

# REPORT OF THE AUDITOR-GENERAL ON COUNTY EXECUTIVE OF NYERI FOR THE YEAR ENDED 30 JUNE, 2020

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## 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 34, which comprise the statement of assets and liabilities as at 30 June, 2020, and the statement of receipts and payments, statement of cash flows and summary statements 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 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 the County Executive of Nyeri as at 30 June, 2020, 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 Qualified Opinion

#### 1. Unconfirmed County Own Generated Revenue

The statement of receipts and payments reflects county own generated receipts of Kshs.656,628,153 for the year ended 30 June, 2020, which is at variance with an amount of Kshs.664,859,880 indicated in the Annual Report of the Controller of Budget. The difference of Kshs.8,231,727 has not been reconciled. Further, revenue receipts and bank statements for Karatina Hospital were not provided for audit verification.

Consequently, the accuracy and completeness of the county own generated receipts of Kshs.656,628,153 for the year ended 30 June, 2020 could not be confirmed.

#### 2. Variances Between Financial Statements and Payment Details

The statement of receipts and payments reflects total actual payments of Kshs.7,361,383,139 for the year ended 30 June, 2020. However, the balances reflected in the financial statements differed with those reflected in the respective payment details and vote book on seven (7) items as shown below.

<b>Expenditure Item</b>	<b>Amounts as per Financial Statements (Kshs.)</b>	<b>Amount as per Payment Details (Kshs.)</b>	<b>Amount as per Vote Book (Kshs.)</b>
Domestic Travel and Subsistence	93,818,672	48,636,232	206,865,537
Foreign Travel and Subsistence	7,412,425	4,124,302	49,585,574
Printing, Advertising, and Information Supplies and Services	26,654,101	21,760,868	29,841,215

Insurance Costs	217,843,072	217,843,072	242,154,043
Specialized Materials and Services	131,154,062	129,428,705	119,896,874
Other Operating Expenses	55,042,329	53,878,274	90,179,848
Other Grants and Transfers	713,014,997	707,908,717	5,106,280

In the circumstances, the accuracy and completeness of the payments in respect of the above expenditure items for the year ended 30 June, 2020 could not be confirmed.

### 3. Variances Between the Trial Balance and Financial Statements Balances

A review of the IFMIS trial balance revealed various balances which were at variance with the financial statements balances as follows:

Item	Financial Statements (Kshs.)	Trial Balance (Kshs.)	Variance (Kshs.)
Rentals of Produced Assets	6,025,723.35	6,033,723.35	8,000
Office and General Supplies and Services	25,343,902	25,358,702	14,800
Routine Maintenance-other Assets	194,046,573.55	194,066,573.55	20,000
Other Capital Grants and Transfers	491,276,953	492,449,053	1,172,100

The variances have not been explained or reconciled.

Consequently, the accuracy and completeness of the reported balances in the financial statements could not be confirmed.

### 4. Variances Between the Summary Statement of Appropriation-Combined and Budget Execution by Programmes and Sub-programmes

The summary statement of appropriation - recurrent and development combined reflects budget and actual expenditure amounts that are at variance with the amounts reflected in the statement of budget execution by programmes and sub-programmes as indicated below:

Item	Summary Statement of Appropriation-Combined (Kshs.)	Budget Execution by Programmes and Sub-Programmes (Kshs.)	Variance (Kshs.)
Final Expenditure Budget	8,974,917,684	8,260,832,452	714,085,232
Actual Expenditure Amounts	7,361,383,139	6,721,596,989	639,786,150

The variances between the two statements have not been explained or reconciled.

## **5. Unsupported Expenditure - Domestic Travel and Subsistence Allowances**

The statement of receipts and payments reflects an expenditure of Kshs.1,022,443,262 under use of goods and services which, as disclosed in Note 12 to the financial statements, includes an amount of Kshs.93,818,672 in respect of domestic travel and subsistence allowances. The latter balance includes payments amounting to Kshs.1,199,850 on various events held during the year which were not adequately supported as follows:

- (i) Imprest amounting to Kshs.607,800 was issued to facilitate a 4-day workshop for the County Assembly Education Committee at a certain hotel in Nairobi held between 11<sup>th</sup> to 14<sup>th</sup> December, 2019. However, IFMIS payment details indicate that the workshop was held at a different hotel. Further, it has not been explained why the County Executive paid allowances to Members of the County Assembly as the County Assembly has its own budget for such activities.
- (ii) An amount of Kshs.362,050 was issued to an officer to pay allowances for officers who were scheduled to attend a drama festival. However, review of the surrender voucher revealed that the list of payees attached to the payment voucher included other unrelated activities such as county reports day and distribution of furniture transport allowance for 3 days for unspecified persons for which the imprest was not authorized for.
- (iii) Further, imprest amounting to Kshs.230,000 was paid to an officer to facilitate 10 drivers who accompanied county officers on inspection and supervision of County Health Management Teams (CHMT) in the County. The field visit was reported to have taken place between 9<sup>th</sup> and 20<sup>th</sup> March, 2020. However, the surrender voucher was not supported with work tickets for vehicles used during the field visits.

In view of the foregoing, the accuracy, occurrence and propriety of the payments totalling Kshs.1,199,850 incurred on domestic travel and subsistence could not be confirmed.

## **6. Specialized Materials and Services**

### **6.1 Unconfirmed Purchase of Medical Supplies from KEMSA**

The expenditure on use of goods and services also includes an amount of Kshs.131,154,062 in respect of specialized materials and services. Included in the expenditure, is an amount of Kshs.14,447,050 paid to the Kenya Medical Supplies Agency (KEMSA) for supply and delivery of medical supplies including pharmaceuticals, non-pharmaceuticals, laboratory, and X-ray materials. However, the payment was not supported with delivery notes, inspection and acceptance reports and counter receipt vouchers (S13).

Consequently, the accuracy, propriety and occurrence of the payments of Kshs.14,447,050 incurred on the medical supplies during the year could not be confirmed.

## **6.2 Unconfirmed Purchase of Medical Supplies from Missions for Essential Drugs**

The specialized materials and services expenditure of Kshs.131,154,062 includes an amount of Kshs.33,750,295.95 for purchase of drugs and non-pharmaceuticals items from Missions for Essential Drugs (MEDS). Although, the procurement was done through framework agreement, a written agreement between the County and the supplier was not provided for audit review. As a result, it was not possible to determine whether the prices offered were competitive compared with prevailing market prices. Further, supply of laboratory reagents valued at Kshs.4,828,938.90 ordered by the County for the Nyeri County Referral Hospital were not recorded in the stock ledger cards.

Consequently, the accuracy, propriety and validity of the expenditure on supply of medical supplies during the year ended 30 June, 2020, could not be confirmed.

## **7. Transfers to Youth Polytechnics**

The statement of receipts and payments reflects other grants and transfers totalling Kshs.713,014,997, which includes an amount of Kshs.49,838,453 transferred to youth polytechnics in the County. However, a review of the transfers revealed the following observations:

- (i) During the financial year under review, the County received grants totalling to Kshs.55,143,298 from the Ministry of Education for development of youth polytechnics in the County, out of which the County transferred a total of Kshs.49,838,453 to youth polytechnics. The balance of Kshs.5,304,845 was not remitted to the institutions as intended.
- (ii) A review of records revealed that transfers totalling Kshs.5,179,638 to thirteen (13) youth polytechnics were not supported with acknowledgement receipts from the benefiting institutions.
- (iii) The grant of Kshs.55,143,298 from the Ministry of Education for development of youth polytechnics was disbursed to the County Government on condition that the County would match the contribution in the ratio of 1:1 as per the grant condition No. 6 (c). However, the County Government did not pay the equivalent amount to the youth polytechnics as required. No explanation was provided for the non-compliance with the conditions set for the grants.

Consequently, the accuracy, validity and completeness of the transfers to youth polytechnics of Kshs.49,838,453 for the year ended 30 June, 2020 could not be confirmed.

## **8. Accounts Receivables – Outstanding Imprests**

The statement of assets and liabilities reflects a balance of Kshs.5,671,031 under accounts receivables-outstanding imprests as at 30 June, 2020. However, the IFMIS payment details indicated that imprests surrendered during the year amounted to Kshs.89,016,610 which differed from the amount of Kshs.108,987,172 reflected in Note 26 to the financial statements as that imprests surrendered during the year. The resultant difference of Kshs.19,970,562 had not been reconciled or explained.

Under the circumstances, the accuracy of the accounts receivables-outstanding imprests balance of Kshs.5,671,031 as at 30 June, 2020.

## **9. Pending Bills**

### **9.1 Inaccurate Pending Bills Balances**

Annex 4 to the financial statements on Analysis of Pending Accounts Payable reflects pending bills of Kshs.389,854,571 which differs from the nil balance reflected under Note 8.8(1) on Other Important Disclosures. The difference was not explained or reconciled. Further, no explanation was provided for failure to pay the pending bills, during the financial year they relate to, thus affecting the budget for the subsequent year to which they have to be charged.

### **9.2 Pending Staff Payables**

Annex 5 to the financial statements reflects pending staff payables amounting to Kshs.27,791,273 as at 30 June, 2020. The balance includes an amount of Kshs.5,579,188 in respect of unpaid staff travel and subsistence claims incurred while carrying out official duties, an indication that the staff financed the activities of the County Executive. Further, some claims have remained outstanding for long for over one (1) year without justification.

In addition, the analysis of pending staff payables did not include the original amount, amount paid to date and amount outstanding from the previous year as required in the reporting template prescribed by the Public Sector Accounting Standards Board (PSASB).

### **9.3 Other Undisclosed Pending Bills**

A review of records of County Executive of Nyeri revealed the following undisclosed pending payables:

- (i) The National Treasury through a letter reference No. IGF/COD/01/E (51) dated 23 December, 2020 to all County Governors indicated that Nyeri County owed the Kenya Power and Lighting Company (KPLC) an amount of Kshs.37,990,434 for power bills as at 30 June, 2020. However, the balance had not been disclosed in these financial statements as a pending bill.
- (ii) Records maintained at the Ministry of Health indicates salaries paid in 2013/2014 to the health workers on behalf of County Executive of Nyeri amounting to Kshs.744,981,628 have not been refunded by the County to the Ministry of Health. The outstanding amount has also been omitted in the financial statements.
- (iii) Further, unpaid fee notes amounting to Kshs.32,125,703 relating to legal matters were not disclosed and included in the financial statements for the year ended 30 June, 2020.
- (iv) Pending bills of undetermined value inherited from the defunct local authorities in the County at the inception of devolution in 2013/2014 were also not disclosed in the financial statements.

No satisfactory explanation was provided for these omissions and as a result, the accuracy and completeness of the pending bills balance as at 30 June, 2020 could not be ascertained.

## **10. Summary of Fixed Assets Register**

Annex 7- Summary of Fixed Assets Register indicates that additions during the financial year 2019/2020 amounted to Kshs.1,222,526,224, which when added to the balance brought forward of Kshs.1,655,087,602 results to a total of Kshs.2,877,613,826 as at 30 June, 2020.

However, a review of the Assets Register revealed that all parcels of land of undetermined values owned by the County Executive were omitted in the financial statements. Further title deeds for the land were not provided for audit review, while all assets had not been tagged for ease of reference and identification. In addition, various assets inherited from the defunct local authorities have not been disclosed or valued.

In the circumstances, the accuracy, valuation and completeness of assets balance of Kshs.2,877,613,826 as at 30 June, 2020 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. I have determined that there are no key audit matters to communicate in my report.

### **Other Matter**

#### **1. Budgetary Control and Performance**

The summary statement of appropriation - recurrent and development combined for the year ended 30 June, 2020 reflects final receipts budget and actual on comparable basis totalling Kshs.8,979,825,473 and Kshs.8,016,798,619 respectively, resulting to an under-funding of Kshs.963,026,854 or 11% of the budget. Similarly, the County Executive spent Kshs.7,361,383,139 against an approved budget of Kshs.8,974,917,684 resulting to an under-expenditure of Kshs.1,613,534,545 or 18% of the budget. The underfunding and underperformance constrained execution of planned activities and delivery of services to the residents of Nyeri County.

#### **2. Revenue Trend Analysis**

A trend analysis on revenue collections for the past four (4) years between 2016/2017 and 2019/2020 revealed persistent failure to meet budget targets and poor performance as indicated below:

Year	Budget Amount (Kshs.)	Actual Collection (Kshs.)	Under Collection (Kshs.)	% of Actual Against Budget	% Revenue Growth
2016/2017	1,095,101,000	643,139,153	451,961,847	59%	-
2017/2018	1,000,000,000	760,186,651	239,813,349	76%	18%
2018/2019	1,000,000,000	837,394,937	162,605,063	84%	10%
2019/2020	1,000,000,000	656,628,153	343,371,847	34%	-21%

The shortfall and decline in revenue collection may be indications of revenue leakages and inefficient revenue collection system.

### 3. Late Exchequer Releases

Note 1 to the financial statements indicates total Exchequer releases of Kshs.6,300,195,891, out of which an amount of Kshs.1,198,352,442 or 19% was received by the County Government from The National Treasury during the months of June and July, 2020 as detailed below:

Date	Transaction Details	Amount (Kshs.)	Classification
04-Jun-20	User Fees Foregone	13,701,379	Conditional Grant
04-Jun-20	Rehabilitation of VCT's	27,571,649	Conditional Grant
04-Jun-20	Level 5 Hospitals	114,609,017	Conditional Grant
04-Jun-20	Covid -19	124,390,000	Conditional Grant
18-Jun-20	KCSAP	74,236,237	Conditional Grant
22-Jun-20	UHC	79,947,195	Conditional Grant
24-Jun-20	Equitable share	487,093,500	Equitable Share
30-Jun-20	DANIDA - Covid-19 Grant	5,600,000	Conditional Grant
02-Jul-20	Kenya urban Support Program (KUSP-UIG)	8,800,000	Conditional Grant
02-Jul-20	KDSP Level 1	30,000,000	Conditional Grant
02-Jul-20	Kenya urban Support Program (KUSP-UDG)	169,253,465	Conditional Grant
06-Jul-20	Covid -19 Staff Allowance	63,150,000	Conditional Grant
	<b>Total</b>	<b>1,198,352,442</b>	

As a result of the delayed receipt of funds, the County Executive did not have sufficient time to absorb its total budget for the year.

### 4. Unresolved Prior Year Matters

Various prior year audit issues remained unresolved as at 30 June, 2020. Management has not provided reasons for the delay in resolving the prior year audit 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. Outstanding Imprests**

Records of the County Executive indicates that an outstanding imprest balance of Kshs.5,671,031 ought to have been surrendered on or before 30 June, 2020 but remained outstanding after the due dates. This is contrary to Regulations 93(5) of the Public Finance Management (County Government) Regulations, 2015 which requires a holder of a temporary imprest to account for the imprest within seven days after returning to duty station.

### **2. Arrears of Revenue**

Revenue records revealed that the County had arrears of revenue amounting to Kshs.3,401,467,381 as at 30 June, 2020 comprising of land rates, house rent and stall rent of Kshs.3,216,247,525, Kshs.106,199,638 and Kshs.79,020,218, respectively. The arrears of revenue had not been disclosed in the financial statements and no indication was provided of the effort being made by Management to recover the debts.

Consequently, the recoverability of the outstanding revenue is doubtful.

### **3. Under-Banking of Hospital Revenue**

An analysis of revenue collection reports and pay-in-slips from Nyeri Provincial Referral Hospital, Mt. Kenya Hospital and Mukurweini Hospital revealed under banking of revenue amounting to Kshs.937,406 during the year under review. This was contrary to Regulation 63(4) of the Public Finance Management (County Governments) Regulations, 2015 which requires that all public money collected by a receiver or collector of revenue by a County Government entity, be paid into the designated bank accounts of the County Government and should not be used by any public officer in any manner between the time of their receipts and payment into the bank except as provided by the law

### **4. Compensation of Employees**

#### **4.1 Excessive Expenditure on Personnel Emoluments**

Examination of revenue and expenditure records indicated that compensation of employees expenditure for the year under review totaled Kshs.3,592,854,332 equivalent to 52% of the revenue of the County Executive totalling Kshs.6,956,824,044. The

expenditure therefore exceeded the threshold of 35% prescribed under Regulation 25 (1) (b) of the Public Finance Management (County Governments) Regulations, 2015.

The high wage bill is an indication that most of the County's resources are spent on staff salaries at the expense of development projects and thus impacting negatively on service delivery to the residents of Nyeri.

#### **4.2 Non-Compliance with Regional Diversity Requirement**

Examination of personnel records indicated that the County Executive had a total of 2,934 employees, out of which 2,723 or 92.8% of the workforce were from the dominant ethnic community in the County contrary to Section 7(2) of the National Cohesion and Integration Act, 2008. The law requires the County Government to ensure that at least thirty percent (30%) of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the County.

Further, out of a total of two hundred and six (206) new staff recruited by the County Public Service Board (CPSB) during the year under review only 26 employees (12.6%) were from the minority communities outside the County, an indication of persistent breach of the law.

#### **4.3 Failure to Comply with One Third Basic Salary Rule**

A review of the County Executive's payroll revealed that in the months of February, 2020 and March, 2020, sixty-four (64) employees and thirty-three (33) employees respectively earned net salaries which were below a third of their basic pay. This was contrary to Section 19(3) of the Employment Act, 2007 which states that the total amount of deduction of the wages of an employee should not exceed two thirds of such wages.

#### **4.4 Appointment of Persons Without Requisite Qualifications**

Examination of personnel records revealed that one officer appointed to fill a vacant position of Assistant Social Welfare Officer had qualification in Bachelor of Science in Information Science, contrary to the advertised qualification in Sociology, Social Work or Community Development. Further, a new employee recruited to fill the position of a mortician, Job Group E could not be confirmed due to varying names in the appointment letter issued by the County Public Service Board and names contained in the National Identify Card.

No reason has been provided for the anomalies.

### **5. Irregular Allowances to Alcoholic Drinks Control and Management Committee**

The statement of receipts and payments reflects an expenditure of Kshs.1,022,443,262 under use of goods and services which, as disclosed in Note 12 to the financial statements, includes an amount of Kshs.93,818,672 in respect of domestic travel and subsistence allowances. Included in the domestic travel and subsistence expenditure is an amount of Kshs.2,429,600 paid to members of the County and Sub-County Committee, appointed by Management to regulate the consumption and sale of alcohol in the County.

Although the Committee was established following the enactment of Nyeri County Alcoholic Drinks Control and Management Act, 2014, there are no Regulations in place outlining how the Committee should operate. Further, each Committee Member was entitled to an amount of Kshs.4,000 per meeting but the rate has not been approved by the County Assembly and Salaries and Remuneration Commission.

Consequently, the validity and propriety of the committee allowances incurred during the financial year of Kshs.2,429,600 could not be confirmed.

## **6. Other Operating Expenses**

### **6.2 Regularity of Legal Fees**

The expenditure of Kshs.1,022,443,262 on use of goods and services also includes an amount of Kshs.55,042,329 in respect of other operating expenses. Included in the latter amount are payments amounting to Kshs.18,432,198 in respect of legal fees for lawyers who represented the County in various court cases. However, despite the County recruiting its own County Attorney, private lawyers were engaged to represent the County in court cases due to inadequate capacity of personnel in the Department.

Further, records indicate that there were 199 ongoing court cases including some which commenced before the creation of the devolved units in 2013/2014. In addition, fee notes amounting to Kshs.32,125,703 issued by the private lawyers remained unpaid as at the time of audit in November, 2020. However, the unpaid legal fees were not included in the list of pending bills as at 30 June, 2020.

Consequently, the regularity and completeness of the legal fees for the year ended 30 June, 2020 could not be confirmed.

### **6.2 Payment to County Public Service Board Consultative Forum**

The expenditure of Kshs.55,042,329 on other operating expenses includes an amount of Kshs.300,000 paid as annual subscription to the County Public Service Board National Consultative Forum. The payment was made without an approved law or regulation formulated by the County Executive and approved by the County Assembly on management of subscription fees.

The validity of the expenditure therefore could not be confirmed.

## **7. Rent of Liaison Office at Council of Governors**

The expenditure of Kshs.1,022,443,262 on use of goods and services also includes an amount of Kshs.6,033,723 on rental of produced assets. Included in the expenditure is an amount of Kshs.2,758,993 in respect of contribution to Council of Governors to defray expenses and rent for a Liaison Office at the Council of Governors offices in Westlands, Nairobi. However, the payment was made contrary to Section 37 of the Inter-Governmental Relations Act, 2012 which provides that operational expenses for the structures and institutions established by the Act is provided for in the annual estimates of the revenue and expenditure of the National Government.

As a result, the validity and value for money for the expenditure of Kshs.2,758,993 could not be confirmed.

## **8. Other Grants and Transfers**

The statement of receipts and payments reflects other grants and transfers totalling Kshs.713,014,997 for the year ended 30 June, 2020. The expenditure includes transfers to Nyeri County Agriculture Mechanization Services and Wambugu Agricultural Training Centre (ATC) amounting to Kshs.8,745,092 and Kshs.2,367,972, respectively. However, the County did not have a policy on how the funds were to be spent and accounted for by the two institutions. Further, expenditure returns in respect of the transfers to the institutions were not provided for audit review.

As a result, the validity and propriety of the expenditure totalling to Kshs.11,113,064 could not be confirmed.

## **9. Construction of Buildings**

### **9.1 Construction of Market Stalls at Kaheti**

The statement of receipts and payments reflects an expenditure of Kshs.1,222,526,224 under acquisition of assets which, as disclosed in Note 17 to the financial statements, includes an amount of Kshs.66,677,566 incurred on construction of buildings. The latter balance includes an amount of Kshs.2,001,116 relating to construction of market stalls at Kaheti.

The contract was awarded to the lowest evaluated bidder and the works entailed construction of seventeen (17) market stalls. An inspection carried out on 24 November, 2020 revealed that the contractor completed only twelve (12) stalls instead of seventeen (17) tendered for and awarded by the County. No reason was provided for the reduced scope of works.

Consequently, the validity and value for money on the expenditure of Kshs.2,001,116 incurred on the construction of market stalls could not be confirmed.

### **9.2 Construction of Market Shed and Stalls at Ruthagati**

The construction of building expenditure of Kshs.66,677,566 also includes an amount of Kshs.2,802,409 incurred on construction of a market shed and ten (10) stalls at Ruthagati open air market. However, an audit inspection carried out in November, 2020 confirmed that although the construction was complete, the structures were not being utilized and the constructed gate had been vandalized. No explanation was provided for the failure to utilize the structure as intended.

Consequently, the residents of Ruthagati have not received value for money on the expenditure of Kshs.2,802,409.

## **10. Delayed Implementation of Projects**

### **10.1 Upgrading and Rehabilitation of Thiha-Sagana Irrigation Scheme**

The grants and other transfers expenditure of Kshs.713,014,997.40 includes a sum of Kshs.9,985,319 spent on upgrading and rehabilitation of Thiha-Sagana Irrigation Scheme funded under the Kenya Climate Smart Agriculture Programme (KCSAP). The tender was awarded to a contractor on 19 June, 2020 at a contract sum of Kshs.31,002,476 and the works set for completion in 6 months ending on 20 December, 2020. An inspection

carried out on 26 November, 2020 revealed that substantial works had not been completed, about 3 weeks to expiry of the contract period. Minimal works were also ongoing at the site and no explanation was provided for the delay and unsatisfactory performance.

## **10.2 Desilting and Construction of Kiria Earth Dam**

An additional amount of Kshs.12,213,989 was also paid to a contractor under the Kenya Climate Smart Agriculture Programme (KCSAP) for desilting and construction of Kiria earth dam. The works entailed desilting, construction of storage tanks, installation of solar system and construction of distribution system for irrigation.

The tender was awarded to the contractor on 18 May, 2020 at Kshs.32,412,292 and the works were to start immediately and be completed in 6 months ending 30 November, 2020. However, audit verification of the project in November 25, indicated that the level of completion was about 30% and was behind schedule compared with 6 months or 100% of the contract period.

No satisfactory explanation was provided for the failure to complete the projects within the contract period which may lead to cost escalation.

## **11. Construction of Roads**

The statement of receipts and payments reflects an expenditure of Kshs.1,222,526,224 under acquisition of assets which, as disclosed in Note 17 of the financial statements, includes an amount of Kshs.368,651,476 incurred on construction of various roads in the County. Examination of the expenditure records revealed the following anomalies:

### **11.1 Construction of PCEA Kihate – Miiri Road**

Included in the expenditure on construction of roads is an amount of Kshs.3,780,635 paid to a firm for murraming of PCEA Kihate Road – Karatina and Miiri Road. According to the Bills of Quantities, the tendered distance of the road was 2.4km. However, a field visit inspection indicated that the murram was spread on a distance of 2.1km of the road, leaving about 300m translating to unaccounted over-payment to the contractor of Kshs.472,579.

### **11.2 Construction of Kamunyaka – Turi and Thungari Road**

Included also in the expenditure on construction of roads is an amount of Kshs.3,698,944 paid to a firm for murraming of 2km Kamunyaka-Turi and Thungari Roads. However, an audit inspection carried out revealed that the actual distance of the road covered was only 1.8km instead of 2km, resulting in unexplained over payment of Kshs.369,894 to the contractor at the quoted rates in the Bill of Quantities.

### **11.3 Wasteful Expenditure on Signposts**

Records examined indicated that the County Executive required the project contractors to erect steel signposts for all projects with murals of the Governor and area Members of the County Assembly. The signposts were estimated to cost an average of Kshs.80,000 which was included in the Bills of Quantities for the projects. Further, about 640 projects were awarded and implemented during the financial year under review thus translating to

an approximated expenditure of Kshs.51,200,000, which is uneconomical and wasteful use of public resources.

Consequently, the regularity and value for money for the expenditure incurred on the construction projects could not be confirmed.

## **12. Construction of Boundary Wall for the Proposed Solid Waste Transfer Station in Nyeri**

The expenditure of Kshs.1,222,526,224 under acquisition of assets also includes an amount of Kshs.477,693,229 incurred on construction and civil works. The expenditure includes an amount of Kshs.16,946,547 spent on construction of a boundary wall for the proposed Nyeri solid waste transfer station. A site inspection carried out on the project revealed that it had not been utilized. Management indicated that the site has not been utilized due to several litigations by members of the public casting doubt on whether public participation was conducted before the project commenced.

Consequently, value for money amounting to Kshs.16,946,547 spent on the boundary wall could not be confirmed.

## **13. Implementation of e-Procurement**

During the financial year under review, the County Executive did not fully implement e-procurement in acquisition of goods and services. A review of the procurement process and enquiry from the procurement unit staff revealed that some of the processes including open tenders and quotations, advertisements, issuance of requisitions and purchase orders and goods received notes (GRN) were done on the e-procurement platform. However, other processes like tender opening, evaluation and awarding were done manually outside the system. Management attributed the non-compliance to challenges in accessing the IFMIS by some staff or partial implementation of IFMIS modules.

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 matters described in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, I confirm that, nothing else 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. Cash Management**

During the year under review, the County Executive made cash withdrawals totalling Kshs.114,658,203 which was paid as imprest to county staff to meet various expenditure needs. Management has not provided an explanation why the payments were made through cash instead of cheque or funds transfer to staff bank accounts for ease of accountability. Further, cash payments are highly prone to abuse and misappropriation than cash transfers or cheque system.

### **2. Revenue Collection Systems**

#### **i. Lack of Segregation of Duties**

A review of users of Nyeri Pay system revealed that there were staff with excessive rights cutting across all modules of the system. Out of the users with excessive rights, 3 were administrators who could initiate a transaction, process and delete the transaction leaving no or minimal audit trail. As a result, a fraudulent transaction can be processed without being detected.

#### **ii. Failure to use Standard Naming Convention**

It was noted that creation of users in Nyeri Pay system did not use a standard naming convention for proper access. Further, some of the accounts could not be directly traceable to an individual. Consequently, there were several cases of duplicate accounts which increased the risk of repudiation as it was difficult to establish accountability.

#### **iii. Access to Operational Environment by Consultant**

The audit enquiry revealed that the Nyeri pay software system developer had unlimited access to Nyeri Pay operation environment in developing, testing and operationalizing the software's updates and patches. Thus, there is risk of unauthorized access or changes to the operational environment.

#### **iv. Inactive Users in Nyeri Pay System**

A review of users of the Nyeri Pay system revealed that there were thirty-seven (37) users who had never logged in the system. This is against the principle of least privilege that require a user to be assigned only what is needed to undertake his or her duties. The system therefore has a risk of unauthorized access arising from assignment of excessive privileges.

#### **v. IT General Controls**

A review of the County Executive's ICT environment revealed that there was no approved ICT Policy in place including Data Security and Disaster Recovery Plans. Further, no records were provided to show how the migration from LAIFOMS to Nyeri pay was done. Under the circumstances, the County may have lost data during the migration of the information to the new system.

### **3. Insufficient Information Technology System Controls**

A review of the control and governance processes applied by the County Executive in its Information Technology (IT) operations revealed the following weaknesses:

- i. Lack of Information Technology (IT) Strategy Committee and an IT Steering Committee, both of which are important aspects of the County Executive's governance structure.
- ii. Failure to develop IT Security Policy to ensure data confidentiality, integrity and availability.
- iii. Absence of a policy to manage upgrades made to all financial and performance information systems, except those owned by The National Treasury. Therefore, unauthorized changes may be made to the systems resulting in loss of data and information, and lack of data integrity.
- iv. Inadequate user-knowledge by the staff operating the procurement software module;
- v. Lack of policies to control physical access to IT environments which could result in unauthorized interference in the IT assets.
- vi. There are no Disaster Management and Recovery Policies in place including fire suppression systems. As a result, the risk of the County Executive's IT assets and other operations not recovering from disasters is high.
- vii. There is no business continuity plan, including IT continuity plan with an off-site back-up component.
- viii. There are no user management standards and procedures in the county. As a result, staff do not have standard procedures to follow to minimize risk of errors, fraud and the loss of data or its integrity.
- ix. Absence of user management standards and procedures for the County. As such, staff do not have standard procedures to follow to minimize risk of errors, fraud and the loss of data confidentiality and integrity.
- x. Absence of store management policies including random survey and annual board of survey of stores and asset and an inventory management strategy.

These weaknesses have raised the risk of County Executive's IT system being disrupted or failing on occurrence of unforeseen events.

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 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 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 County Executive of Nyeri 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 based on 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 of Nyeri 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 County Executive of Nyeri'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 of Nyeri 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 of Nyeri 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**

**28 September, 2021**