REPORT OF THE AUDITOR-GENERAL ON COUNTY EXECUTIVE OF NYERI FOR THE YEAR ENDED 30 JUNE, 2022

PREAMBLE

I draw your attention to the contents of my report which is in three parts:

A. Report on the Financial Statements that considers whether the financial statements are fairly presented in accordance with the applicable financial reporting framework, accounting standards and the relevant laws and regulations that have a direct effect on the financial statements.

B. Report on Lawfulness and Effectiveness in Use of Public Resources which considers compliance with applicable laws, regulations, policies, gazette notices, circulars, guidelines and manuals and whether public resources are applied in a prudent, efficient, economic, transparent and accountable manner to ensure Government achieves value for money and that such funds are applied for intended purpose.

C. Report on Effectiveness of Internal Controls, Risk Management and Governance which considers how the entity has instituted checks and balances to guide internal operations. This responds to the effectiveness of the governance structure, the risk Management environment, and the internal controls developed and implemented by those charged with governance for orderly, efficient and effective operations of the entity.

An unmodified opinion does not necessarily mean that an entity has complied with all relevant laws and regulations, and that its internal controls, risk Management and governance systems are properly designed and were working effectively in the financial year under review.

The three parts of the report are aimed at addressing the statutory roles and responsibilities of the Auditor-General as provided by Article 229 of the Constitution, the Public Finance Management Act, 2012 and the Public Audit Act, 2015. The three parts of the report, when read together constitute the report of the Auditor-General.

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of County Executive of Nyeri set out on pages 1 to 54, which comprise of the statement of assets and liabilities as at 30 June, 2022, statement of receipts and payments, statement of cash flows and statement of comparison of budget and actual amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of County Executive of Nyeri as at 30 June, 2022, 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 Governments Act, 2012.

Basis for Qualified Opinion

1. Overstated Local Revenue

As disclosed in Note 3 to the financial statements, the statement of receipts and payments reflects others receipts amount of Kshs.663,794,673 This amount includes other receipts (local revenue) of Kshs.642,371,032 out of which Kshs.36,436,287 was received in July, 2022 after the financial year end, but included in the year under review. This is contrary to the International Public Sector Accounting Standards (Cash Basis) reporting framework and Regulation 97(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that the accounts of the County Government entities shall record transactions which take place during a financial year running from the 1 July to 30 June.

In the circumstances, the cut-off, presentation and disclosure of other receipts from local sources of Kshs.36,436,287 could not be confirmed.

2. Unsupported Fuel Expenditure

As disclosed in Note 5 to the financial statements, the statement of receipts and payments reflects use of goods and services amount of Kshs.1,164,577,308 which includes fuel, oil and lubricants amount of Kshs.38,503,325 out of which an amount of Kshs.9,861,316 was paid to various firms for supply of fuel. However, the fuel consumption could not be traced to the fuel statements, fuel registers and motor vehicle work tickets. Further, the motor vehicle work tickets lacked key details such as receipts and detail order numbers for the supplied fuel.

In the circumstances, the validity of the expenditure of Kshs.9,861,316 in respect of fuel, oil and lubricants could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the County Executive of Nyeri Management in accordance with ISSAI 130 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. There were no key audit matters to report in the year under review.

Other Matter

1.0 Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.8,733,268,481 and Kshs.6,691,539,002 respectively resulting to an under-funding of Kshs.2,041,729,479 or 23% of the budget. Similarly, the County Executive expended Kshs.7,359,778,039 against an approved budget of Kshs.8,733,268,481 resulting to an under-expenditure amounting to Kshs.1,373,490,442 or 16% of the budget.

The underfunding and underutilization of approved budget affects the planned activities and may have negatively impacted on service delivery to the public.

1.1 Shortfall in Local Revenue Collection

The statement of comparison of budget and actual amounts reflects a budgeted other receipts amount of Kshs.1,000,000,000 against actual amount of Kshs.642,371,032 representing 64% of projected local revenue, resulting in a revenue shortfall of Kshs.357,628,968 or 36 %. Further, a comparison of performance against the previous year revealed a decline of Kshs.244,569,798 or 28% from the previous year collection of Kshs.886,940,830.

Failure to achieve revenue targets and decline in revenue collection is an indication of inadequate revenue collection internal control systems and possible revenue leakages.

1.2 Unresolved Prior Year matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved the issues or given any explanation for the delay in resolving the issues.

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

1.0 Excessive Wage Bill

As disclosed in Note 4 to the financial statements, the statement of receipts and payments reflects Kshs.3,601,050,748 in respect of compensation of employees. As previously reported, this amount is an equivalent to 54% of the County's total revenue of Kshs.6,691,539,003 contravening Section 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015 which sets the limit of compensation of employees at 35% of the total revenue.

In the circumstances, Management was in breach of the law.

2.0 Non-Compliance with Law on Ethnic Composition

Review of the personnel records provided for audit revealed that the County Executive had 92% of its workforce from the same/dominant community. This is contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that, "all public offices shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its staff establishment from the same ethnic community".

In the circumstances, Management was in breach of the law.

3.0 Failure to Adhere to a Third Rule on Basic Salary

During the year ended 30 June, 2022, two hundred and eight four (284) employees earned a net salary of less than a third (1/3) of the basic salary contrary to Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016.The Management has not given explanation for failure to comply with the policy and Section19(3) of the Employment Act, 2007.

In the circumstances, Management was in breach of the law.

4.0 Non-Adherence to Imprest Controls and Regulations

As disclosed in Note 15 to the financial statements, the statement of assets and liabilities reflects outstanding imprests balance of Kshs.8,533,328 which is an increase of Kshs.879,128 from the previous year balance of Kshs.7,654,200. However, review of the recurrent account bank statements and other records revealed that a total of Kshs.1,010,426 was issued to seven (7) officers as temporary imprest without recording in the imprest register. Further, analysis of the County bank statements and recurrent cashbook revealed that the County Executive of Nyeri issued standing imprest amounting to Kshs.23,713,068 to various departments instead of the officers in their names. In addition, the departments operated official bank accounts with various commercial banks where they held the standing imprest disbursements and re-imbursements instead of a separate or personal bank account operated by the imprest holder or in the form of cash under safe.

This was contrary to the provisions of Regulation 93(4), (5) and 12 of the Public Finance Management (County Governments) Regulations, 2015 which requires Accounting Officer to ensure that the applicant has been recorded in the imprest register and a holder of a temporary imprest to account or surrender imprest within seven (7) working days after returning to duty station and standing imprest to be issued to an officer's name.

In the circumstances, Management was in breach of the law.

4.1 Failure to Adhere to Vote Control Procedures for Imprest

The statement of receipts and payments reflects Kshs.1,164,577,308 in respect of use of goods and services which includes domestic travel and subsistence expenditure of Kshs.120,579,495, out of which Kshs.88,637,010 was paid as reimbursements. However, applications for imprests were not provided for audit to confirm the vote control procedures. This is contrary to Regulations 51(1) and Regulation 93(1) of the Public Finance Management (County Governments) Regulations, 2015 that provides that, no public officer shall spend or commit funds until he or she has been properly authorized by means of an Authority to Incur Expenditure and an imprest shall be issued for a specific purpose, and any payments made from it, shall be only for the purposes specified in the imprest warrant.

In the circumstances, Management was in beach of the law.

5.0 Payment of Staff Outside IPPD Payroll

The County has an automated Integrated Payroll and Personnel Database (IPPD) system in place. However, a review of the monthly payrolls provided revealed that staff salaries totaling Kshs.145,093,924 was paid outside the IPPD payroll contrary to The National Treasury Circular No. 9/2017 that requires Personnel emolument to be supported by IPPD.

In the circumstances, Management was in breach of the law.

6.0 Unexplained Payment of Field Allowances

The statement of receipts and payments reflects Kshs.1,164,577,308 in respect of use of goods and services as disclosed in Note 5 to the financial statements, which includes domestic travel and subsistence amount of Kshs.120,579,495 out of which Kshs.4,249,600 was paid to various officers as field allowances. However, there was no evidence provided for audit that the Management had approval from Salaries and Remuneration Commission (SRC) or any other policy for payment of field allowance.

In the circumstances, the regularity of the expenditure of Kshs.4,249,600 could not be confirmed.

7.0 Unsupported Expenditure on Facilitation of County Assembly Staff and Members of County Assembly (MCAs)

During the year under review, the County Executive paid allowances amounting to Kshs.20,459,624 to forty-four (44) MCA's and five (5) County Assembly staff for attending ESAMI training in Arusha, Tanzania. However, the Management did not provide evidence as to why the MCAs and County Assembly staff were facilitated by the County Executive despite the County Assembly having its own budget and resources for such activities.

In the circumstances, the regularity of the expenditure of Kshs.20,459,624 could not be confirmed.

8.0 Non- Remittance of Monthly Pension Deductions

Review of payroll deductions and records provided for audit revealed that a total of Kshs.26,922,280 for staff pension contributions consisting of Kshs.10,018,313 and Kshs.16,903,967 in respect of principal amount and interest respectively for the period April, 2013 to 31 December, 2021 had not been remitted to the respective Pension Fund. Although the County Executive paid the principal amount of Ksh.10,018,313 on 22 March, 2022, accrued interest totaling Kshs.16,903,967 had not been paid as at 30 June, 2022. The County Executive is likely to incur further interests and penalties on non-remittance of pension contributions.

In the circumstances, Management was in breach of the law.

9.0 Delay in Implementation and operationalization of Development Projects

Analysis of projects implementation status report provided for audit revealed that fifteen (15) projects with a budget amount of Kshs.82,719,904 had not started. This is an indication of inappropriate project implementation mechanism hence denying the residents the likely benefits and service delivery.

Further, the County Executive entered into a contract for the construction of Nyeri Municipal Bus terminus at a contact sum of Kshs.575,688,291 on 27 May, 2019.

Physical verification carried out in the month of July, 2022, revealed that, although the market works had been completed, the contractor had not handed over the project and hence the market had not been operationalized.

In the circumstances, the citizens of Nyeri County did not get the expected value for money from Kshs.82,719,904 and Kshs.575,688,299 from the non-started and non-operationalized projects respectively.

10.0 Excessive Budgetary Allocation to the County Assembly

Review of the County Executive budget revealed that Kshs.746,500,292 was allocated to Nyeri County Assembly. This allocation was equivalent to 8.5% of the total County

Revenue budget for the year of Kshs.8,733,268,481 contrary to the required threshold of 7% required in Regulations 25(1)(f) of the Public Finance Management (County Governments) Regulations, 2015, which provides that the approved expenditures of a county assembly shall not exceed 7% (seven percent) of the total revenues of the County Government or twice the personnel emoluments of that county assembly, whichever is lower. The excess budgetary provisions led to less allocation to the development vote hence denying the residents of Nyeri County the benefit that would have accrued if the money was allocated to development projects.

In the circumstances, Management was in breach of the law.

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, 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

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. 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 overall 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 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 overall governance.

In preparing the financial statements, Management is responsible for assessing the ability of the County Executive to continue to sustain services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless

Management is aware of the intention to dissolve the County Executive or to cease operations.

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 County Executive 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 overall 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 controls in order to give an assurance on the effectiveness of internal controls, risk Management and overall 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 controls 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 controls 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 applicable 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 ability of the County Executive 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 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.

CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

19 January, 2023