 June 2018, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Cash Basis) and comply with the Public Finance Management Act, 2012.

### Basis for Qualified Opinion

#### 1. Variances Between the Financial Statements and IFMIS Report

The financial statements for the year ended 30 June 2018 reflects various amounts and balances which are at variance with figures shown in the IFMIS report as detailed below:

Details	Amounts as per Financial Statements Kshs.	Amounts as per IFMIS Report Kshs.	Variance Kshs.
Payments	642,757,625	647,514,630.95	(4,757,006)
Bank balances	861,399	(504,587,710.70)	505,449,110
Cash balances	0	1,633,739,140.95	(1,633,739,141)
Accounts receivables	0	9,461,605.70	(9,461,606)
Account Payables – Deposits and retentions	861,399	1,569,994,909.80	(1,569,133,511)
Fund Balance Brought Forward	0	<b>(396,572,898.50)</b>	396,572,899
Surplus/Deficit for the year	44,883	<b>(50,809,645.95)</b>	50,854,529

No reconciliations or satisfactory explanations have been provided for the above variances.

## **2. Fund Balance**

The fund balances disclosed in Note 16 to the financial statements of Kshs.1,495,641 and Kshs.1,288,591 differs with closing balances of Kshs.44,883 and Kshs.16,000,671 reflected in the statement of financial assets as at 30 June 2018 and 2017, respectively. The resultant differences have not been explained or reconciled.

## **3. Summary of Fixed Assets Register**

Annex 4 summary of fixed assets register attached to the financial statements reflects assets totalling Kshs.176,511,100 as at 30 June 2018. The balance excludes assets inherited from the defunct Municipal Council of Nyeri comprising of three motor vehicles of unknown values and a piece of land L.R No. Aguthi/Gaaki-677 valued at Kshs.19,000,000. As a result, the accuracy and completeness of summary of fixed assets register balance of Kshs.176,511,100 as at 30 June 2018 cannot be confirmed.

## **4. County Assembly Car Loan and Mortgage Scheme for Members of the County Assembly**

Statement of receipts and payments for the year ended 30 June 2018 reflects transfers to other Government entities (mortgage fund) amounting to Kshs.125,000,000. According to records made available for audit, the amount was transferred to mortgage fund account for the establishment of car loan and mortgage facility for the members of County Assembly (MCAs.) However, no approval for the establishment of the fund was provided for audit review. Consequently, the validity of the transfers and expenditure of Kshs.125,000,000 cannot be confirmed.

Further, Section 167(3) of the Public Finance Management Act, 2012 require submission to the Auditor-General for audit, the financial statements of each County Assembly and Mortgage Fund not later than three months after the end of the financial year. However, the County Assembly of Nyeri management did not submit the County Assembly Car Loan and Mortgage Scheme Fund's financial statements for the year ended 30 June 2018 and has thus contravened the law.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of County Assembly of Nyeri in accordance with ISSAI 30 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

### **Key Audit Matters**

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. Except for the matters described in the Basis for Qualified Opinion and Basis for Conclusions on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance sections of my report, I have determined that there are no key audit matters to communicate in my report.

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*Report of the Auditor-General on the Financial Statements of County Assembly of Nyeri for the year ended 30 June 2018*

## Other Matter

### 1. Overall Budget Performance

During the financial year ended 30 June 2018, County Assembly of Nyeri had an approved budget of Kshs.737,760,445 out of which Kshs.676,007,599 (92%) was allocated to the recurrent vote and Kshs.61,752,846 (8%) to the development vote. The summary statements of appropriation-recurrent, development and combined reflects overall expenditure totalling Kshs.642,757,624 or 87% absorption rate. However, the County Assembly did not utilize Kshs.95,002,821 or 13% of its budget, which negatively impacted on service delivery to the public as analyzed below:

<b>Vote</b>	<b>Approved Budget 2017/2018 (Kshs.)</b>	<b>Actual Expenditure 2017/2018 (Kshs.)</b>	<b>Under Absorption (Kshs.)</b>	<b>Under Absorption Rate%</b>
Development Vote	61,752,846	4,994,170	56,758,676	92%
Recurrent Vote	676,007,599	637,763,454	38,244,145	6%
<b>Total</b>	<b>737,760,445</b>	<b>642,757,624</b>	<b>95,002,821</b>	<b>13%</b>

## REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

### Conclusion

As required by Article 229(6) of the Constitution, based on the audit procedures performed, except for the matters described in the Basis for Qualified Opinion and Basis for Conclusions on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance sections of my report, I confirm that, nothing else has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

### Basis for Conclusion

#### 1. County Assembly Projects

According to records presented for audit, the County Assembly awarded two contracts to construction firms on 6 July 2016 for refurbishment of unity hotel and construction of gate at contract sums of Kshs.6,853,326 and Kshs.3,818,905 respectively. The constructions were expected to be completed in August 2017 and February 2017

respectively. However, a review of progress of the constructions revealed that the contract period had lapsed and the projects were behind schedule as follows:

<b>Project</b>	<b>Contractor</b>	<b>Contract Sum Kshs.</b>	<b>Percentage of Payment</b>	<b>Percentage of Work Done To-date</b>	<b>Commencement Date</b>	<b>Expected Completion Date</b>
Renovation and refurbishment on Unity hotel	M/s prolific works Ltd	6,853,326	100%	98%	3 September 2016	2 August 2017
Nyeri Assembly gate	M/s Miatuson Ltd	3,818,905	21%	90%	6 September 2016	2 February 2017

Further the contractor was not on site at the time of the audit in October 2018. No explanation was provided for the failure to complete the projects within the stipulated time. In the circumstances, the projects costs may escalate and loss of public funds appears likely unless the management compel the contractors to complete the construction works.

## **2. Lack of Prudence in use of Public Funds**

Disclosed under Note 5 to the financial statements is an expenditure of Kshs.129,064,007 on domestic travel and subsistence in respect of members of County Assembly and staff allowances during various workshops, meetings, retreats and seminars held outside the precincts of the County Assembly. However, the meetings would have been economically and prudently conducted within the County Assembly's offices and premises designated for such routine activities so as to save on subsistence allowances and hotel charges. Therefore, it has not been possible to confirm that the County Assembly obtained value-for-money on domestic travel and subsistence expenditure of Kshs.129,064,007 for the year ended 30 June 2018.

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

## **REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE**

### **Conclusion**

As required by Section 7 (1) (a) of the Public Audit Act, 2015, based on the audit procedures performed, except for the matters described in the Basis for Qualified Opinion and Basis for Conclusions on lawfulness and effectiveness in use of public resources and effectiveness of internal controls, risk management and governance

*Report of the Auditor-General on the Financial Statements of County Assembly of Nyeri for the year ended 30 June 2018*

sections of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

## **Basis for Conclusion**

### **1. Lack of Policies**

The County Assembly of Nyeri does not have various operational plans, risk management policy and disaster recovery plan. These policies are necessary to guide the Assembly on how to integrate information technology in improving delivery of services to the public and guide employees of the county in use of information and communication technology. The lack of operational plans and policies makes it impossible for the management to establish best practices on procedures and review on areas prone to risks.

### **2. Internal Audit**

#### **2.1 Ineffective Audit Committee**

The audit committee met once in the financial year under audit, in February 2018. This is contrary to Kenya Gazette Notice Volume CXVIII No.40 of 15 April 2016 paragraph 4.2.2(a) requiring the committee to meet at least four times or quarterly in the financial year. Therefore, the effectiveness of the committee is doubtful.

#### **2.2 Failure to Appoint Substantive Head of Internal Audit**

Audit review of the Assembly's records revealed that the internal auditor has been on acting capacity for unjustifiably long period of time. The officer has been on acting capacity for more than three years from 23 July 2015 to-date, contrary to Human Resource Policies and Procedures Manual that stipulates that an individual should be on acting capacity for a maximum of six months. No satisfactory reason has been provided for the failure to appoint a substantive head of internal audit.

### **3. Human Resource**

#### **3.1 Lack of Approved Staff Establishment**

Section B 6(3) of the County Assembly Public Service Human Resource Manual require the Assembly to have an approved staff establishment. However, contrary to the requirement, no staff establishment had been prepared as at 30 June 2018, and therefore the optimal staffing levels and actual number in position for all cadre of staff

cannot be ascertained. Further, the basis for declaring vacant positions, recruitment and appointment of staff during the year cannot be determined.

### **3.2 Payment of Salaries Outside Integrated Payroll and Personnel Database (IPPD)System**

The statement of receipts and payments for the year ended 30 June 2018 reflects expenditure totalling Kshs.163,716,306 on compensation of employees out of which an amount of Kshs.16,543,925 was paid through manual payment vouchers outside the government recommended IPPD system under unclear circumstances. Further, payment of salaries to staff outside the IPPD payroll distorts the determination of national wage bill which is crucial for planning purposes by both the County Government and National Government.

### **3.3 Failure to Observe One-Third Rule in Staff Establishment**

A review of human resource records revealed that, during the year under review, the County Assembly had fifty-two permanent employees out of which forty-seven or 90% of the staff were from one dominant community. This is contrary to the requirements of Section 7(2) of the National Cohesion and Integration Act, 2008 and Section 65(e) of the County Government Act, 2012 which require at least 30% of the employees to be from other ethnic communities.

The audit was conducted in accordance with ISSAI 1315 and ISSAI 1330. The standards require that I plan and perform the audit to obtain assurance about whether processes and systems of internal control, risk management and governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

### **Responsibilities of Management and Those Charged with Governance**

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Cash Basis) and for maintaining effective internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal control, risk management and governance.

In preparing the financial statements, management is responsible for assessing the County Assembly of Nyeri ability to sustain services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless the management either intends to cease operations, or have no realistic alternative but to do so.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

In addition to the responsibility for the preparation and presentation of the financial statements described above, management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them, and that public resources are applied in an effective manner.

Those charged with governance are responsible for overseeing the County Assembly of Nyeri financial reporting process, reviewing the effectiveness of how the entity monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

### **Auditor-General's Responsibilities for the Audit**

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal control in order to give an assurance on the effectiveness of internal controls, risk management and governance processes and systems in accordance with the provisions of Section 7 (1) (a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal control would not necessarily disclose all matters in the internal control that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Because of its inherent limitations, internal control may not prevent or detect misstatements and instances of non-compliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the County Assembly of Nyeri policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the management.
- Conclude on the appropriateness of the management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the County Assembly's ability to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the County Assembly of Nyeri to cease sustaining its services.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the County Assembly of Nyeri to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with the management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that are identified during the audit.

I also provide management with a statement that I have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships

and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.



**FCPA Edward R. O. Ouko, CBS**  
**AUDITOR-GENERAL**

**Nairobi**

**16 January 2019**