

# **REPORT OF THE AUDITOR-GENERAL ON NAIROBI CITY COUNTY EXECUTIVE FOR THE YEAR ENDED 30 JUNE 2018**

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## **REPORT ON THE FINANCIAL STATEMENTS**

### **Disclaimer of Opinion**

I have audited the accompanying financial statements of Nairobi City County Executive set out on pages 1 to 64, which comprise the statement of assets and liabilities as at 30 June 2018, and the statement receipts and payments, statement of cash flows and summary statements of appropriation - 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 do not express an opinion on the accompanying financial statements. Because of the significance of the matters described in the Basis for Disclaimer of Opinion section of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion on these financial statements.

### **Basis for Disclaimer of Opinion**

#### **1. Cash and Cash Equivalents**

The statement of assets and liabilities as at 30 June 2018 reflects cash and cash equivalents balance of Kshs.1,848,976,871. However, the following anomalies have been noted:

##### **1.1. Unaccounted for Cash Withdrawals - Kshs.209,385,752**

Examination of the bank statements relating to Supreme Business and Current Accounts at Equity Bank revealed that the County Executive withdrew cash totalling Kshs.206,385,752 for unspecified payments which were not supported by appropriated authority, documentation and pre-numbered payment vouchers contrary to regulation 104(1) of Public Finance Management (County Governments), Regulations 2015.

Further, various withdrawals totalling Kshs.3,000,000 from Nairobi City County Trust Account at KCB Bank, Account No. 1149229667, during the month of July 2018 in respect of an officer has not been explained or supported with documents.

##### **1.2. Irregular Payment of Suppliers Through Cash - Kshs.381,841,224**

Examination of IFMIS payment schedules revealed that various suppliers were irregularly paid through cash a total of Kshs.381,841,224 contrary to Section 104(1) (i) of Public Finance Management Act, 2012, which requires the County Treasury to ensure proper management and control of, and accounting for the finances of the county government.

##### **1.3. Overdrawn Accounts- Kshs.3,794,555**

The County Executive KCB Bank Current Account No. 1159076065 was overdrawn by Kshs.3,794,555 on 30 June 2018. No documentary evidence has been produced for audit review to confirm a prior approval of the overdraft by the County Treasury or a Board of

the County Government as required under Section 119 (4) of Public Finance Management Act, 2012.

#### **1.4. Un-disclosed Bank Account Balances - Kshs.3,045,914,596**

A further review of cash and cash equivalents balance revealed that a total of Kshs.3,045,914,596 which was held in some bank accounts as of 30 June 2018 indicated below was not included and disclosed in the financial statements:

<b>Name of Account</b>	<b>Account Details</b>	<b>Amount Kshs</b>
Pumwani Hospital Management Board	National Bank A/c No 01231000895400	2,644,789
Mama Lucy Hospital	KCB Account No. 1122416512 (Buru Buru)	18,898,100
KCB Loan Account No MG 1424500930	A/C 105991342.	3,024,371,706
<b>Total</b>		<b>3,045,914,596</b>

In view of the above observations, the accuracy and completeness of cash and cash equivalents balance of Kshs.1,848,976,871 as at 30 June 2018 cannot be confirmed.

## **2. Revenue**

### **2.1. Irregular Withdrawals from Revenue Account - Kshs.6,022,896,123**

A review of records relating to the Revenue Account maintained at the Co-operative Bank of Kenya, Account No. 01141232396600, revealed unexplained debits amounting to Kshs.6,022,896,123 during the year under review. It is apparent, therefore, that revenue was being withdrawn from the account contrary to the provisions of Article 207(3) of the Constitution, Section 109 (2) of Public Finance Management Act, 2012 and regulation 63(4) of Public Finance Management (County Governments) Regulations, 2015 which requires the County Executive to bank all revenue collected or received into the County Revenue Fund, except as provided for in the law.

It is, therefore, not possible in the above circumstances to confirm the completeness and accuracy of the total actual county own generated receipts of Kshs.10,157,594,130 reflected in the statement of receipts and payments for the year ended 30 June 2018.

### **2.2. Unexplained Cash Receipts – Kshs.5,353,171,175**

Although the County Executive has provided a bank statement for the Revenue Account Number 01141232396600 at Co-operative Bank of Kenya, it does not show receipt of Kshs.3,012,201,436 claimed by the County Executive as having been a direct banking.

In addition, the County Executive has not provided bank statements for County Revenue Fund at the Central Bank of Kenya, supporting another amount of Kshs.2,340,969,739 claimed to have directly been deposited into the County Revenue Fund. In the circumstances, it is not possible to confirm receipt and accountability of Kshs.5,393,110,715.

### 2.3. KRB Road Maintenance Levy Fund Receipts

The statement of receipts and payments reflects Transfer to Other Government Entities of Kshs.481,080,657 for the year ended 30 June 2018. As disclosed in Note 3 to the financial statements, the amount includes Kshs.401,201,575 in respect of KRB Roads Maintenance Levy Fund Receipts. However, records available indicates that an amount of Kshs.553,745,528 and not Kshs.401,201,575 was received in 2017/2018 financial year. The receipts have, therefore, been understated by Kshs.152,543,953 and as a result, the KRB Road Maintenance Levy Fund Receipts are not fairly stated.

### 2.4. County Own Generated Receipts

- (i) The statement of receipts and payments for the year ended 30 June 2018 reflects an amount of Kshs.10,157,594,130 against County Own Generated Receipts while banking records in respect of Jambo Pay reflects receipts of Kshs.8,301,362,450, resulting in an unexplained difference of Kshs.1,856,231,679.
- (ii) Records also show that during the year under review, the County Executive had twenty-six(26) M-Pesa pay bill numbers for receiving County Own Generated Receipts but these have not been disclosed in the financial statements contrary to regulation 82 (4) of Public Finance Management (County Governments) Regulations, 2015. The management also did not provide for audit review M-Pesa statements and evidence of banking of the monies collected through M-pesa.
- (iii) An audit test undertaken at a selected sample of five(5) Revenue Collection points revealed uncollected revenue totalling Kshs.141,023,084 as follows:

Name of Station	Description	Uncollected Revenue (Kshs.)
Embakasi North	Rental Arrears	2,291,995
Dandora Planning office	Site and Service	95,364,580
Roysambu Sub County	Single Business Permit	17,960,044
Dandora Sub County	Market Rental Stalls	5,758,965
Dandora Sub County	Single Business Permit	19,647,500
<b>Total</b>		<b>141,023,084</b>

- (iv) Audit further revealed that four Social Halls at Kariobangi, Dandora Phases II,III and V were being hired out and therefore generated revenue in the year under review, but the same was never accounted for but illegally used at the source.
- (v) Lease agreements for Parks and Open Spaces, Uhuru Park Boating Services, Jukwa Lounge (Uhuru Park Restaurant) and Safari Bowling Green Restaurant at City Park were explained to have expired. The implication is, therefore, that revenue from these facilities was either not generated or generated but used

illegally as there was no evidence of deposit into the revenue account in the year under review.

- (vi) Examination of records maintained at Dagoretti Sub County Hospital revealed that amounts of Kshs.3,436,950 and Kshs.3,127,216 were collected as revenue and banked, respectively. However, it was claimed that due to shortage of essential and basic requirements at the hospital, an amount of Kshs.309,734 was spent at source.
- (vii) Records show that an amount of Kshs.80,000,000 was planned to be collected at Inoculation Center at City Hall in 2017/2018 financial year while the actual revenue collected was Kshs.56,000,000, resulting in an under-collection of Kshs.24,000,000. Further, the center did not maintain an inventory register to record quantities of vaccines and other medical supplies received, used and spoilt.

In view of the above observations, the completeness and accuracy of County Own Generated Receipts of Kshs.10,157,594,130 reflected in the financial statements cannot be confirmed.

## **2.5. Cancelled Receipts**

Examination of LAIFOMS system show that Nairobi City County Government cancelled two hundred and ten receipts whose combined total value was Kshs.45,364,475 without supporting documents. No satisfactory explanations have been given for cancelling of these receipts or how the amount of Kshs.45,364,475 was ultimately accounted for.

## **2.6. Stale Cheques**

Although records show receipt of cheques totalling Kshs.1,436,184, 416 between 1 July 2016 and 31 August 2017, no explanation has been given for failure to deposit these cheques into the revenue account.

## **2.7. Property Rates Adjustments**

During the year under review, property rates totalling Kshs.3,125,001,122 were adjusted to clear/reduce the outstanding property rates balances. Although there are circumstances under which property rates could be adjusted, documentary evidence specifying the reasons for adjusting the amount indicated has not been provided for audit review. As a result, the validity of the adjustment cannot be confirmed.

## **2.8. Unsupported Payments to Revenue Account - Kshs.9,012,746**

Examination of IFMIS payments details register revealed that cash payments totalling Kshs.9,012,746 were made to Nairobi City County Revenue Account. The purpose and nature of cash payments to own account have not been explained.

## **2.9. Irregular Payments to M/S Webtribe Ltd - Kshs.152,055,313**

Records available shows that M/s Webtribe was paid an amount of Kshs.152,055,313 during the year under review for purportedly collecting revenue for the County

Government. However, documentary evidence justifying and in support of the payment has not been provided for audit review contrary to the requirement under Section 9(1)(e)(i) of the Public Audit Act, 2015. Consequently, the validity and propriety of the payment cannot be confirmed.

Further, examination of a contract agreement signed on 8 April 2014 between Webtribe Ltd and Nairobi City County Government revealed that a transaction payable to Webtribe Ltd by the Nairobi City County Government shall be equivalent to 4.5% of all funds collected through Jambopay. In the absence of any documents showing services delivered by Webtribe Ltd, it is not possible to confirm the actual revenue collected or the amount deducted at source by the firm.

It is apparent that the contract agreement signed on 8 April 2014 between Webtribe Ltd and Nairobi City County Government contravened the provisions of Article 207 of the Constitution, Section 109 (2) of Public Finance Management Act, 2012 and regulation 63 (4) of Public Finance Management (County Governments) Regulations, 2015.

In addition, the system for revenue collection in the Nairobi City County is that clients are advised of the exact amount they are supposed to pay and deposit in the county revenue account upon which, receipts are issued by the County revenue officers after presenting bank pay-in-slips. In the circumstances, Webtribe Ltd has no role in revenue collection and therefore the payment of Kshs.152,055,313 to Webtribe was unlawful.

According to a letter dated 19 February 2015, the tender committee was to meet and vary the contract for cash payments from 4.5% to 1.25%. However, a new contract prepared on this basis was not provided for audit review.

The management has denied the auditors access to Jambopay system and Trust Fund managed by PKF in the banks listed below despite severally being requested in accordance with Section 9(e) of Public Audit Act, 2015:

	<b>Bank Name</b>	<b>Currency</b>
1	Co-operative Bank Ltd	KES
2	I & M Bank Ltd	KES
3	I & M Bank Ltd	USD
4	Stanbic Bank Kenya Ltd	KES
5	National Bank Ltd	KES
6	Family Bank Ltd	KES
7	Equity Bank Ltd	KES
8	Commercial Bank of Africa	KES
9	NIC Bank	KES
10	Bank of Africa	KES
11	Barclays Bank	KES

## **2.10 Nairobi City Liquor Licensing Board**

The County has not prepared Financial Statements for two(2) consecutive years 2016/2017 and 2017/2018. Further, Bank Statement for Account No.01141230914900 for the two (2) financial years have not been availed for audit review.

In this circumstance, it is not possible to confirm accuracy of receipts and their legal use in accordance with Article 229(6) of the Constitution of Kenya (2010).

### **3. Expenditure**

#### **3.1. Discrepancy between Financial Statements and Ledgers**

The statement of receipts and payments for the year ended 30 June 2018 reflects expenditure in respect of compensation of employees- Kshs.12,982,011,406, use of goods and service- Kshs.6,447,658,180 and acquisition of assets Kshs.1,435,678,846, all totalling Kshs.20,865,348,432. However, the ledger provided in support of the expenditure reflects a total of Kshs.17,212,814,158, resulting in unexplained and unreconciled variance of Kshs.3,652,534,274.

The expenditure of Kshs.6,447,658,180 on use of goods and services includes unsupported re-allocations totalling Kshs.489,645,787. In addition, the expenditure of Kshs.1,435,678,846 on acquisition of assets includes an amount of Kshs.11,808,697 which was wrongly charged to that expenditure head.

In view of the foregoing, the accuracy of expenditure figures reflected against compensation of employees, use of goods and services and acquisition of assets cannot be confirmed.

#### **3.2. Repayment of Principal on Domestic Lending and on-Lending**

The statement of receipts and payments reflects an expenditure of Kshs.868,192,719 against repayment of principal on domestic lending and on-lending during the year under review. The expenditure relates to a bank overdraft which was repaid in 2017/2018 financial year. However, the amount differs with the bank statement figure of Kshs.1,032,600,061, resulting in unexplained variance of Kshs.164,407,342.

The repayments were effected between July 2017 and December 2017, and the County Government paid interest amounting to Kshs.50,061,431 during the financial year. Information available indicates that the bank overdraft was acquired in October 2014. However, loan agreement and contract documents detailing terms and conditions of the overdraft have not been provided for audit review. Consequently, the validity of the repayment of principal on domestic lending and on lending and interest payment thereon cannot be ascertained.

#### **3.3. Other Payments**

The statement of receipts and payments reflects an expenditure of Kshs.451,779,511 against Other Payments, comprising of bank charges amounting to Kshs.101,779,511 and unbudgeted debt repayment KRA agency notice of Kshs.350,000,000. These payments were made outside the IFMIS contrary to regulation 109 of Public Finance Management (County Governments) Regulations, 2015.

Further, bank statements for sixteen out of thirty-seven bank accounts provided for audit review reflected cumulative bank charges and loan interest of Kshs.292,135 and Kshs.50,061,431 respectively. In the absence of bank statements for the remaining twenty-one bank accounts, it is not possible to confirm the validity and completeness of the bank charges amounting to Kshs.101,779,511.

### 3.4. Acquisition of Assets

#### 3.4.1. Unsupported Expenditure

Although the statement of receipts and payments reflects an expenditure of Kshs.1,435,678,846 in respect of acquisition of assets in 2017/2018 financial year, only an amount of Kshs.873,837,452 has been verified as paid. No documentary evidence has been provided in support of the remaining amount totalling Kshs.561,841,394. As a result, the accuracy and completeness of the expenditure of Kshs.1,435,678,846 on acquisition of assets cannot be confirmed.

#### 3.4.2. Payments not Captured in IFMIS

Payments totalling Kshs.11,977,570 indicated below were excluded from IFMIS for unexplained reasons. In addition, supporting documents for the expenditure have not been provided for audit review.

Name	Details	Reference	Amount (Kshs)
Computonic Solutions Ltd	Supply and delivery of cleaning Materials NCC/RPW&T/Q117/2016-2017	AQ007/PI-046/2017-2020	2,119,112
Seanwills Investments	Supply and delivery of Galvanized Poles & Stainless Fastening Clips NCC/RPW&T/041/2017-2018	AQ007/PI-047/2017-2021	3,790,733
Span Dimension Company Ltd	Drainage Improvement on selected roads in Ziwani/ Kariokor ward NCC/RPW&T/323/2016-2017	AQ007/PI-049/2017-2023	4,130,789
Tripple AAA Construction Company	Public lighting installation at Airbase Ward NCC/RPWT/446/14-15	AQ007/PI-051/2017-2025	1,936,936
<b>Total</b>			<b>11,977,570</b>

In view of the above, the validity and propriety of the expenditure of Kshs.11,977,570 cannot be confirmed.

### 3.5 Unsupported Payment Vouchers

Payment vouchers for expenditure totalling Kshs.865,573,662 were not supported by relevant documentation and appropriate authority contrary to the requirements under regulation 104 of Public Finance Management (County Governments) Regulations, 2015. In the circumstances, the validity and propriety of the payments totalling Kshs.865,573,662 cannot be ascertained.

### 3.6 Missing Payment Vouchers

Payment vouchers for expenditure totalling Kshs. 2,456,754,179 have not been produced for audit review. As a result, the validity and propriety of the payments totalling Kshs.2,456,754,179 cannot be ascertained.

### 3.7. Other Grants and Transfers

The statement of receipts and payments reflects an expenditure of Kshs.474,187,000 in respect of Other Grants and Transfers as summarized below:

Description	Amount Kshs
Scholarships and other educational benefits	421,287,000
Current Grants to government Agencies and other levels of Government	52,900,000
<b>Total</b>	<b>474,187,000</b>

However, source documents to support the scholarships and other educational benefits have not been provided for audit review. As a result, it has not been possible to confirm whether the amount of Kshs.421,287,000 was actually paid in full to the intended beneficiaries.

## 4. Accounts Receivables

### 4.1. Debtors

In the report for 2016/2017 it was indicated that accounts receivables were amounting to Kshs.307,697,852,532 as at 30 June 2017. However, the management has for the year under review provided debtors list totalling Kshs.1,803,990,440 only as at 30 June 2018. No evidence has been provided to show how the difference of Kshs.305,893,862,092 of the debts was cleared in 2017/2018 financial year. The aging analysis for the debtors has also not been provided for audit.

Further, the management has not provided documentary evidence in respect of sundry debtors, estates other than the Eastland, tenants purchase scheme, loading zones, Eastland Revenue Office, advertisements, single business permits and wayleave fees.

In addition, contrary to the guidelines issued by the Public Sector Accounting Standards Board, the management did not disclose in the notes to the financial statements the accounts receivables. The management has also not provided explanations on measures taken to collect the long outstanding accounts receivables.

## **4.2. Outstanding Imprests**

The statement of assets and liabilities reflects outstanding imprests balance of Kshs.78,385,142 while the ledger reflects an amount of Kshs.96,439,550 as at 30 June 2018, thus resulting in unreconciled difference of Kshs.18,054,408. In addition, the outstanding imprests balance is not supported by an updated imprests register. Consequently, it has not been possible to confirm the completeness and accuracy of the imprests balance of Kshs.78,385,142 as of 30 June 2018.

## **5. Pending Accounts Payables**

Included under Other Important Disclosures to the financial statements is a summary of pending accounts payables amounting to Kshs.66,576,014,141 as at 30 June 2018, an increase of Kshs. 10,059,679,063 or 18% from the previous year`s balance of Kshs.56,516,365,078. Included in the accounts payables balance is an amount of Kshs.3,024,371,706 for an outstanding loan as at 30 June 2018. However, no records have been provided for audit review regarding the purpose, existence, terms and conditions and repayment period of the loan.

In addition, tender documents; contract agreements; local purchase/service orders; invoices/certificates of works; and complete schedules detailing names of the contractors/suppliers, purchase/service order numbers, invoice/certificate numbers and description of goods supplied, services provided or works done have not been provided for audit review. As a result, the validity, completeness and accuracy of the pending accounts payables totalling Kshs.66,576,041,141 cannot be ascertained.

Had the pending accounts payables of Kshs.66,576,041,141 as at 30 June 2018 been paid and the expenditure charged to the accounts for the year under review, the statement of receipts and payments for the year ended 30 June 2018 would have reflected a deficit of Kshs. 64,252,709,232 instead of the surplus of Kshs.2,323,331,909 now shown.

Accumulation of huge pending bills is an indication that the Nairobi City County Executive entered into financial commitments without adequate resources contrary to regulation 50 of the Public Finance Management (County Governments) Regulations, 2015.

## **6. Non-Current Assets and Assets Register**

Included also under Other Important Disclosures to the financial statements is a summary of fixed assets register with assets balance of Kshs.19,804,558,953 as at 30 June 2018. During the year under review, the Nairobi City County Executive did not maintain an accurate and up to date assets register contrary to Section 149(2)(o) of the Public Finance Management Act, 2012.

Consequently, the completeness and accuracy of the assets balance of Kshs.19,804,558,953 as at 30 June 2018 cannot be confirmed.

## **REPORT ON COMPLIANCE WITH LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

## **Conclusion**

I do not express a conclusion on the lawfulness and effectiveness in the use of public resources as required by Article 229(6) of the Constitution. Because of the significance of the matters described in the Basis for Disclaimer of Opinion and Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources sections of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for my audit conclusion.

## **Basis for Conclusion**

### **1. Budget Performance**

#### **1.1. County Own Generated Receipts**

According to the summary statements of appropriation - recurrent, development and combined for the year ended 30 June 2018 the County Government had planned to collect County Own Generated Revenue totalling Kshs.17,229,464,760 in the year under review. However, the actual collection in 2017/2018 was Kshs.10,157,594,130, resulting in unexplained shortfall of Kshs.7,071,870,630 or 41%.

In 2016/2017, County Own Generated Revenue collected was Kshs.10,933,201,474. Therefore, compared to the year under audit, the implication is that there was a reduction in the amount collected by Kshs.775,607,344. No satisfactory reasons have been given for the reduction in revenue collected.

#### **1.2. Overall Under-Expenditure**

According to the summary statements of appropriation - recurrent, development and combined for the year ended 30 June 2018 the total expenditure budget was Kshs.33,614,180,418 out of which, an expenditure of Kshs.23,901,079,991 was incurred resulting in underutilization of budget by Kshs.9,713,100,427 or 29%.

The under-expenditure is an indication that budgetary resources were not used in an efficient and effective way. Further, the overall/net underutilization of budgetary provisions by Kshs.9,713,100,427 affected planned development programmes and thus impacting negatively on service delivery to the residents of Nairobi City County.

#### **1.3. Failure to achieve 30% allocation on Development Budget**

Regulation 25(1)(g) of Public Finance Management (County Governments) Regulations,2015 directs that at least 30% of the County Government total budget be spent on development. However, according to the summary statement of appropriation - development for the year ended 30 June 2018 the County Government spent an amount of Kshs.1,413,319,060 only or 6% on development out of the total combined actual expenditure of Kshs.23,901,079,991. The management was therefore in breach of the law.

### **2. Compensation of Employees**

#### **2.1. Unsustainable Wage Bill**

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*Report of the Auditor-General on Financial Statements of the Nairobi City County Executive for the year ended 30 June 2018*

The statement of receipts and payments reflects an expenditure of Kshs.12,982,011,406 on compensation of employees, which is 49.4% of the County Government's total revenue of Kshs.26,276,416,586 for the year ended 30 June 2018. The expenditure on wages and benefits therefore exceeded the thirty-five percent limit prescribed under regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015.

## **2.2. Increase in Temporary Workers' Wage Bill**

Examination of records revealed that the expenditure on temporary workers' wages increased from Kshs.8,465,010 in 2016/2017 to Kshs.21,427,780 in 2017/2018 by Kshs.12,962,770. However, payment vouchers, registers, master rolls and relevant schedules in support of the expenditure incurred on hire of casuals were not provided for audit review. As a result, the validity and propriety of the expenditure of Kshs.21,427,780 incurred on casual employees cannot be confirmed.

## **2.3. Staff Establishment**

Contrary to the provisions of regulation 119 of the Public Finance Management (County Governments) Regulations, 2015 the County Government operated during the year under review without an authorized staff establishment. Consequently, it has not been possible to ascertain how the budgetary allocations for personnel costs during the year were determined in the absence of a detailed costing of human capital plan as approved by the County Public Service Board and County Treasury.

## **3. Procurement of Goods, Services and Works**

### **3.1. Documents Not Provided for Audit**

Information available indicate that thirteen contractors were irregularly awarded contracts at a combined contracts sum of Kshs.419,847,395. However, documents in support of these contracts were not provided for audit review. In the absence of these documents, it was not possible to confirm that the rates submitted were commensurate with quality and quantity of works awarded, and that the awards of these contracts were done using a system which is fair, equitable, transparent, competitive and cost effective as required under Article 227 (1) of the Constitution.

### **3.2. Construction of Maringo Market**

Tender No. NCC/TRADE/RT/981/2014-2015 was issued to a contractor on 28 October 2015 to construct a market at Hamza-Maringo ward at a contract sum of Kshs.10,502,872. The works were completed by 6 September 2016. Further, the same contractor was awarded another tender No. NCC/WDF/TRADE/RT/100/2016-2017 to construct market sheds and modern kiosks at a contract sum of Kshs.17,017,118.

Although the construction of market sheds is claimed to have been completed on 17 October 2017, incompleteness of contract documents which did not include scope of works and priced Bills of Quantities made it impossible to evaluate and confirm that works were indeed completed.

The contractor was paid Kshs.10,236,414 through payment voucher number 3392 dated 21 March 2017 and Kshs.16,585,798 through payment voucher number 3333 dated 20 November 2017. Audit inspection undertaken on 20 November 2018 revealed that the market was not in use, and therefore, the value for money has not been obtained in respect of the total amount of Kshs.26,822,212 paid to the contractor.

### **3.3. Construction of Public Transport Facility at Mama Lucy Hospital**

#### **Award of Contract**

Tender No. NCC/RT/RPW & T/936/2014-2015 was awarded to a contractor at Kshs.30,530,388.

#### **Objective of the Project**

To enhance user comfort, improved connectivity and enhance public transport facilities capacity for patients attending the hospital.

#### **Scope of Works**

The Scope of works involved site clearance, excavation and fill, drain construction, wearing course.

#### **Payments**

The Company was paid Kshs.8,738,541 for Certificate No. 1. vide payment voucher No.13281 of 17 June 2016.

#### **Contract Period and Progress of Work**

The works commenced on 28 October 2015 and were due to be completed on 28 April 2016, a duration of six months. The status report dated 30 June 2018 show that the progress of works stood at 75 percent complete.

#### **Audit Inspection**

Audit Inspection undertaken on 14 November 2018 revealed various anomalies as follows:

- (a) The contract period had expired while the project was not complete and liquidated damages had not been recovered.
- (b) The contractor was not on site and there was no activity on site.
- (c) Specifications were not clear on the material to be used as wearing course.
- (d) There was no record of site instructions, material test results and site meeting minutes.
- (e) In the absence of required documents, it was not possible to verify and establish what the contractor was supposed to achieve and what was actually achieved.

### **3.4. Grading and Gravelling of Selected Roads in Lower Savannah Ward**

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*Report of the Auditor-General on Financial Statements of the Nairobi City County Executive for the year ended 30 June 2018*

### **Award of Contract**

Tender number NCC/WDF/RPWT/198/2016-17 for grading and gravelling of 1.1 Kilometers of selected roads in Lower Savanna was awarded to a contractor at Kshs.16,939,662.50.

### **Objective of the Project**

To grade and gravel selected roads whose total length is 1.1 Kilometers.

### **Scope of Works**

The Scope of works involved general site clearance, earth works, culverts and drainage works, passage of traffic and quarry fill stone for sub base and quarry chips for the base of the 1.1 Kilometer in the area of Soweto in Kayole.

### **Payments**

The contractor was paid Kshs.11,372,623 for undisclosed certificate vide payment voucher number 5153 of 19 June 2018.

### **Contract Period and Progress of Work**

The works started on 28 February 2017 and were due to be completed in May 2017. However, status report as at 30 June 2018 was not provided to support progress of works or to confirm that the works were completed on time.

### **Audit Inspection**

Audit Inspection undertaken on 10 December 2018 revealed various anomalies as follows:

- a) Gravel was not compacted and therefore was loose, unlevelled and wearing off.
- b) The drainage was on one side of the road and was shallow, and therefore storm water over flows on the road surface.
- c) There were no site instructions, material test results and site meeting minutes. The works therefore appear not to have been supervised by competent and technically qualified officer contrary to Section 150 (3) of Public Procurement and Asset Disposal Act, 2015.
- d) Bids were not subjected to technical evaluation and therefore, it is not possible to ascertain that the rate of Kshs.16,939,662 charged was commensurate with grading and gravelling of 1.1 Kilometers.

## **3.5. Grading, Gravelling and Improvement of Tassia Roads**

### **Award of Contract**

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*Report of the Auditor-General on Financial Statements of the Nairobi City County Executive for the year ended 30 June 2018*

Tender number NCC/RPW & T/T192/2016-2017 was awarded to a contractor at Kshs.61,230,658 to grade and gravel selected roads in Tassia Estate, Embakasi Area at a unit rate of Kshs.10,500,000 per Km. Documents relating to the contract have however not been provided for audit review. In the absence of required documents, it is not possible to ascertain how the contractor was identified, evaluated and awarded the contract as required under Sections 85 and 86(1) of Public Procurement and Asset Disposal Act, 2015.

### **Payments**

Status report dated 30 June 2018 show that the contractor has been paid Kshs.49,356,480. The amount includes Kshs.10,212,516 that has been paid outside IFMIS and purports to refer to unexplained number AQ007/PI-050/2017-2024.

### **Contract Period and Progress of Work**

The works started on 10 March 2017 and were due for completion on 9 November 2017. However, a review of the status report dated June 2018 revealed that the project was 70% complete as of that date. There is no documentary evidence that liquidated damages has been recovered from the contractor as expected under Section 140(b) of the Public Procurement and Asset Disposal Act, 2015.

### **Audit Inspection**

Audit inspection undertaken on 19 November 2018 revealed massive irregularities as follows:

- (a) Deep potholes clogged with water had developed on the road despite the fact that the contractor was still on site.
- (b) No evidence that grading was done on the road.
- (c) The road was impassable due to use of mud instead of gravel.

### **3.6. Wastage of Bitumen KI-60 COLAS**

Audit inspection of stores undertaken on 16 November 2018 revealed that a contractor delivered 500 drums of Bitumen K1-60 valued at Kshs.12,500,000 between 17 and 25 January 2018 at a time when 18 drums valued at Kshs.450,000 were available in stock and had not been used.

Although it has been explained that technically Bitumen K1-60 is not supposed to be stocked for a period exceeding six months, no reasons have been given for incurring an expenditure totalling Kshs.12,950,000 on Bitumen K1-60 which ended up being obsolete.

### **3.7. Purchase of Electrical Items**

Information available indicate that the Nairobi County Government awarded tender No.NCC/FW/481/2017-2018 to a contractor for supply of 2,000 pieces of electrical items (Ignitors) at a contract sum of Kshs.9,200,000. However, the relevant tender documents were not provided for audit review. In the absence of the documents, it is not possible to confirm that procurement of these items complied with Article 227 (1) of the Constitution.

The supplier was paid Kshs.9,200,000 for the supply of ignitors vide payment voucher number 5310 of 11 June 2018. Audit further revealed that receipts of the items were entered on a piece of paper and not in a serialized stores ledger and Stock Control Card S3, and thus defeating an audit trail to confirm whether the items were delivered, received and taken on charge.

### **3.8. Supply and Delivery Installation Testing and Commissioning of 50 Ton Electronic Weighbridge and Standby Generator.**

#### **Award of contract**

Contract records show that a contractor was awarded a tender No.NCC/TRADE/558/2014-2015 a contract sum was Kshs.4,526,275 for supply, delivery, installation, testing and commissioning of 50-ton electronic weighbridge and a standby Generator at Dandora dump site. Included in the contract agreement was a provision that installation of the generator and weighbridge was subject to the County Government constructing a platform.

#### **Inspection and Acceptance**

Inspection and Acceptance Committee confirmed on 21 March 2017 that the generator and fourteen parts of weighbridge were received and therefore recommended payments to the contractor as follow:

<b>% of Payment</b>	<b>Amount (Kshs)</b>	<b>Recommendation</b>
80% of Payment	3,621,020	Be paid immediately
15% of Payment	678,941	Be paid upon installation, testing and commissioning
5% of payment	226,314	Retention Money

#### **Audit Inspection**

Audit inspection undertaken during the Month of October 2018 at Dandora Weighbridge and on 13 November 2018 at Nanyuki Road stores revealed the following anomalies:

- a) The old weighbridge which was still in use was unserviceable and solid waste management companies were using estimated and not actual weights.
- b) A Physical inspection of the weigh bridge revealed that some parts were missing.

### **3.9. Staff Medical Insurance Cover**

### **Payment for the Cover**

Examination of records revealed that AAR Insurance Kenya Limited was paid Kshs.1,725,488,939 for staff medical insurance cover during the year under review. Audit has also revealed that this payment was made outside IFMIS contrary to regulation 109(1) of Public Finance Management (County Governments) Regulations, 2015.

### **Payment of Legal Fee**

Further, examination of Other Operating Expenses revealed that an undisclosed law firm was paid Kshs. 15,000,000 through voucher number 15649 dated 29 June 2018 for the services purportedly rendered in respect of the staff medical insurance cover.

### **Excess Payments**

Although the total payment made so far to AAR Insurance Kenya Limited is Kshs.1,725,488,939, no explanation has been given for paying Kshs.652,786,602 in excess of the contract sum of Kshs.1,072,702,337.

### **Growth in Contract Value**

A comparison of the annual contract sum shows unexplained growth in value of the insurance cover even though there was decrease in number of staff by 402 during the year under review.

<b>Year</b>	<b>Number of Employees</b>	<b>Contract Value (Kshs)</b>
2015/2016	13,348	346,269,305
2016/2017	13,097	346,269,305
2017/2018	12,695	1,072,702,337
2018/2019	12,499	

### **3.10. Construction of Korogocho Motorable Bridge and Access Road**

The Nairobi County Government awarded a tender number NCC/CE/T/235/2013-2014 for Construction of Korogocho Motorable Bridge and access road to a contractor at Kshs.58,048,972.

#### **Scope of Works**

The scope of works involved general, sub-structure, super structure, extra works, site clearance, earth works, culverts and drainage works, passage of traffic, walkways, quarry fill for sub base and quarry chips for base bituminous mix bases, binder courses and wearing courses, installing road furniture and day works.

#### **Contract Period and Progress of Work**

The works started on 23 May 2014 and were due for completion on 22 November 2014. The status report dated 30 June 2018 shows that the contractor had been paid

Kshs.45,361,835 or 77% of contract sum and the project was 80% complete as of that date.

### **Audit Inspection**

Audit Inspection undertaken on 29 November 2018 revealed anomalies as follows:

- (i) There was no activity on site due to delay in payment.
- (ii) Although there were indications that guard rails might have been installed and cut, the bridge was dangerous and unsafe.
- (iii) The access road had not been built.
- (iv) Although bridge wing walls had been built, they were small and could not direct water into the channel.
- (v) The technical team did not provide drawings, site instructions, material test results and site meeting minutes.

### **4. Beautification of Nairobi**

Examination of vote book for Environment, Water, Energy and Natural Resources Sector revealed expenditure totalling Kshs.18,750,000 on casual payments during the financial year 2017/18. However, details of the expenditure and supporting documents were not provided for audit review.

Examination of records further revealed that payment vouchers for expenditure totalling Kshs.640,000 were processed in respect of surrender of imprests for the beautification programme as follows:

<b>PV number</b>	<b>Imprest Warrant Number</b>	<b>Amount Kshs.</b>
7651	3263651	100,000
5824	3263854	100,000
4715	IB A180872345691180	440,000
<b>Total</b>		<b>640,000</b>

An audit inspection undertaken on 16 November 2018 revealed that beautification of the Nairobi City County roads was going on at Jogoo Road, Lusaka Road, Uhuru Highway and Likoni Road Roundabout. Indications are that no specialists/consultants in landscaping engaged to provide assurance on the success of the project.

It was observed that undetermined expenditure was incurred on purchase of materials such as cement, seedlings, PVC pipes, cedar poles, galvanized wire, barbed wire, red soil, manure, ballast, paints, flowers and grass for the purposes of beautification of the above roads. However, management did not provided any record to show the cost of these goods and services, and the method of procurement used.

## 5. Irregular Collection of Garbage in Non-Contracted Zones/Areas

Examination of records for Water, Energy, Environment, Forestry and Natural Resources Sectors revealed payments totalling Kshs.202,996,053 were made to eleven contracted firms for collection and disposal of solid waste at Dandora dumpsite.

Records further show that some firms opted to collect 84,317 tonnes of garbage from areas that they were not prequalified and contracted to collect garbage and were paid Kshs.162,092,407. Although it has been explained that the firms opted to collect garbage from some zones due to high rates of payment, the option taken contravened their individual contracts resulting in denial of service to other zones.

## 6. Stalled Projects

Contracts for eight(8) projects whose combined contract sum is Kshs.592,852,611 as detailed below were awarded, some works undertaken, and some payments made, however, the projects were abandoned before they were completed:

<b>Project</b>	<b>Firm Awarded</b>	<b>Contract Amount Kshs</b>
Construction of perimeter wall at Mji wa Huruma	Cykka Works Ltd	16,884,600
Construction of seventeen ECDE-(various)	Desiral (K) Ltd	218,898,310
Rehabilitation of Gaturo road and access roads to courts in Buruburu estate	Semiliky Construction Ltd	6,629,980
Construction of access roads off Kayole spine road to department of defence	Gold Stream Kenya Ltd	63,662,864
Rehabilitation of St.Martin Catholic Church road in Mathare	Platinum Construction Co. Ltd	43,211,595
Rehabilitation of Ndwaru road in Dagorreti South	Gem CM Construction Ltd	98,811,395
Rehabilitation of Mother Teresa road in Ruaraka	Alsen Agencies	31,495,827
Construction of Karen bridge in Langa'ta	Ballot JA Contractors Ltd	113,258,040
<b>Total</b>		<b>592,852,611</b>

## 7. Health Facilities

### 7.1. Human Resource Management

#### 7.1.1. Mama Lucy Kibaki Hospital

Section 63(1) of County Government Act, 2012 authorizes County Public Service Board to make appointments including promotions in respect of officers in the county public offices. Mama Lucy Kibaki Hospital staff establishment indicates that the authorized number is 752 while the actual number is 468 resulting in a deficit of 284 spread across

various departments. Instead of filling the gaps, the County opted to engage 94 casuals whose expenditure during the year under review was Kshs.10,275,878.

### **7.1.2. Dandora Health Centre**

Similarly, Dandora Health Centre has forty-seven staff instead of one hundred and seven authorized in the establishment resulting in shortage of sixty staff.

## **7.2. Budgeting and Financing of Health Facilities in Financial Year 2017/2018**

### **7.2.1. Undisbursed Funds**

Health facilities are required to draw and submit Annual Work Plans (AWPs) to the County Headquarters for preparation of annual budget. The records indicate that the health facilities were expected to receive Kshs.107,252,922 during the financial year 2017/2018.

However, the audit has revealed that the money was not disbursed to the health facilities. In addition, no reasons have been given for failure to prepare Annual Work Plans (AWPs) by some health facilities.

### **7.2.2. Comparison of Budget and Actual Amounts**

Records further show that an amount of Kshs.1,591,905,004 was budgeted for Tuberculosis (TB) control, malaria control, family planning, maternal and child health, environmental health, County referral hospitals, health centers and dispensaries, health policy, planning and financing, health commodities, research and coroner services. However, an amount of Kshs.347,150,717 only was utilized resulting in unexplained under expenditure of Kshs.1,244,754,287.

## **7.3. Failure to Supply Drugs and Non-Pharmaceutical Items to the Health Facilities**

Sub County pharmacists and health facilities are required to place their orders for drugs and other non-pharmaceutical items, which are supplied by KEMSA online after receiving instructions from the County Headquarters on availability of funds. Analysis of various health facilities orders for pharm (drugs) and non-pharmaceuticals items between the month of September and December 2017 revealed that no drugs and non-pharmaceutical items were received by the facilities.

## **7.4. Expired Drugs**

Audit of health facilities in Nairobi City County revealed that the facilities did not receive funding or supplies from KEMSA during the year under review, resulting in stocking of expired drugs whose value has not been determined due to failure to carry out stock take.

## **7.5. Failure to Issue Medical Certificates to Food Handlers**

The audit revealed that Medical Certificate Unit has not been issuing medical certificates to food handlers due to lack of funds for the purchase of laboratory commodities, certificate books, toners and stationery among others.

Audit has further revealed that medical certification services have been outsourced to five laboratories. However, no documentary evidence has been provided to show the laboratories were identified, evaluated and awarded certification services. In the absence of documentary evidence, it was not possible to confirm that rates charged by the laboratories were fair, equitable, transparent, competitive and cost effective as required under Article 227 (1) of the Constitution.

## **8. Confidential Expenditure**

The Nairobi City County through the Office of the Governor and Deputy Governor incurred confidential expenditure of Kshs.14,405,900 during the year under review. Attached to every payment voucher in support of the confidential expenditure was a memo Ref. No.COSEC/2/3/VOL.III/19/17 stating that, the security sector faces challenges from time to time and at times require urgent action in terms of information and intelligence hence, the confidential expenditure though no further explanation was provided. However, the law allows only a National Government entity to incur confidential expenditure pursuant to regulation 101(5), (6) and (7) of the Public Finance Management (National Government) Regulations, 2015. The management was, therefore, in breach of the law.

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

### **Conclusion**

I do not express a conclusion on the effectiveness of internal controls, risk management and governance as required by Section 7 (1) (a) of the Public Audit Act, 2015. Because of the significance of the matters described in the Basis for Disclaimer of Opinion and Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources sections of my report, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for my audit 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 controls 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 ability of Nairobi City County Executive to sustain services, disclosing and 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 way.

Those charged with governance are responsible for overseeing the 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**

My responsibility is to conduct an audit of the financial statements in accordance with International Standards of Supreme Audit Institutions (ISSAIs) 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. However, because of the matters described in the Basis for Disclaimer of Opinion section of my report, I was not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion on these financial statements.

In addition, my responsibility is 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. I also consider internal control, risk management and governance processes and systems in order to give an assurance on the effectiveness of internal controls, risk management and governance 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. However, because of the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources, and Internal Controls, Risk Management and Governance sections of my report, I was not able to obtain sufficient appropriate audit evidence to provide a basis for an audit conclusion.

I am independent of Nairobi City County Executive 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.



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

**Nairobi**

**12 February 2019**