

REPORT OF THE AUDITOR-GENERAL ON COUNTY EXECUTIVE OF NYAMIRA FOR THE YEAR ENDED 30 JUNE 2017

REPORT ON THE FINANCIAL STATEMENTS

Adverse Opinion

I have audited the accompanying financial statements of County Executive of Nyamira set out on pages 23 to 52, which comprise the statement of assets and liabilities as at 30 June 2017, and the statement of receipts and payments, statement of cash flows, summary statement of appropriation: recurrent and development combined for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution 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, because of the significance of the matters described in the Basis for Adverse Opinion paragraph, the financial statements do not present fairly the financial position of County Executive of Nyamira as at 30 June 2017 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 do not comply with the Public Finance Management Act, 2012.

In addition, as required by Article 229(6) of the Constitution, based on the procedures performed, I confirm that, public money has not been applied lawfully and in an effective way.

Basis of Adverse Opinion

1. Inaccuracies in Financial Statements

1.1. Banks Reconciliations

The balances reflected in bank reconciliation statements for three bank accounts differ with the respective financial statement balances as indicated below:

Account Name	Bank Reconciliation Figures 30 June 2017 Kshs.	Financial Statement Figures 30 June 2017 Kshs.
Retention Account-1000323938	647,857	6,533,564
Development A/C-1000170549	(11,334,297)	2,241,577
Mortgage A/C-01141318866500	35,898,406.55	48,019,068

No explanation has been provided by management for these variances which should not occur under normal circumstances. Further, the financial statements in respect of the Loans and Mortgages Fund for the year under review and prior years were not submitted by management for audit by 30 September 2017 contrary to Section 167 of the Public Finance Management Act, 2012.

Consequently, the completeness and accuracy of the County Executive's financial statements for the year ended 30 June 2017 cannot be confirmed.

2. Revenue

2.1 Decline in Local Revenue

Comparison of locally-generated revenue for the financial year under review (2016/2017) with that of the previous year (2015/2016) revealed that revenue from various sources had declined by an aggregate amount of Kshs.27,226,638.

Management have not provided any explanation for the unsatisfactory performance in local revenue collection. The underperformance points to leakage of revenue collected or unrealistic revenue targets set by management.

2.2 Non-collection of Local Revenue

The County Executive budgeted to collect Kshs.198,230,100 during the year under review. But, only Kshs.126,461,992 was collected resulting in under-collection of Kshs.71,768,108 equivalent to 36% of the target.

No explanation has been provided by management for the unsatisfactory performance in revenue collection.

2.3 Failure to Automate Revenue Collection

The County Executive has not automated its revenue collection processes for all its sources of internally generated revenue such as the Bus Park, single business permits and market fees among others. The omission has increased the risk of revenue leakages and under-banking.

3. Outstanding Imprests

Note 14 to the financial statements reflects outstanding imprests totaling Kshs.615,863 issued to a staff member and which ought to have been surrendered or accounted for on or before 30 June 2017.

A review of the position during the month of February 2018 showed that imprests amounting Kshs.492,605 had been surrendered leaving a balance of Kshs.123,158 outstanding. The Executive risks losing the outstanding amount if it is not surrendered.

4. Compensation of Employees

Temporary Employees

The financial statements reflect an increase of basic wages for temporary employees by Kshs.25,848,853(367%) from Kshs.7,039,851 in 2015/16 to Kshs.32,888,704 in the year under review. No analysis or explanation has been provided by management for the enormous increase in casual wages.

5. Pending Bills

During the year ended 30 June 2017, the County Executive accumulated pending bills totaling Kshs.205,040,544 as reported in Note 17 this being an increase of Kshs.115,798,963 from the previous year's balance of Kshs.89,241,582. Further, some of the pending bills have been outstanding for a long period as far back as year 2013/2014.

Had the bills been paid and the expenditure reflected in the statement of receipts and expenditure for the year under review, the surplus reported for the year would have amounted to Kshs.311,729,996 instead of Kshs.516,770,540 shown in the statement.

6. Use of Goods and Services

6.1 Irregular Payments to Council of Governors

Included in use of goods and services balance of Kshs.1,086,068,116 reflected in the Statement of Receipts and Payments are operating expenses of Kshs.32,156,551 which in turn include payments amounting to Kshs.12,500,000 made to the Council of Governors. However, the payments were not approved by the County Assembly and the expenditure was not budgeted for. Further, the Council of Governors' budget is funded by the National Government. Therefore the payment constitutes nugatory expenditure.

6.2 Payments in Respect of Air Tickets for 2015/2016 Financial Year

Also included in the Use of Goods and Services expenditure of Kshs.1,086,068,116 are foreign travel and subsistence payments of Kshs.36,891,891 which in turn include foreign travel costs totaling to Kshs.4,005,258 paid on various dates to a local tour company for purchase of air tickets as shown below:

Date	Amount Kshs.
30-Sep-16	580,475
22-Sep-16	339,430
22-Sep-16	644,766
22-Sep-16	978,497
22-Sep-16	1,462,090
	4,005,258

However, the following unsatisfactory issues were noted in relation to the expenditure:

- i. The expenditures were not included in the pending bills balance as at 30 June 2016.
- ii. There were no procurement records availed for audit review to establish how the firm was identified.

Consequently, the propriety and validity of the expenditure totaling Kshs.4,005,258 incurred on air tickets during the year under review cannot be confirmed.

6.3 Procurement of Events Management Services

Also included in the use of goods and services balance of Kshs.1,086,068,116 is a sum of Kshs.3,999,860 incurred on procurement of events management services by the Department of Youth, Gender, Sports and Cultural Services. However the services were procured without following the due process, as indicated below:

- i. The value of services procured was Kshs.3,999,860 which was beyond the maximum value of Kshs.2,000,000 for use of requests for quotations prescribed in regulations.
- ii. Quotations were issued to three Companies which had not been prequalified to provide event management services to the County.
- iii. All officers involved in the opening of the tender were also appointed to the tender evaluation committee which is against Section 78(1)b of the Public Procurement and Assets Disposal Act, 2015.
- iv. The expenditure of Kshs.3,999,860 was not budgeted for and was paid out of the emergency vote.

Consequently, this expenditure of Kshs.3,999,860 was incurred illegally and irregularly.

6.4 Wasteful Expenditure

The Use of Goods and Services balance of Kshs.1,086,068,116 further includes is Kshs.1,087,200 relating to domestic travel and subsistence paid to staff of the county and Members of the County Assembly(MCAs) as reimbursement while travelling to Nairobi in September 2016 to attend a stakeholders forum on Kiabonyoru State University due to be established in Nyamira County.

The following anomalies were noted in relation to the expenditure:

- i. MCAs were paid from the County Executive budget despite their expenses having been catered for in the County Assembly's budget.
- ii. No signed payment list was attached to the payment voucher to confirm that the officers and MCAs attended the forum.
- iii. Although the expenditure was incurred under the Education Department, it could not be traced in the IFMIS payment extract and therefore it was not clear how it was captured in the financial statements.
- iv. The travel to Nairobi was uneconomical since all the required information about the University was available in Nyamira County.

6.5 Unaccounted for Fuel

Also included in the Use of Goods and Services expenditure of Kshs.1,086,068,116 reflected in the Statement of Receipts and Payments is Kshs.2,943,060 incurred on purchase of fuel, oil and lubricants and paid for by the Department of Health Services and the Office of the Governor at Kshs.1,349,060 and Kshs.1,594,000 respectively. However the payment vouchers did not include relevant supporting documents such as a fuel register, detail orders and work tickets.

Consequently, the propriety of the expenditure of Kshs.2,943,060 incurred on fuel, oil and lubricants during the year under review cannot be confirmed.

6.6 Advance Payment

The Use of Goods and Services balance of Kshs.1,086,068,116 includes Kshs.10,138,500 paid in respect of the Mechanical Transport Fund (MTF) under the Ministry of Transport and Roads for hire of machinery for leveling of Manga stadium.

However, the payment was made towards the end of the financial year on 23 June 2017 before the project commenced. At the time of the audit in January 2018, work had not started although the whole contract amount had been paid to the contractor.

Consequently, the propriety and validity of the expenditure of Kshs.10,138,500 under routine maintenance – vehicles and other transport equipment as at 30 June 2017 cannot be confirmed.

6.7 Re-Allocation of Funds without Approval

Expenditure incurred on Use of Goods and Services totaling Kshs.1,086,068,116 further includes other operating expenses, emergency relief and refugees costs and costs incurred on acquisition of agricultural items at a cost of Kshs.15,482,527 that were not budgeted for or approved for re-allocation as shown below:

Budgeted Item Name	Dept/Item Wrongly Charged	Amount Kshs.
Contractual Technical Services	Other Operating Expenses	8,202,700
Domestic & Subsistence	Emergency Relief and Refugee	5,538,990
Medical & Rental Equipments	Gender, Youth & Sports Ministry(Agricultural Items)	1,740,837
	Total	15,482,527

Consequently, the propriety of the payments cannot be confirmed.

7. Emergency Management Training on Fire Fighting in the USA

The Use of Goods and Services balance of Kshs.1,086,068,116, as shown in Note 6 to the financial statements, also includes Kshs.36,891,891 under foreign travel and subsistence which in turn includes Kshs.964,600 paid to the Deputy Governor who travelled to the USA for emergency management training on fire-fighting. However, it was not made clear why the Deputy Governor had to travel to the USA for the training available in Kenya. In addition, the expenditure was not properly supported as the payment documents did not include an airline boarding pass as evidence to show that the officer left the country.

Consequently, the propriety of the expenditure of Kshs.964,600 cannot be confirmed.

8. Acquisition of Assets and Irregular Procurement

8.1 Purchase of Laundry Machine

Included in the acquisition of assets balance of Kshs.657,294,415 reflected in the Statement of Receipts and Payments is expenditure of Kshs.8,500,000 paid to a local company for supply of a laundry machine. However, it was not clear how the firm was identified. In

addition, examination of records revealed the following unsatisfactory issues in relation to the expenditure;

- i. The agreement was signed on 17 September 2015 while the LPO was raised on 15 September 2015.
- ii. Procurement documents indicated supply of theatre equipment while the payment reflected payment for a laundry machine.

8.2 Purchase of Motor Vehicles

Note 9 to the financial statements reflects an acquisition of assets balance of Kshs.657,294,415 which includes purchase of motor vehicles and other transport equipment of Kshs.30,204,600 among which are six (6) motor vehicles valued Kshs.29,654,600 as indicated below:

Payee	Date	Dept.	Reg. No	Amount (Kshs)
CMC Motors Group Limited	20-Apr-17	Education	46CG 027A	4,500,000
CMC Motors Group Limited	25-May-17	Gender, Youth and Sports	46CG 028A	4,797,600
Toyota Kenya Limited	23-Mar-17	Transport, Roads & Public Works	46CG 029A	5,672,000
Toyota Kenya Limited	21-Apr-17	Transport, Roads & Public Works	-46 CG 030 A -46 CG 031 A -46 CG 032 A	14,685,000
				29,654,600

However, the following anomalies were noted in relation to the expenditures:

- i. No quotations were invited for procurement of vehicles No. 46CG 028A and No.46CG 027A valued at Kshs.4,797,600 and Kshs.4,500,000 respectively.
- ii. The management indicated in their procurement documents vehicle models they wanted to buy contrary to Section 60 (4) of Public Procurement and Assets Disposal Act, 2015 which does not allow that.
- iii. The circular from the Supplies Branch that the management relied on to procure the vehicles had expired on 30 June 2016.
- iv. Log books for all the vehicles were not availed for audit review and verification and ownership of the vehicles could not be confirmed.

8.3 Renovation of National Government Offices

Included in the balance for acquisition of assets of Kshs.657,294,415 reflected in the Statement of receipts and Payments is Kshs.1,119,629 incurred on renovating Nyamira County Commissioner offices which is a property of the National Government but temporarily occupied by the Department of Public Administration and Coordination of Devolved Units (PACDU).

The management did not explain why it carried out elaborate modification of the property or indicate whether arrangements were made with the National Government on how the costs incurred by County Executive would be compensated by the National Government

Consequently, the propriety and validity of the expenditure of Kshs.1,119,629 cannot be confirmed.

8.4 Delay in Project Completion - Kemasare and Bomwagamo Nyamusi Water Projects

Also included in the acquisition of assets balance of Kshs.657,294,415 is Kshs.277,750,840 for construction and civil works which in turn includes Kshs.30,208,895 paid to a local contractor for construction of Kemasare and Bomwagamo Nyamusi Water Projects at Kshs.18,357,631 and Kshs.11,851,264 respectively. The contract agreements were signed on 31 May 2016 with Kemasare contract execution period being six (6) months while Bomwagamo Nyamusi was three (3) months.

However, by the time of the audit verification in the month of January 2018, both projects had not been completed and were behind schedule by more than 13 months.

Consequently, the residents had not obtained value for the money invested in the two water projects by the County Executive.

8.5 Construction of Kebirigo Terminal Facility

Also included in the acquisition of assets balance of Kshs.657,294,415 balance reflected in the Statement of Receipts and Expenditure is Kshs.9,700,476 being the total contract sum incurred on construction of a terminal facility at Kabirigo Market. The contract was awarded a local contractor vide contract agreement signed on 11 September 2015.

However, an audit inspection at the site during the month of December 2017 revealed repairs of roads within the market were not carried out as planned. Instead, a road measuring 4.9 km from Kebirigo to Bokimo was murramed. Further, no explanation has been provided by the management on why it did not enforce construction of the works against a few plot owners who have encroached on the roads.

Consequently, the residents of Nyamira County may not have received value for the money invested in the project.

8.6 Stalled Project - Doctors Plaza

The acquisition of assets balance of Kshs.657,294,415 further includes Kshs.67,762,841 incurred on construction of buildings which in turn includes Kshs.13,257,183.45 paid in respect of construction of wards and doctors' offices which project was started during the previous (2015/16) financial year. Although, the construction works had stalled, the payment was made during the year under review.

Physical verification of the project in January 2018 revealed that the building was abandoned at the first floor level and steel works and piping for electrical installations had been fixed but left exposed to adverse weather conditions.

As a result, provision of health services may be adversely affected and the residents may not get value for money from the project.

8.7 Payments for Culverts and Drainage Works

The acquisition of assets balance of Kshs.657,294,415 also includes Kshs.181,262,670 incurred on construction of roads which amount includes Kshs.9,969,272 being the contract sum of a tender awarded to a local contractor for installation of culverts and drainage works within Nyamira County. However, physical verification of the works during the month of January 2018 revealed that a culvert on Bokimo-Masare Road in Banyamatuta ward was poorly installed while at another section of the road, the culverts were washed away by rain. It was further noted that laying of murrum on the culverts was not completed and thus the road is likely to be rendered unusable when it rains.

Consequently, the citizens of the County did not receive value for the money invested in this project.

9. Governance Framework

9.1 Non-establishment of Information Communication Technology Steering and Strategic Committees

The County is yet to establish Information Communication Technology (ICT) steering and strategic committees. Absence of the two committees could result in lack of direction to management regarding ICT affairs, wrong advice to the Cabinet Members and improper budgeting. In view of the omission, ICT - related projects may not meet the County Executive's strategic and operational requirements.

9.2 Ethnic Composition

During the year under review, the total number of employees of Nyamira County Executive were 4,150 out of which 3885 representing 94% of the total were members of the ethnic community dominant in the County. This contravened Section 65(e) of the Government Act (2012) which states that one third of County staff should be recruited from communities other than the one dominant in the County.

9.3 Employees Costs

Compensation of employees costs of Kshs.1,927,809,441 incurred during the year under review accounted for 39.6% of the total County Revenue budget of Kshs.4,861,087,666. This was above the 35% limit set by Section 25(1)(b) of the Public Finance Management (County Government) Regulations, 2015.

This may constrain investment in the County Executive's development projects.

10. Budget and Budgetary Control

Budget and Performance Analysis

The actual expenditure and receipts for both the recurrent and development votes for the financial year 2016/2017 are shown in the two tables below:

1. Recurrent Expenditure					
Component Item	Budget Amount Kshs	Actual expenditure Kshs	Under Utilization Kshs	Over utilization Kshs	% of Utilization
Receipts					
Proceeds from Domestic and Foreign Grants	57,765,886	11,960,000	45,805,886		21%

Exchequer Releases	2,870,399,687	2,870,399,678			100%
Transfers from other Government Entities	164,364,254	170,987,958		6,623,704	104%
Local receipts	198,230,100	126,461,992	71,768,108		64%
Other receipts					
Total	3,290,759,918	3,179,809,628	117,573,994	6,663,704	
Payments					
Compensation of Employees	2,251,620,297	1,909,398,075	344,222,222		85%
Use of goods and Services	1,482,103,407	698,113,158	783,990,249		47%
Transfers to Other Government Units		488,710,625		488,710,625	100%
Other grants and transfers	100,208,832	97,539,962	2,668,870		97%
Social Security Benefits	80,698,200	24,019,592	56,678,608		30%
Acquisition of Assets	78,624,212	46,425,638	32,198,574		59%
Total	4,413,615,188	6,444,016,678	1,337,332,517	495,334,329	

2. Development Expenditure

Receipt/Expense Item	Budgeted Amount Kshs.	Actual Amount Kshs.	Under Utilization Kshs.	Over Utilization	% of Utilization
Receipts					
Exchequer releases	1,612,399,853	1,612,399,853			100%
Transfers from Other Government Entities	68,878,185	68,878,185			100%
Total	1,681,278,038	1,681,278,038			
Payments					
Compensation of Employees	30,398,820	18,411,366	11,987,454		61%
Use of goods and services	468,426,645	387,954,958	80,471,687		83%
Transfers to Other Government Units		51,875,947		51,875,947	100
Other grants and transfers	13,265,028	10,999,028	2,266,000		83%
Acquisition of Assets	1,158,660,834	610,868,777	579,126,925		50%
Other Payments	150,000			150,000	
Total	3,352,179,365	2,761,388,114	673,852,066	52,025,947	

- i. The County Executive underspent on seven (7) items with a total expenditure of Kshs.1,337,332,517 and overspent Kshs.495,334.329 on two (2) items on recurrent expenditure as shown in table 1.

- ii. Similarly, the County Executive underspent on four (4) items with total expenditure of Kshs.673,852,066 and overspent Kshs.52,025,947 out of which Kshs.51,875,949 was not budgeted for on two (2) items on development expenditure as shown in the table.
- iii. Management have not provided explanatory notes for the large material variances between the budgeted and actual amounts reflected in the financial statements.
- iv. The County budgeted for Kshs.30,398,820 for compensation to employees under development vote and spent Kshs.18,411,366. It was not explained why compensation to employees which is a recurrent expenditure was voted in the development vote.

Consequently, the County Government of Nyamira did not implement all the budgeted projects as approved by the Assembly, which omission affected service delivery to the residents of Nyamira County adversely.

11. Project Implementation Status

The County budgeted for 177 projects at a total cost of Kshs.925,611,045. However, 95 projects costing Kshs.371,638,807 had been completed and while 55 others costing Kshs.276,578,435 were ongoing and 27 projects costing Kshs.277,393,803 had stalled or been abandoned as at 30 June 2017.

Consequently, the residents of Nyamira County did not get value for the money for all the projects earmarked for 2016/2017.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of Nyamira 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. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis of my adverse 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 discussed in the Basis for Adverse Opinion section of my report, I confirm that there were no Key Audit Matters to report in the year under review.

Responsibility of Management and Those Charged with Governance for the Financial Statements

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 such 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.

In preparing the financial statements, management is responsible for assessing the Executive's ability to sustain services, disclosing, as applicable, matters related to sustainability of services using the going-concern accounting assumption.

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.

Those charged with governance are responsible for overseeing the County Executive's financial reporting process.

Auditor-General's Responsibilities for the Audit of the Financial Statements

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 of Kenya. 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 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.

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.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances and for the purpose of giving an assurance on the effectiveness of the Executive's 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, determine whether a material uncertainty exists related to events or conditions that may cast significant doubt on the County Executive ability to continue offering 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 Executive to cease to continue offering 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 of the entities or business activities 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 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 July 2018