

REPORT OF THE AUDITOR-GENERAL ON COUNTY EXECUTIVE OF NYAMIRA FOR THE YEAR ENDED 30 JUNE 2018

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of County Executive of Nyamira set out on pages 1 to 43, which comprise the statement of assets and liabilities as at 30 June 2018, and the statement of 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 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 effects 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 County Executive of Nyamira 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 Financial Management Act, 2012.

Basis for Qualified Opinion

1. Variances Between the Financial Statements and IFMIS Report Figures

Data analytics tests performed on the amounts reflected in the financial statements and IFMIS reports revealed the following discrepancies:

	Financial Statements Amount Kshs.	IFMIS Report Amount Kshs.	Variance Kshs.
Exchequer Releases	3,881,304,000	1,617,210,000	2,264,094,000
County Own Generated Receipts	97,881,577	0	97,881,577
Returned CRF Issues	834,304,744	0	834,304,744

Consequently, the accuracy and completeness of the exchequer releases, county own generated receipts and returned CRF issues reflected in the financial statements for the year ended 30 June, 2018 could not be confirmed.

2. Pending Bills

Disclosed in Annexures 2 and 4 to the financial statements are pending accounts payable (bills) relating to supply of goods and services - Kshs.347,696,209 and

amounts due to County Assembly – Kshs.114,008,711 which were outstanding as at 30 June, 2018. However, contract documents; local purchase/service orders; invoices; and schedules detailing the names of the contractors/suppliers, purchase/service order numbers, invoice numbers and description of goods, services or works were not provided for audit review. As a result, the validity, completeness and accuracy of the pending accounts payables relating to supply of goods and services totalling Kshs.347,696,209 could not be ascertained.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs), I am independent of County Executive of Nyamira in accordance with ISSAI 30 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with 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 Conclusion on Lawfulness and Effectiveness in Use of Public Resources sections, I have determined that there are no key audit matters to communicate in my report.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

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 Conclusion on Lawfulness and Effectiveness in Use of Public Resources 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. Revenue

1.1. County Own Generated Receipts

A review of the County Own Generated revenue budget vis-à-vis actual revenue collection indicated a performance of about 38%. The approved revenue budget was Kshs.258,592,832, while the actual revenue collected was Kshs.97,881,577 leading to unrealized revenue of Kshs.160,711,225 in the year under review.

The County collected the amount of Kshs.97,881,577 from 29 revenue streams out of the 56 revenue streams approved in the Finance Act. The remaining 27 out of the 56 revenue streams recorded no revenue at all. The 27 revenue streams had an approved budget of Kshs.103,969,220 of the projected revenue for the year under review. No satisfactory explanation was provided for failure by the revenue collectors

and enforcement staff to collect the budgeted revenue of Kshs.103,969,220 under the 27 streams.

1.1.1. Single Business Permit

A comparison between the budget estimates of Kshs.37,762,301 and actual receipts of Kshs.13,652,567 for single business permits revealed an under-collection of Kshs.24,109,734. A verification done on 30 and 31 October 2018 at Keroka, Borabu and Nyansiongo sub-counties, revealed that there were no substantive registers (listing/profiling) of business premises to determine revenue due as per each category such as shops, hotels, banks, petrol stations, bars, and restaurants among others. The registers provided were manual and incomplete and as a result, establishing the number of businesses which were none compliant and revenue due thereof was not possible.

1.1.2. Other Receipts - Outstanding Land Rates and Plot Rent

A review of the valuation rolls and records maintained by the Revenue Department indicated that the County was owed outstanding land rates and plot rent amounting to Kshs.40,110,225 by twenty-five different organizations as of 30 June, 2018. Some of the land rates and plot rents have been outstanding since 2013. There was no evidence that the County Executive had taken any concrete steps to recover the outstanding amounts.

1.1.3. Automation of Revenue Collection

The County Executive continued to collect revenue through manual means by way of miscellaneous receipts (MR) which are denominated. No clear explanation was provided for failure to automate the revenue collection.

2. Budget Performance

2.1. Programme Based Budget and Annual Development Plan

Examination of the approved programme based budget revealed that the County Executive did not indicate in the budget detailed information of various programmes being undertaken. It was not therefore possible to ascertain from both the programme based budget and annual development plan the number and details of; roads which were to be graded or constructed and the ones which were to have new box culverts and bridges; and other civil works and construction of buildings which were to be undertaken in the year under review.

2.2. Recurrent Expenditure

According to the summary statement of appropriation – recurrent, the County Executive incurred a total expenditure of Kshs.3,814,767,524 against an approved final budget of Kshs.4,222,896,206 on recurrent vote thereby leading to an under-

expenditure of Kshs.408,128,682 or 10%. Significant under-expenditure occurred on use of goods and services – Kshs.271,822,184 (30%) and other grants and transfers- Kshs.70,649,038 (31%). The under-expenditure is an indication that the residents of Nyamira County did not obtain services in full and effectively from the funds budgeted and approved under the recurrent vote.

2.3. Development Expenditure

According to the summary statement of appropriation – development and Nyamira County Supplementary Appropriation (No.2) Act, 2018 the County Executive budgeted to spend a total of Kshs.1,888,801,377 on development expenditure. The actual expenditure was, however, Kshs.684,179,549 according to that appropriation summary, resulting in an under-expenditure of Kshs.1,204,621,828 or 64%. No satisfactory reasons have been provided for the gross under-expenditure which denied the residents of Nyamira County effective delivery of services.

Further, the actual development expenditure of Kshs.684,179,549 indicated above differs with the amount of Kshs.697,883,673.45 captured in the IFMIS Report on payment details for the year 2017/2018. The resultant difference of Kshs.13,704,124.45 has not been explained.

2.3.1. Department of Environment

The County Executive allocated Kshs.241,244,929 for development projects to the Department of Environment, Energy and Natural Resources. However, by the end of the financial year, twenty-six projects estimated to cost Kshs.87,325,224 had not been done.

2.3.2. Department of Youth, Sports, Gender, Culture and Social Services

The Department of Youths, Sports, Gender, Culture and Social Services approved development budget was Kshs.70,748,445 for the 2017/2018 financial year. Implementation of the approved projects had not been done as of 30 June 2018 and thus affecting negatively service delivery to the resident of Nyamira County. The non-implementation of the planned and approved projects is likely to have an impact on approval of subsequent projects.

2.3.3. Department of Education

A scrutiny of projects implementation status report revealed that 83 projects with a total allocation of Kshs.234,187,055.25 started by Education Department during the 2015/2016 financial year remained uncompleted to date. These include ECD centres and Youth Polytechnics. It was not explained why these projects whose contract periods had expired could not be completed.

2.3.4. Department of Transport, Roads and Public Works

The Department of Transport, Roads and Public Works had a development budget of Kshs.569,441,081 during the period under review while actual expenditure was

Kshs.253,323,829.50, representing 44% of the entire budget. The variance of Kshs.316,117,251.50 represents projects which were not implemented by the County Executive.

It was also observed that most of the projects implemented under the Department were not budgeted for while some of the expenditure incurred and charged to the vote during the year under review were related to the pending bills for 2016/2017.

2.4. Scholarships and Other Educational Benefits

The statement of receipt and payments for the year ended 30 June 2018 reflects other grants and transfers of Kshs.162,316,292 out of which an amount of Kshs.121,075,293 relates to scholarships and other educational benefits. However, it was noted that, the amount of Kshs.121,075,293 paid did not attain the threshold of 2.5% of the total annual county budget as anchored in Nyamira County Education Act of 2016 on Establishment and Administration of Nyamira County Education Fund.

2. Construction of the Manga Stadium

A contract for construction of Manga Stadium Complex was awarded to the lowest responsive evaluated bidder at a contract sum of Kshs.62,393,384. The contract period was for eight months effective from 24 March 2015 when the contract agreement was signed.

Physical verification of the project on 10 October 2018 revealed that works done included boundary wall, gate house, gate, ablution block, 2 No. septic tanks, signage, access road and leveling the field. The works were about sixty percent complete and the contractor had been paid a total of Kshs.44,138,500. However, the following anomalies were noted:

- i. The construction was incomplete despite the contract period having expired in December 2015 and the contractor was not on site.
- ii. The bill of quantities for provisional sums including Kshs.4,000,000 for construction of two septic tanks, Kshs.2,000,000 for signage and branding of the stadium, Kshs.1,800,000 for drilling of bore hole and Kshs.3,000,000 for construction of ablution block were not provided for audit review.
- iii. The budget for the financial year under review reflected an amount of Kshs.31,196,550 against the actual expenditure of Kshs.4,000,000 resulting in unspent amount of Kshs.27,196,550.

3. Construction and Completion of Office Blocks

A tender for construction and completion of pre-fabricated office blocks was awarded to the lowest evaluated bidder at a contract sum of Kshs.36,072,230. The contract

period was twenty-four weeks commencing on 30 May 2018 and expiring on 30 November 2018.

The scope of works comprised construction of block A at Kshs.16,383,445 and block B at Kshs.15,863,785. The superstructure was to be constructed using timber. Physical verification of the project on 16 October, 2018 revealed that the substructure, superstructure and roofing of block B were through and partitioning was on going while construction of block A was yet to commence.

Further, the following anomalies were noted:

- i. Despite the procurement method being an open tender three firms only submitted bids and the winning bidder was the only one that was adjudged as responsive.
- ii. The construction works were far behind schedule given that the contractor had taken four and half months on site.
- iii. No works had been certified and no payment had been made to the contractor as of 16 October ,2018.

5. Medical Equipment

5.1. Purchase and Installation of Laundry Machine

The County Executive procured a laundry machine at a cost of Kshs.8,500,000 from a supplier. However, physical verification of the facility revealed that, the AC drive of the laundry machine had failed and the machine was not in use. Consequently, the value for money may not be achieved.

5.2. Purchase of Five Mind Ray Bane Heart D3 Defibrillators

The County Executive procured five Mind Ray Bane Heart D3 Defibrillators with pacing code IOT-884 from a supplier at a total cost of Kshs.3,107,758.62. However, physical verification revealed that four of the defibrillators had not been put to use and were still lying idle in the store. The value for money may not be achieved in the circumstances if the equipment continues to remain idle in the store.

5.3. Purchase of Five ICU Ventilators with Tray

The County Executive procured five ICU ventilators with tray during the financial year 2016/2017 at a total cost of Kshs.16,174,450. However, the machines have not been put to use due to lack of skilled staff to operate the equipment.

5.4. Leased Medical Equipment

The County Executive has a paid a total of Kshs.576,000,000 for the leased medical equipment as follows:

Financial Year	Amount Kshs.
2014/2015	93,000,000
2015/2016	93,000,000
2016/2017	95,000,000
2017/2018	95,000,000
2018/2019	200,000,000
Total	576,000,000

The equipment for theatre, renal and radiology units have been leased to the County Executive by the National Government through the Ministry of Health. However, the following were noted:

- I. The agreement between the County Government of Nyamira and the National Government was not provided for audit.
- II. The amounts being deducted at source by the National Treasury increased from Kshs.95,000,000 to Kshs.200,000,000 as from July,2018. No explanation was provided for the increase.

6. Water and Sanitation Company

The County Executive of Nyamira paid electricity bills on behalf of Gusii Water and Sanitation Company Limited amounting to Kshs.8,247,327.86 in 2017/2018 yet the Company is owned by two counties of Nyamira and Kisii. No documents were attached to the vouchers to support the payments apart from the bills which were addressed to Gusii Water and Sanitation Company Limited. Consequently, the validity of the expenditure could not be confirmed in the absence of a specific agreement between the Nyamira County and Kisii County on sharing or payment of the electricity bills.

7. Tea Cess Funds

The County disbursed Kshs.6,498,138.60 and Kshs.3,882,483.00 to two tea factories respectively for repair and maintenance of tea roads. However, physical verification, revealed that the projects had not been completed. In addition, project implementation report on the funds disbursed was not provided for audit review.

8. Compensation of Employees

The statement of receipts and payments for the year ended 30 June ,2018 reflects compensation of employees` cost of Kshs.2,358,813,516. The County Executive's wage bill of Kshs.2,358,813,516 was forty- five percent of the total revenue of Kshs.5,207,503,085. This contravened regulation 25(1) (b) of the Public Finance Management (County Government), Regulations, 2015.

9. Ethnic Composition

During the year under review, County Executive of Nyamira recruited 532 staff majority of whom were early childhood education teachers under the Department of Education and nurses under the Department of Health. Examination of the personnel records indicated that all the recruits were from Nyamira County contrary to Section 65(e) of the County Government Act, 2012 which requires one third of the employees to be recruited from other communities other than the dominant community.

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 matter(s) described in the Basis for Qualified Opinion and Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources 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 governance were not effective.

Basis for Conclusion

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 Executive of Nyamira's 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 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 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 Executive of Nyamira'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 Executive of Nyamira 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 Executive of Nyamira 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

18 January 2019