

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

REPORT ON THE FINANCIAL STATEMENTS

Opinion

I have audited the accompanying financial statements of County Executive of Nyandarua set out on pages 37 to 84, 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 statement of appropriation 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, the financial statements present fairly, in all material respects, the financial position of County Executive of Nyandarua as at 30 June, 2018, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Cash Basis) and comply with the Public Finance Management Act, 2012 and the County Government Act, 2012.

Basis for Opinion

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

Key Audit Matters

Key Audit Matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. I have determined that there are no Key Audit Matters to communicate in my report.

Other Matter

1. Budgetary Control and Performance

The County had a budget of Kshs.6,105,382,733 for the financial year 2017/2018, comprising of Kshs.1,780,578,142 and Kshs.4,324,804,591 for development and recurrent votes respectively. The budget absorption was as follows:

Item	Budgeted Allocation Kshs	Actual Kshs	Under Absorption Kshs	Percentage of Absorption
Recurrent	4,324,804,591.00	3,723,802,692.00	601,001,899.00	86%
Development	1,780,578,142.00	981,228,677.00	799,349,465.00	55%
Total	6,105,382,733.00	4,705,031,369.00	1,400,351,364.00	77%

The County, therefore, failed to absorb Kshs.799,349,465 or 55% of the development budget, indicating that some planned development projects were not implemented thereby affecting service delivery to the residents.

Recurrent Budget

The budget performance analysis for recurrent vote was as follows:

Expense Item	Final budget Kshs	Actual on Comparable Basis Kshs	Budget Utilization Difference Kshs	% of Utilization Difference to Final Budget
Compensation of Employees	1,818,725,841	1,876,202,923	(57,477,082)	103%
Use of Goods and Services	1,029,010,570	641,452,973	387,557,597	62%
Transfers to Other Government Units	837,301,000	735,993,997	101,307,003	88%
Other Grants and Transfers	383,962,573	436,525,276	(52,562,703)	114%
Social Security Benefits	73,774,159	33,627,523	40,146,636	46%
Acquisition of Non – Financial Assets	182,030,448	0	182,030,448	0%
Total	4,324,804,591	3,723,802,692	601,001,899	86%

There was unexplained over expenditures on compensation of employees and other grants and transfers of Kshs.57,477,082 and Kshs.52,562,703 respectively. The budget for acquisition of non-financial assets with 0% absorption rate was not realistic, an indication that the County Executive did not offer the envisaged services. Use of goods and services was under-utilized by Kshs.387,557,597.00 which implies some planned goods and/or services were not delivered. The significant high ratio of under expenditure was likely to have constrained implementation of planned project activities.

2. Unconfirmed Pending Bills

The reported pending bills increased by Kshs.353,035,386.00 from Kshs.387,571,250.00 in 2016/2017 to Kshs.740,606,636.00 in 2017/2018. Supporting schedules indicated a balance of Kshs.676,614,799.35, implying unexplained difference of Kshs.63,991,836.65. In addition, pending bills were disclosed as block figures per category instead of the format prescribed by the Public Sector Accounting Standards Board of Kenya.

In the circumstance, the accuracy, completeness and validity of the pending bills balance could not be ascertained.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, based on the audit procedures performed, except for the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources section 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. Irregular Recruitment Process

In September 2017, the County advertised in the dailies and county's website fifteen (15) positions for chief officers with closure date of 17 October 2017. A year later, substantive chief officers had not been recruited as only three (3) departments are headed by substantive chief officers while the others are acting. Review of the human resource data noted that County had established forty-eight (48) directorates. However, only twelve (12) or 25% had substantive heads of directorates. The rest were either vacant or had other serving officers in acting capacity.

Further, the audit revealed that although comprehensive job analysis or reviews were done in the financial year 2017/2018, the County does not have an approved staff establishment. Also, the recruitments were not based on any human resource recruitment plans. It was therefore not clear, the basis on which the vacancies were declared.

In addition, review of individual staff bio-data from the employee files revealed that ninety-seven (97) or 99% of the newly employed staff at the entry level were from one dominant ethnic community. This contravenes Section 65 of the County Governments Act, 2012 and Section 7(2) of the National Cohesion and Integration Commission Act of 2008 which requires that at least 30% of the employees should be from other ethnic communities. Further, it was noted that the executive had 48 established directorates out of which only 12 or 25 % had substantive directors and 36 directorates or 75% were headed by acting officers.

The County is exposed to possible mismanagement resulting from lack of full responsibility and commitment by acting officers. Further, the absence of human resource plan or staff establishment may lead to over-employment or employment of staff without the requisite qualifications and skills.

2. Undue delay in Acquisition of Land

The County Government partly paid Kshs.5,000,000 in respect to purchase of a playing field parcel of land at Gwa Kiongo location in Mirangine ward. According to the evaluation committee minutes of 28 and 29 May 2018, the parcel of land measured 2.63 hectares and was initially offered at Kshs.5,434,000 per hectare but negotiated on 5 June 2018 to Kshs.4,942,000 per hectare translating to Kshs.12,997,460. However, the department of Lands, Housing and Physical Planning valuation report Ref: NYA/VAL/GEN/VOL.II/75 dated 31 May 2018 indicated the value of a hectare of land (NYA/SABUGO/2413) to be Kshs.4,700,000, translating to Kshs.12,361,000 for 2.63 hectares.

Review of the procurement process revealed that the advertisement in the County's website on 9 April 2018 for "acquisition of land for public uses" omitted critical specification in respect to minimum acreage that was needed for the playing field. It was therefore not clear how eligible land owners would have submitted their bids and evaluated. Tender opening minutes were not provided for audit except the evaluation committee minutes (indicating only one tenderer responded) and which did not show the matrix of ranking the specifications indicated in the advertisement. The acquisition of this parcel of land was not provided in the 2017/2018 budget and was not in the procurement plan.

Inspection of the ownership documents revealed that the title deed was still in the name of the seller and this was attributed to delay by the County to clear the outstanding balance of Kshs.7,997,460. Clause 1.2.2, 1.2.3 and 6 of the agreement for sale indicated completion date was 150 days from the execution date of 29 June 2018. As at the time of audit December 2018, the agreement duration had expired and the sale agreement had not been concluded.

There is the risk that the County shall be charged interest at a rate of twelve percent (12%) per annum as per clause 1.2.6 and 6 of the Agreement. The public has not yet got value for money.

3. Delayed Construction Works at OI-Kalou Stadium

The Ministry of Youth, Sports and Arts budgeted Kshs.52,000,000 in financial year 2016/2017 for proposed construction of a VIP terrace and associated works within OI-Kalou Stadium via tender no NYA/CG/TWSYA/PT/01/2016-2017. These works were advertised in the dailies on 18 February 2017 and M/s Robkam Buildings & Contractors, M/s Gesa building & civil engineering and M/s Zaina Building construction Ltd quoted Kshs.57,261,648, Kshs.51,107,550 and Kshs.63,665,689 respectively. Tender evaluation was carried out on 08 March 2018 and awarded M/s Robkam Building & Contractors at the

quoted price of Kshs.57,261,648. However after professional opinion on 30 March 2017, a re-evaluation was carried out on 31 March 2017 and M/s Gesa building & Civil engineering awarded the contract at the quoted price of Kshs.51,107,550. Notification of award was made on 03 April 2017 and the contract agreement was signed on 25 April 2017. The contract duration was six (6) months running from financial year 2016/2017 to financial year 2017/2018 and construction works were scheduled to be completed by end of October 2017.

The first interim certificate of Kshs.8,886,746.20 was issued on 23 June 2017 but cancelled ten (10) months later on 26 April 2018. A second and combined certificate of Kshs.15,396,542.70 was then issued on 02 May 2018. Subsequently, the contractor was paid Kshs.9,876,550 through unnumbered payment voucher dated 06 June 2018.

Physical verification revealed that the project was executed up to floor slab level and the contractor was not on site. Further, power lines were running across the stadium and affected the ongoing works. Although the County had requested Kenya Power & Lighting Company Ltd to re-route the power lines, the company issued an invoice for Kshs.911,204 for the exercise which had not been paid by 30 June 2018 leading to the stoppage of works by the contractor. The contractor through their lawyer wrote to the County with intentions of invoking clause 18.0 (termination) of the contract agreement.

The delayed completion of the contract may lead to degradation of the works already done and the County may not get full value for money.

4. Road Maintenance Levy Fund

The department of Transport, Energy and Public Works budgeted to spend Kshs.183,511,039 under the Roads Maintenance Levy Fund (RMLF). Of this amount, Kshs.172,510,000 was to be spent on road maintenance and Kshs.11,001,039 on administration expenses. During the year under review the Board spent Kshs.12,620,759 on administration thereby exceeding the budget by Kshs.1,619,720. Further, two motor vehicles were purchased at Kshs.10,400,000 using administration cost vote without prior approval from KRB to reallocate this vote to capital expenditure.

In addition, the road works along Dairy-Wiyumiririe Kanjuiri Shopping Road were undertaken by a contractor at a contract sum of Kshs.3,467,646. The works involved gravelling and grading of the 5.2km section of road. Audit verification revealed that the road covering 2.4 km, from 2+800 to 5+200, had worn out, a likelihood that the road was poorly graded. In addition, roads funded from road maintenance levy fund were not labelled nor contractors indicated.

It was therefore difficult to differentiate them from roads funded by other various implementing agencies i.e. the County Government, RMLF and KERRA.

5. Unconfirmed Legal Fees

The county attorney department spent Kshs.10,500,000 on legal fees which were not clearly linked to the case(s) being handled and stating how much was charged per case and the corresponding value in each litigation. Legal services appear to have been single sourced as no evidence of competitive bidding from pre-qualified legal firms. Contrary to section 17 of Office of the Attorney General Act No 49 of 2012 and no evidence was produced to confirm that approval by the Attorney General to engage these legal consultants.

In the Petition 1 of 2018, the County Government engaged the services of a local law firm who raised a fee note of Kshs.14,750,000. The basis of this amount was not clear although a down payment of Kshs.1,056,400 had already been made by 30 June 2018.

6. Unutilized Desktops and Photocopiers

The Department of Public Administration & ICT a vendor Kshs.3,655,000 vide LPO No. 4786 for the purchase of forty (40) desktops and four (4) photocopiers. These items were procured using restricted procurement method but no evidence was provided to show that the set conditions to use of this method were fully met.

In addition, the County Executive intended to develop ICT resource centers to be located in four (4) youth polytechnics of Kangui, Mirangine, Miharati and North Kinangop with each getting ten (10) desktops and one (1) photocopier machine. The machines were delivered to the county offices on 22 June 2018 and inspected on 26 June 2018. However, at the time of the audit (November 2018), more than four months after their inspection and acceptance, the items were still lying at the ICT stores within county headquarters.

In the circumstances, users are not deriving the intended benefits.

7. Land Ownership Row at Agricultural Mechanization Services (AMS)

The asset register maintained by the department of Agriculture Livestock & Fisheries indicated that AMS Nyahururu has two parcels of land registered under LR. No. 6585/114 with an area of 5.51 acres in Nyahururu Municipality Block 8 and LR. No. 6585/115 with an area of 7.23 acres in Nyahururu Municipality Block 6.

The two parcels of land are not registered under AMS and some private companies and individuals have irregularly taken possession of approximately 2.5 acres of the land. In addition, an approximate 0.919 acres consisting of 8 blocks of land each measuring approximately 0.0465 hectares have been hived off from parcel LR. No. 6585/114 and certificate of leases issued.

A further approximated 1.5 acres on parcel LR. No. 6585/115 has been encroached onto and illegally fenced off by the private developers. Copies of certificates of official search presented for audit verification revealed details of six (6) private developers as encroachers while the rest were unknown. One of the private developers has since given a notice of intention for legal suit against AMS vide letter referenced CGC/JGGM/3955/1 dated 20

August, 2018. Through a notification letter dated 31 January, 2018 and referenced MOALF/NYAC/AMS/LAND/09, the manager AMS communicated to the Chief Officer and copied the Chief Executive Committee Member, Department of Agriculture, Livestock and Fisheries on the encroachment.

Further review revealed that the Chief Officer in turn notified the Nyandarua County Coordinator in charge of National Lands Commission through a letter referenced MOA/NYC/ADM/Vol. 2/167. However, at the time of audit, no feedback or action had been received from the Commission.

The two parcels of land do not have complete permanent perimeter fences and large parts have been left idle without any development. To date the County has not obtained ownership documents of the parcels.

In the circumstances, the ownership and size of the land cannot be confirmed.

8. Dispute of Soil Laboratory at Nyahururu Veterinary Premises

Nyandarua County Government has invested since 2015/2016 at Agricultural Mechanization Services site in Nyahururu for the operationalization of the soil testing laboratory, and in 2017/2018 Kshs.24,110,400 was allocated for the project. However, a dispute on the ownership of the project site between the Nyandarua County Government and Laikipia County Government arose. It was noted that the Department entered into a contract at a cost of Kshs.1,268,785 for construction of masonry boundary wall and gate at veterinary laboratory. The contract was awarded on 18 May, 2018 and had seven (7) weeks duration. Project status report as at 30 June 2018 indicated that the construction stalled after less than 50% of the expected works. Audit verification confirmed that the project had indeed stalled and the contractor abandoned the site which was explained to be due to conflict over the construction site. This was communicated by the contractor vide letter referenced GTA/NYA/ALF/05/02/18 dated 12 July, 2018. The project site had been occupied by enforcement officers from Laikipia County Government who stopped activities on the site. At the time of the inspection, the conflict had not been resolved and has delayed timely delivery of the project. Further, a vendor was paid Kshs.4,499,400 and delivered equipment that were still lying in the Department's stores due to the ongoing conflict.

9. Un-accounted Artificial Insemination Accessories

The Department of Agriculture, Livestock and Fisheries budgeted Kshs.6,214,800 and made payment of Kshs.3,800,000 to Kenya Animal Genetic Resources Centre (KAGRC) for supply and delivery of Artificial Insemination accessories and liquid nitrogen. However, only supplies worth Kshs.3,084,860 were delivered leaving a balance of items worth Kshs.715,140. Further, KAGRC had balance due to the department of Kshs.911,160 as at 30 June 2017. Therefore the total cumulative prepayments to KAGRC was Kshs.1,626,300

which was not reported in the financial statements. The contractual agreement between the two institutions was not provided for verification.

In addition, it was observed that Artificial Insemination accessories were purchased for distribution at subsidized costs to various veterinary personnel within the County. In 2017/2018, forty-seven (47) beneficiaries with valid Kenya Veterinary Board licenses were to receive the kits. However, only fourteen (14) beneficiaries received and signed for their kits.

It is not clear how the remaining thirty-three (33) AI kits were distributed.

10. Irregularities on Water Projects

The department of Water, Environment, Tourism & Natural Resources requested Ewaso Ng'iro North Development Authority (ENNDA) vide letter referenced NYA/CG/WATER/FIN/1/16 dated 10 January, 2018 for drilling equipment. Cash payments of Kshs.4,715,436 were irregularly made for purchase of drilling materials, wages and meal allowances to machine operators, oil and lubricants and maintenance of the machinery. The drilling of the boreholes within the County had not been captured in the annual procurement plan. Minutes and recommendations from the public participation that identified key priority areas for drilling boreholes were not provided for audit.

11. Idle Equipment at Geta and Nyamarura Farmers' Cooperative Societies

The department of Industrialization, Cooperative Development and Trade procured various equipment worth Kshs.11,029,800 for distribution to Geta and Nyamarura Farmers' Cooperative Societies. Geta Farmers' Cooperative Society was supplied with an 18KVA Generator, a hot water boiler system and a milk cooler which have not been put into use. Those supplied to Nyamarura Farmers' Cooperative Society were hot water boiler system, a 10000 litre plastic water tank and a milk cooler, but were installed on a private parcel of land which is under conflict.

In addition, one of the hot water boiler systems was sold by members of the Nyamarura Farmers' Cooperative Society while the other is ineffective since it takes four (4) hours to heat water. Equipment at Nyamarura Farmers' Cooperative Society are exposed to possible loss, misuse or vandalism since they are installed in a private parcel of land which is under conflict.

Under the circumstances, the farmers are not benefiting from the supply of equipment worth Kshs.11,029,800.

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 INTERNAL CONTROLS EFFECTIVENESS, GOVERNANCE AND RISK MANAGEMENT SYSTEMS

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 Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, I confirm that, nothing has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

1. Information Technology Internal Control Weaknesses

The County Government did not have IT strategy committee and approved policies on information technology security, disaster recovery plan, risk management and human resource. The cashbooks did not have dates when transactions (payments and receipts), transaction descriptions and allocation / line items were not recorded. There is no link between the actual serialized single business permits issued and the final Z output report.

In addition, single business permit receipts were not linked to specific bill/invoices that were raised.

Under the circumstances, possible risk of errors, fraud, loss of data may not be mitigated.

2. Un-Updated Asset Register

In the year under review, the department of Agriculture, Livestock and Fisheries spent Kshs.22,124,789 for purchase of equipment for Agricultural Mechanization Services (AMS), Oljororok and Njambini Agricultural Training centers. Although these items were indicated to have been delivered to these institutions, there was no evidence to indicated that they were received by them. Further, these items were not recorded in the department's asset register.

This is an indicator that there is no proper control of equipment contrary to the requirements of Section 162 of the Public Procurement and Asset Disposal Act, 2015.

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 effective

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's ability to sustain services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless the County either intends to liquidate County Executive or 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 County Executive's financial reporting process, reviewing the effectiveness of how the entity monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibilities for the Audit

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

be expected to influence the economic decisions of users taken on the basis of these financial statements.

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

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

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

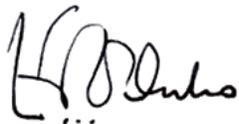
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting 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's ability to continue 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 to cease to continue as a going concern or to sustain 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 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 February 2019