

REPUBLIC OF KENYA



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REPORT

OF

THE AUDITOR-GENERAL

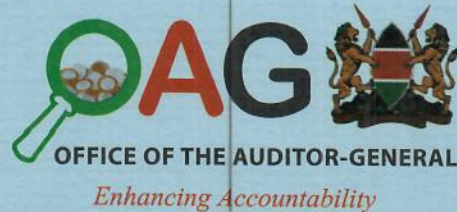
ON

COUNTY EXECUTIVE OF NYANDARUA

**FOR THE YEAR
ENDED 30 JUNE 2019**

REPUBLIC OF KENYA

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REPORT OF THE AUDITOR-GENERAL ON COUNTY EXECUTIVE OF NYANDARUA FOR THE YEAR ENDED 30 JUNE, 2019

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of the County Executive of Nyandarua set out on pages 40 to 88, which comprise the statement of assets and liabilities as at 30 June, 2019, and statement of receipts and payments, statement of cash flows and the summary statement of appropriation - Recurrent and Development combined for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution 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 Nyandarua as at 30 June, 2019, and of its financial performance and its cash flows for the year then ended, in accordance with the International Public Sector Accounting Standards (Cash Basis) and comply with the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1. Variance Between Financial Statements and IFMIS Balances

The financial statements presented for audit and the Integrated Financial Management Information Systems (IFMIS) trial balance presented in support had a net variance of negative Kshs.35,828,719,633 as detailed below:

Item	Financial Statements Balance (Kshs.)	IFMIS Balance (Kshs.)	Variance (Kshs.)
Exchequer Releases	5,696,561,225	4,042,464,000	1,654,097,225
Proceeds from Domestic and Foreign Grants		966,052,423	(966,052,423)
Transfers from Other Government Entities		175,175,212	(175,175,212)
Proceeds from Foreign Borrowings		20,481,000	(20,481,000)

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Item	Financial Statements Balance (Kshs.)	IFMIS Balance (Kshs.)	Variance (Kshs.)
County Own Generated Receipts	403,402,541	345,985,321	57,417,220
Returned CRF Issues	21,234,727	0	21,234,727
Compensation of Employees	1,807,309,571	36,699,264	1,770,610,307
Use of Goods and Services	1,086,107,690	752,594,709	333,512,981
Transfers to Other Government Units		383,526,607	(383,526,607)
Other Grants and Transfers	665,946,738	111,529,897	554,416,841
Acquisition of Assets	1,423,986,342	1,532,407,891	(108,421,549)
Other Payments		186,673,679	(186,673,679)
Bank Balances	1,626,359,238	1,098,838,146	527,521,092
Cash Balances		20,544,564,868	(20,544,564,868)
Accounts Receivables - Outstanding Imprest and Clearance Accounts	11,250,453	1,375,942,969	(1,364,692,516)
Accounts Payable	37,586,098	17,631,568,354	(17,593,982,256)
Fund Balances Brought Forward	1,243,900,484	647,860,398	596,040,086
Total	14,023,645,107	49,852,364,740	(35,828,719,633)

The variances have not been reconciled nor explained.

Consequently, the accuracy, validity and completeness of the financial statements presented for audit for the year ended 30 June, 2019 could not be confirmed.

2. Expenditure on Construction and Civil Works

As disclosed in Note 17 in the notes to the financial statements, the statement of receipts and payments reflects payments on acquisition of assets of Kshs.1,423,986,342;(2018-Kshs.981,228,677), which includes Kshs.733,913,463 in respect of construction and civil works. Included in the construction and civil works figure is Kshs.153,136,581 paid out to the Chief Engineer, Mechanical Transport Fund (MTF) for grading and gravelling of roads, hire of vehicles, plant and equipment used for road construction in the County. However, out of the amount, Kshs.15,353,920 and Kshs.2,266,339 paid towards grading and gravelling works respectively have not been accounted for by way of payment schedules, work tickets, equipment daily utilization schedules (MTF 3) and gravel delivery notes for the specific roads done.

Consequently, the accuracy of the construction and civil works payments of Kshs.733,913,463 for the year ended 30 June, 2019 could not be confirmed.

3. Bank Balances

As disclosed under Note 21A to the financial statements, the statement of assets and liabilities reflects bank balances of Kshs.1,626,359,238 (2018 - Kshs.1,296,243,113) which includes a balance of Kshs.9,155,187 held at the Kenya Commercial Bank revenue account. However, the cashbook in support of the balance reflects a balance of Kshs.22,838,187, resulting to an unreconciled difference of Kshs.13,683,000.

Further, the above balance of Kshs.1,626,359,238 includes County Revenue Fund, CRF Account balances held at Central Bank of Kenya amounting to Kshs.1,216,358,913. However, the bank reconciliation statement as at 30 June, 2019 reflected payments in cashbook not recorded in the bank statements of Kshs.791,115,656 and payments in the bank statements not recorded in the cashbook of Kshs.1,136,680,993 for which detailed analysis was not provided.

Consequently, the accuracy and completeness of the reported bank balances of Kshs.1,626,359,238 as at 30 June, 2019 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of County Executive of Nyandarua 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. Budgetary Control and Performance

The summary statement of appropriation - recurrent and development combined reflects final expenditure budget and actual on comparable basis of Kshs.7,669,536,086 and Kshs.5,765,075,383 respectively resulting to an under absorption of the budget by Kshs.1,904,460,704 or 25% as detailed below:-

Payments	Final Budget (Kshs)	Actual on Comparable Basis (Kshs)	Budget Utilization Difference (Kshs)	Under Utilization %
Compensation of Employees	1,869,630,068	1,807,309,571	62,320,497	3
Use of goods and services	1,236,825,586	1,086,107,690	150,717,896	12

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Payments	Final Budget (Kshs)	Actual on Comparable Basis (Kshs)	Budget Utilization Difference (Kshs)	Under Utilization %
Transfers to Other Government Units	839,574,296	771,278,086	68,296,210	8
Other grants and transfer	665,946,738	665,946,738	0	0
Acquisition of Assets	3,047,112,443	1,423,986,342	1,623,126,101	53
Other payments	10,446,955	10,446,955	0	0
Total	7,669,536,086	5,765,075,383	1,904,460,704	25%

The under absorption of the budget especially on the acquisition of assets is indicative of failure to implement all the planned programmes for the year, thus negatively impacting on the service delivery to the residents of the County.

2. Pending Accounts Payable

Note 5.10 to the financial statements discloses the pending bills balance amounting to Kshs.907,001,605 as at 30 June, 2019. However, re-computation of the balance using the prior year audited closing balance of Kshs.740,606,636 adjusted for the additions and payments during the year of Kshs.941,611,421 and Kshs.740,606,636 respectively yields closing pending bill balance of Kshs.941,611,421, resulting to a variance of Kshs.34,609,817 from the reported balance which has not been explained or reconciled.

Consequently, the accuracy and completeness of the reported pending bills balance of Kshs.907,001,605 as at 30 June, 2019 could not be confirmed.

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

As was reported during the previous year's Audit Report, the asset register maintained by the department of Agriculture, Livestock and Fisheries indicated that the Agricultural Mechanization Services Department 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 the Department 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.

Further, an approximated 1.5 acres on parcel LR. No. 6585/115 has been encroached and illegally fenced off by 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 the Department 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. In addition, 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.

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, Basis for Qualified opinion and Basis for Effectiveness on Internal Controls, Risk Management and Governance sections of my report, I confirm that, nothing 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. Payment to Council of Governors

As disclosed under Note 12 to the financial statements, the statement of receipts and payments reflects payments on use of goods and services of Kshs.1,086,107,690 (2018 - Kshs.641,452,973). This balance includes an amount of Kshs.181,142,380 under the other operating expenses which constitutes an amount of Kshs.6,000,000 paid to the Council of Governors being membership fees, dues and subscriptions to professional and trade bodies.

The funding for the operations of the Council of Governors are provided by the National Government in accordance with section 37 of the Intergovernmental Relations Act, 2012.

In the circumstance, the Management is in breach of the law.

2. Failure to Withhold Taxes

As disclosed under Note 17 to the financial statements, the statement of receipts and payments reflects payments on acquisition of assets of Kshs.1,423,986,342 (2018 -

Kshs.981,228,677). Included in the construction and civil works figure is Kshs.153,136,581 paid out to the Chief Engineer, Mechanical Transport Fund (MTF) for road grading and gravelling. However, withholding taxes amounting to Kshs.17,499,535, on account of VAT and withholding tax of Kshs.185,208 and Kshs.17,314,327 respectively were not withheld for onward remittance to the Commissioner for Domestic taxes in accordance with the rates.

The omission violates Section 34 (1)(a) of the Income Tax Act, 2010 which states that tax on the total income of an individual, shall be charged at the individual rates for that year of income.

Consequently, the Management is in breach of the law.

3. Lack of Managed Equipment Service Lease Contract

The County Executive of Nyandarua and the Ministry of Health signed a Memorandum of Understanding (MOU) for the provision of medical equipment and related services, Managed Equipment Services (MES), on 10 February, 2015. The equipment was to be provided on a 7 year lease arrangement, and classified under 'lots' as shown below:

Lot No.	Items	Financial Year	Amount Deducted Kshs
1	Theatre equipment	2015/2016	95,744,681
2	Theatre, Central Sterile Stores Department (CSSD) equipment	2016/2017	95,744,681
3	Laboratory equipment (Category 1)	2017/2018	95,744,681
4	Laboratory equipment (Category 2)	2018/2019	200,000,000
5	Renal Equipment		-
6	Intensive Care Unit Equipment (ICU)		-
7	Radiology Equipment		-
	Total		487,234,043

The amounts are deducted at source at the National Treasury and retained at the Ministry of Health. Further, the costs of the items received are unknown and therefore, the basis for the rental amounts cannot be determined. The County is yet to receive equipment under Lots 3, 4 and 6 despite five years having lapsed since the signing of the MOU.

Consequently, I am unable to confirm if the County residents have received value for money from the Managed Equipment Services (MES) agreement.

4. Staff Recruitments

4.1. Inadequate Advertisement Period

The County Public Service Board (CPSB) placed an advertisement in the newspapers on 14 December, 2018 for 42 vacant positions in the Department of Health Services. The advert closed on 31 December, 2018 after 17 days contrary to Clause B.4 (1) of the Human Resource Policies and Procedures Manual for the Public Service of May, 2016 which requires that departments advertise all vacant posts in a manner that reaches the widest pool of potential applicants and allow for at least 21 days before closing the advertisement.

4.2. Ethnic Composition

Review of payroll records revealed that 95% of the 42 health workers recruited were from one ethnic community in the county. This is contrary to Section 65(1) of the County Government Act of 2012 which requires that when selecting candidates for appointment, the County Public Service Board shall consider the need to ensure that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the county.

The Management is therefore in breach of Section 65(1) of the County Government Act, 2012.

5. Lack of Risk Management Policy

The County does not have a risk management policy that guides on assessment and evaluation of risk and development of the strategies to mitigate them. This is contrary to Clause 158(1) of the Public Finance Management (County Government) Regulations, 2015 which require the Accounting Officer to ensure that a County Government entity develops risk management strategies, which include fraud prevention mechanism, and a system of risk management and internal control that builds robust business operations.

Consequently, the Management is in breach of Clause 158(1) of the Public Finance Management Act (County Government) Regulations, 2015.

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 comply, 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 ON INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

As required by Section 7(1)(a) of the Public Audit Act, 2015, based on the audit procedures performed, except for the matter described in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Overall Governance, Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources and Basis for Qualified Opinion sections 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. Projects Implementation Status

Physical verification of four (4) sampled projects with total contracted sums of Kshs.655,589,813 during the month of October, 2019 revealed the following: -

	Project	Contract Sum (Kshs)	Physical Observation
1.	Construction of County Government Headquarters	617,644,564	Construction had stalled following the contract termination on 25 March 2019 when work done was at 30%.
2.	Market stalls and sheds at Soko Mpya	14,712,498	Stalls and sheds are complete but are yet to be put into use and traders to occupy are yet to be identified.
3.	Construction and completion of entrance gates, sentry boxes and perimeter wall for OI Kalou Stadium project	21,983,556	Project is at 80% completion and the contract period extended to 31 December, 2019 without formal request from the contractor contrary to section 139 (2) of the Public Procurement and Asset Disposal Act, 2015.
4.	Acquisition of 2-tonne hydraulic hoist, six car washing machines and two desktop computers	1,249,195	The items were delivered in June 2019 but are yet to be issued to the intended social groups for lack of storage spaces.
	Total	655,589,813	

From the foregoing, I am unable to confirm if the County Executive will realize value for money for the contracts valued at Kshs.655,589,813 for ongoing projects as at 30 June, 2019.

2. Assets Inherited from the Defunct Local Authority

Annex 2 to the financial statements reflects total assets amounting to Kshs.6,863,641,883 which constitute assets bought and those inherited from the defunct County Council of Nyandarua. However, the assets are yet to be revalued and the County does not have their respective actual values.

Consequently, the accuracy and completeness of the statement of financial assets and liabilities as presented as at 30 June, 2019 could not be confirmed.

3. Grounded Vehicles

Annex 2 to the financial statements on the summary of fixed assets register reflects assets at historical costs carried forward of Kshs.6,863,641,883 which include 48 grounded vehicles whose value is undetermined as at 30 June, 2019. The distribution of the vehicles between the departments is as shown below: -

Ministry	No. of Vehicles
Agriculture, Livestock and Fisheries	40
Health Services	6
Industrialization, Trade and Cooperatives	2
Total	48

Of the vehicles, a Land Cruiser Prado Registration Number GKA 252D which was to be repaired at a cost of Kshs.80,000, has been held in a garage in Nyahururu for the last 9 years and has accrued storage charges of Kshs.515,000. The continued disuse and accruing costs from holding grounded vehicles should be evaluated vis-à-vis the realizable revenue at disposal.

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 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 overall governance.

In preparing the financial statements, Management is responsible for assessing the County Executive's ability 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 County Government 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 control 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 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 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 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.



Nancy Gathungu
AUDITOR-GENERAL

Nairobi

19 October, 2020