

**REPUBLIC OF KENYA**



**REPORT**

**OF**

**THE AUDITOR-GENERAL**

**ON**

**THE FINANCIAL OPERATIONS**

**OF**

**NAIROBI COUNTY EXECUTIVE**

**FOR THE PERIOD  
1 JULY 2013 TO 30 JUNE 2014**

## Table of Contents

EXECUTIVE SUMMARY .....	1
Background Information .....	1
<b>Introduction</b> .....	1
<b>Terms of Reference</b> .....	1
<b>Audit Methodology</b> .....	2
<b>Scope and Determination of Responsibilities</b> .....	2
KEY AUDIT FINDINGS .....	2
<b>1.0 CURRENT ASSETS</b> .....	2
2.0 NON CURRENT ASSETS .....	4
2.1 Non Maintenance of a Complete Fixed Assets Register .....	4
2.2 Construction of Perimeter Walls .....	5
2.3 Allocation of County Land to Private Developers .....	5
<b>3.0 CURRENT LIABILITIES</b> .....	6
3.1 Pending Bills .....	6
3.2 Non Remittance of Provident funds LAPTRUST and PAYE Deductions .....	6
3.3 Suppliers of Goods and Services .....	6
<b>4.0 LONG TERM LOANS</b> .....	7
4.1 Long Term Loans.....	7
4.2 Other Contingent Liabilities .....	8
<b>5.0 EXPENDITURE</b> .....	8
5.1 Unsupported Payments Vouchers .....	8
5.2 Missing Payment Vouchers .....	8
<b>6.0 HUMAN RESOURCE</b> .....	8
<b>7.0 FUEL AND WORKTICKETS MAINTENANCE</b> .....	9
7.1 Misuse of Fuel and Poor Maintenance of Work Tickets .....	9
7.2 Irregular Use and Issuance of Fuel at Mbagathi District Hospital .....	9
<b>8.0 REVENUE COLLECTIONS</b> .....	9
8.1 Un surrendered Parking Revenue Books .....	9
8.2 Parking Income Variance Totalling .....	9
8.3 Loss of Revenue at Off Street Parking .....	9
<b>9.0 GARBAGE COLLECTION &amp; OTHER ENVIRONMENTAL MATTERS</b> .....	9
9.1 Missing Payment Vouchers- Garbage Collection .....	9
9.2 Failure to Implement Capital Projects under Environment and Natural Resources Sector .	10
9.3 Irregular Payments of Garbage Collection Contractors.....	10

9.4	Operations at the Dandora Dump Site .....	11
<b>10.0</b>	<b>I.T. CONTROL ENVIRONMENT .....</b>	<b>11</b>
10.1	Irregular Supply, County Government.....	11
	<b>DETAILED AUDIT REPORT .....</b>	<b>13</b>
<b>1.0</b>	<b>CURRENT ASSETS.....</b>	<b>13</b>
1.1	Cash and Bank Balances .....	13
1.2	Receivables .....	15
<b>2.0</b>	<b>NON-CURRENT ASSETS.....</b>	<b>17</b>
2.1	Land and Buildings .....	17
<b>3.0</b>	<b>CURRENT LIABILITIES.....</b>	<b>20</b>
3.1	Pending bills .....	20
3.2	Suppliers of Goods and Services .....	22
4.1	Long Term Loans.....	27
<b>5.0</b>	<b>EXPENDITURE.....</b>	<b>29</b>
5.1	Unsupported Payment Vouchers.....	29
5.2	Missing Payment Vouchers .....	31
<b>6.0</b>	<b>HUMAN RESOURCE .....</b>	<b>32</b>
6.1	Irregular Hiring of Employees .....	32
6.2	Non-Remittance of Provident Funds, LAPTRUST and PAYE deducted .....	33
<b>7.0</b>	<b>FUEL AND WORK TICKETS MAINTENANCE .....</b>	<b>33</b>
7.1	Misuse of Fuel and Poor Maintenance of Work Tickets .....	33
7.2	Irregular use and issuance of fuel at Mbagathi District Hospital .....	34
<b>8.0</b>	<b>REVENUE RECORDS.....</b>	<b>35</b>
8.1	Un surrendered Parking Revenue Books .....	35
8.2	Parking Income Variance.....	35
8.3	Loss of Revenue Due to Computerization of Off Street Parking .....	35
8.4	Inefficiencies in Sub-Counties .....	36
8.5	Fake Receipts in Circulation .....	38
8.6	Irregular Allocation of Loading Zones.....	38
<b>9.0</b>	<b>GARBAGE COLLECTION .....</b>	<b>40</b>
9.1	Missing Payment Vouchers- Garbage Collection .....	40
9.2	Failure to Implement Capital Projects.....	40
9.3	Irregular Payments of Garbage Collection Contractors.....	41
9.4	Operations at the Dandora Dump Site .....	42

# **REPORT OF THE AUDITOR-GENERAL ON THE FINANCIAL OPERATIONS OF NAIROBI COUNTY EXECUTIVE FOR THE PERIOD 1 JULY 2013 TO 30 JUNE 2014**

---

## **EXECUTIVE SUMMARY**

### **Background Information**

The Constitution of Kenya, 2010 under Article 176, created the County Governments which consist of the County Assembly and the County Executive. Nairobi City County Executive is subject to audit as per the Kenyan Constitution, 2010, the Public Finance Management Act, 2012 and the Public Audit Act, 2003. It operates under the auspices of the Urban Areas and Cities Act, 2011, The County Governments Act, 2012 and other relevant Acts, Laws and regulations. The County consists of ten sectors headed by the County Executive Committees.

### **Introduction**

This special audit contains findings and other details and covers the period 1 July 2013 to 30 June 2014. It was undertaken to assess the adequacy and reliability of the systems of management and financial controls instituted by the management of the County Government in running its affairs with emphasis on the utilization of public resources.

### **Terms of Reference**

The Office of the Auditor-General is an independent office mandated by the Constitution in Article 229 to audit the accounts of the National and County Governments. In this regard, the office planned a special audit of the systems of management and financial controls of the Nairobi City County Government for the period 1 July 2013 to 30 June 2014 with the following audit objectives:

- (i) Assessment of controls over management of cash and bank accounts.
- (ii) Assessment of controls over management of assets under the control of the County Government.
- (iii) Assessment of compliance with the procurement laws in process of acquisition of goods, works and services.
- (iv) Assessment of compliance with Public Financial Management Act, 2012 in the utilization of public funds.
- (v) Compliance with other relevant laws and regulations.
- (vi) To ascertain the integrity and reliability of financial and other information used by management in the utilization of public funds.

- (vii) To confirm that all necessary supporting documents, records and accounts have been kept in respect of all transactions.

### **Audit Methodology**

The approach used in carrying out this audit included the following:

- (i) Interviews with key officers at the County Government offices.
- (ii) Review of applicable legislation and regulations.
- (iii) Examination of payment vouchers, cashbooks, vote books, bank statements, and bank slips, miscellaneous receipt books, procurement documents, stores records, asset registers and other related records.
- (iv) Review of minutes of various meetings where there were resolutions regarding utilization of public funds.
- (v) Physical inspection and verifications
- (vi) Observation of processes and active
- (vii) Review of documents used by management to monitor use of funds.

### **Scope and Determination of Responsibilities**

The audit was conducted in accordance with the International Standards of Supreme Audit Institutions (ISSAIs). These standards require that the audit is planned and performed so as to obtain reasonable assurance that, in all material respects, expenditures incurred is fairly stated and fair recording is achieved in all financial transactions.

### **KEY AUDIT FINDINGS**

#### **1.0 CURRENT ASSETS**

##### **1.1 Cash and Bank Balances**

###### **1.1.1 Prior Year Issues**

As reported in the previous year's special audit report, the defunct City County of Nairobi operated 40 bank accounts out of which sixteen (16) bank accounts were dormant; while twelve accounts had credit balances totaling Kshs.35,459,356.20. However, the County did not produce for audit all the cashbooks and bank reconciliation statements to confirm the accuracy of the cash and cash equivalents.

### **1.1.2 Failure to Close Bank Accounts**

- (i) As reported in the previous year's special audit report, the Ministry of Local Government had issued instructions vide circular No. MLG/1333/TY/52 of 18 February, 2013 requiring all defunct Local Authorities accounts to be closed and the existing funds transferred to the General Rate Fund Account as soon as practicable, a single account to be opened at the Central Bank of Kenya.
- (ii) However the accounts were not closed as required and business continued as usual and instead four (4) new accounts were opened. Some old accounts were still operational as at the closure of the audit in total disregard of the Ministry and Transitional Authority directives.

### **1.1.3 Failure by City Council of Nairobi Bankers to Confirm Cash and Bank Balances**

- (i) As reported in the previous year's special report, it was not possible to confirm whether the forty (40) bank accounts disclosed by the former City Council were the only accounts operated before the transition period as the defunct City Council bankers did not respond to our request for disclosure of all accounts previously held and also requiring them to confirm the balances in each account.
- (ii) The number of bank accounts varied from different lists presented for audit with some list showing 40, 41, and others 42.

### **1.1.4 Under Banking and Encashment of Cheques in the Cash Office**

- (i) Records made available for audit revealed that during the period 1 January, 2013 and 30 June, 2013, a total of Kshs.5,511,732,231.00 was collected from the various sources of revenue but only Kshs.5,258,849,088.00 was banked resulting to under banking of Kshs.252,883,143.00.
- (ii) The audit also revealed that out of the total under-banked revenue Kshs.29,021,813.00 was subsequently issued as IOUs to various officers while the balance of Kshs.223,861,330.00 represented cheques encashed by the County staff for various miscellaneous activities such as purchase of goods and services and other numerous consumable items.
- (iii) It was also noted that during the transition period cess income totalling Kshs.60,725,305.00 was collected in various divisions but only Kshs.57,889,995.00 was receipted at the cash office and banked resulting in a difference of Kshs.2,835,310.00.
- (iv) During the period 1 July, 2013 to 30 June, 2014 the County Government collected revenue totalling to Kshs.15,423,615,657 as per daily revenue reports against total banking of Kshs.15,348,105,005.00. The difference between the two sets of records is attributed to encashment of cheques amounting to Kshs.75,510,652.00.

## **1.2 Receivables**

### **1.2.1 Outstanding Rates**

Rates reflected as outstanding from LAIFOMS as at 30 June, 2013 and 30 June, 2014 respectively amounted to of Kshs.62,182,535,633.19 and Kshs.96,151,740,633.00, an increase of Kshs.33,969,204,999.81. This is an indication that the County Government has not put measures in place to collect the outstanding rates.

The County Government zoned its jurisdiction from Zone A-Z. During the year, the properties increased from 68,386 as at 30 June 2013 to 79,672 as at 30 June 2014 an increase of 11,286 properties. No records were provided to show how the properties increased.

A schedule for deletion and amalgamation of properties revealed adjustments of rates which could not be verified amounting to Kshs.135,578,766. No approval of the same was provided.

### **1.2.2 Inventories**

#### **Excess Procurement of Murram above the Maximum Stock Level**

The County Government set the minimum stock levels for Murram to be 1500 tonnes and maximum level to be 3500 tonnes. A visit to Nanyuki Road stores revealed that the Nairobi City County had a stock balance of 16,929.80 tonnes of Murram as at 30 June, 2013 valued at Kshs.57,561,320 which exceeded the optimal recommended quantity.

### **1.2.3 Outstanding Imprests**

Audit of imprest issued to various County Government revealed that the County issued imprest warrants totaling to Kshs.260,807,595 in the financial year under review. Outstanding imprest totaled to Kshs.31,289,189.00. Imprest register was not made available for review.

## **2.0 NON CURRENT ASSETS**

### **2.1 Non Maintenance of a Complete Fixed Assets Register**

The County Government did not maintain a proper fixed assets register for her non-movable assets. The register provided revealed the following anomalies:-

- i. Values of each property was not indicated
- ii. The list of properties provided did not have the sizes/acreage indicated against them
- iii. Some properties were indicated as un surveyed, implying that their size and condition may be unknown.

It was therefore not possible to confirm the details of land owned by the Nairobi City County. Further, without the land being surveyed and sizes/acreage determined, the County Government is prone to theft and loss to speculators and land grabbers.

## **2.2 Construction of Perimeter Walls**

Perimeter walls were constructed in various County Government properties to protect County Government land from grabbers. However the survey department did not survey the land before commencement of construction. Site visits to some of the areas showed that private developers had encroached on some of the properties and construction of the walls was done inside the beacons.

- (i) In the Case of Lang'ata Primary School, a portion of the land was allocated to private developers. A hotel is on site and allocation records were not made available.
- (ii) For Madaraka Primary School; the land has been encroached on and boundaries interfered with. Allocation records were not made available.
- (iii) For Nairobi River Primary School; the land has been encroached on and allocation records were not available for review.

## **2.3 Allocation of County Land to Private Developers**

The then defunct City Council of Nairobi allocated various parcels of land to private developers. Some of the developers have since demolished properties previously owned by the defunct Council. The process of allocating the land to private developers could not be confirmed as transparent given that no records were provided to confirm the process.

Some of the land issued to private developers included;-

- (i) Highridge Health Centre; where the health centre was demolished and the parcel of land allocated to private developers. Allocation records were not made available.
- (ii) At Nanyuki Roads Store and Depots; the land was reserved for road maintenance materials and it was demarcated and 1.227Ha hived off and allocated to a petroleum firm. It was further noted that the depot lost materials estimated to be worth Kshs.22M stored in the demarcated land and two offices which have since been converted into private offices by the beneficiary firm.

## **2.4 Irregular Allocation and Disposal of County Land LR. No. 209/2531/1**

The above land, now occupied by Highways stores was originally allocated to the then Municipal Council of Nairobi title NO IR 4786, LR No.209/2531 for a term of 99 years from 1 October, 1929 to 1 October, 2028 measuring 20.5 acres. On 18 June, 1952 the Kenya Meat commission was allocated part of the land measuring 2.5 acres: - On 10 October, 1969, 9.5 acres was allocated to St Peter Claviers' and Muthurwa Primary Schools. A visit to the site



showed that portion of the remainders of the land 8.5 acres has been allocated to unknown private developers as follows: -

- Part of Country Bus Station phase 2.
- Part of the Nairobi City County department.

No documentation was produced to show how the private developers were allocated the land.

### **3.0 CURRENT LIABILITIES**

#### **3.1 Pending Bills**

During the year under review, the County Government had pending bills totalling Kshs.53,312,379,122 as at 30 June 2014 compared to balances in the previous year of Kshs.11,069,683,000 as at 30 June 2013, an increment of 381.6% which cannot be confirmed. A committee of pending bills was formed by the Governor to scrutinize the authenticity of the pending bills. As at the time of audit, the committee had not prepared its report. Consequently, the authenticity of the bills cannot be confirmed.

#### **3.2 Non Remittance of Provident funds LAPTRUST and PAYE Deductions**

The County Government had outstanding statutory deductions and penalties amounting to Kshs.2,844,168,193.21, Kshs.616,418,874.74 and Kshs.1,569,882,227 respectively for LAPTRUST, provident fund and PAYE respectively.

The county government is not adhering to the budget and budgetary provision, which is contrary to the various Acts governing pensions and the Income Tax Act.

#### **3.3 Suppliers of Goods and Services**

##### **3.3.1 Failure to Produce Tender Documents for Goods, Works and Services**

The County Government did not produce tender documents for a sample ten (10) contracts requested for audit verification. It was not possible to confirm whether laid down public procurement procedures were followed in execution of the concerned contracts. It was also not possible to confirm the actual amounts involved in the contracts.

##### **3.3.2 Direct Procurement of Modernization and Upgrade of Existing Three Lifts**

An award to service, modernize and upgrade lifts at City Hall Annex was given to a firm for a sum of Kshs.28,817,512.00 through direct procurement. A down payment of Kshs.14,481,990 was paid on 28 February, 2014 with only a proforma invoice. A site visit revealed that the lifts have never been repaired and the problem still persists. The contract period is almost elapsing with no tangible improvement.

### **3.3.3 Irregular Payments for Legal Fees**

The Nairobi City County paid Kshs.30,000,000 on 7 January 2014 to a legal firm for Legal Services. The legal fee for HC petition No.486 of 2013 Nairobi Metropolitan PSV Sacco Ltd vs County Government of Nairobi was quoted at Kshs.92,800,000 but was however revised down to Kshs.30,000,000 after negotiations. The authenticity of the payment in respect of legal services of Kshs.30,000,000 cannot be confirmed and the adjustment of the legal fee note by 68% could not be explained.

### **3.3.4 Street Lighting Installation along Olalua Ridge- Karen**

The contract for street lighting installation along Olalua Ridge Karen phase 1 was awarded to a company on 19 August 2011 at a contract price of Kshs.6,439,508.00. According to the contract agreement, the works were to be completed within a period of six weeks. The contract document was not dated. There was no evidence on how the bidders were identified. No explanation was provided for the delay in completion of works.

### **3.3.5 Doubtful Supply and Delivery of Motor Vehicle Spare Parts**

Payments totaling to Kshs.7,225,402.00 was made for supply and delivery of motor vehicle spare parts for transport/garage section. Examination of the payment vouchers revealed the following in respect of supply. Payment vouchers did not have invoices, delivery notes and inspection and acceptance reports. Only proforma invoices were attached.

### **3.3.6 Unaccounted for Drugs, Non Pharmaceuticals and Food Items-Mbagathi District Hospital**

Examination of stores records at Mbagathi District Hospital revealed that the internal controls were weak and the physical count of various stock items was different from the actual bin cards. Quantified food items revealed a total of Kshs.64,824,092 as unaccounted for stock. No explanation was given on the variances /discrepancies.

### **3.3.7 Unaccounted for Drugs at Mama Lucy Kibaki Hospital**

Examination of stores records at Mama Lucy Kibaki Hospital revealed that the internal controls were weak and the physical count of various stock items differed with the actual balance in the stock cards. The drugs could not be quantified in monetary terms as the units were not indicated in the stock card. No explanation was given on the variances /discrepancies.

## **4.0 LONG TERM LOANS**

### **4.1 Long Term Loans**

- i. During the year under review, the County Government had pending bills totalling to Kshs.7,249,419,204 being amount owed to third parties.

- ii. In addition, no individual creditor's ledgers and movement schedules were maintained. The County Executive constituted a pending bills committee to confirm the bills outstanding. To date the committee has not tabled the report.

#### **4.2 Other Contingent Liabilities**

- i. During the year under review, the County Government had pending bills totalling to Kshs.29,002,734,176 being contingent liabilities.
- ii. In addition no individual creditor's ledgers and movement schedules were maintained for the contingent liabilities.
- iii. The schedule or composition of the Contingent liabilities was not disclosed.

### **5.0 EXPENDITURE**

#### **5.1 Unsupported Payments Vouchers**

The County Government did not provide payment vouchers totalling Kshs.183,311,371. Propriety of the expenditure could therefore not be ascertained.

#### **5.2 Missing Payment Vouchers**

- i. The County Government did not avail payment vouchers for amounts totaling Kshs.6,478,832.
- ii. It was not possible to establish whether the expenditure was a proper charge to public funds:-

### **6.0 HUMAN RESOURCE**

#### **Irregular Hiring of County Executive Employees**

- i. The Nairobi County Government employed fifteen (15) new officers to serve in the county headquarters without requests from various user departments.
- ii. There were no advertisements made for the vacancies and the selection criteria was not clear, thus making recruitment process single sourced and not competitive.
- iii. There was no board resolution to recruit more human resource. Appointment letters stating terms of employment for the officers were not made available for audit review.
- iv. Further, the County Government also employed twenty five (25) senior officers in the Planning and Environment sectors without user department requisition.
- v. The County government has not carried out a skill assessment in the human resource department to determine the number of employees required and the current status. Consequently, the additional staff may not have any direct value to the County.

## **7.0 FUEL AND WORKTICKETS MAINTENANCE**

### **7.1 Misuse of Fuel and Poor Maintenance of Work Tickets**

Evaluation of internal controls on fueling of County vehicles showed the following weaknesses: -

- i. Work tickets examined did not have actual date, distance covered, quantity of fuel and oil drawn which had a cost of Kshs.677,600.
- ii. Work tickets did not show mileage covered by the vehicle yet the driver did not report any defects in the work tickets.

### **7.2 Irregular Use and Issuance of Fuel at Mbagathi District Hospital**

Analysis of different vehicles work tickets revealed fuel worth Kshs.80,009 was drawn. However, the fuel register was not signed by the authorizing officer.

## **8.0 REVENUE COLLECTIONS**

### **8.1 Un surrendered Parking Revenue Books**

The County Government had issued several car park books with a value of Kshs.20,268,580.00 to various revenue collectors which had not been fully accounted for.

### **8.2 Parking Income Variance Totalling**

Daily returns as per Parking Department showed a total collection of Kshs.1,680,132,742.00 while total parking revenue as per LAIFOMs amounted to Kshs.1,607,494,953.00 resulting to un-reconciled and unexplained variance of Kshs.72,637,789.00.

### **8.3 Loss of Revenue at Off Street Parking**

The County Government computerized three off parking lots streets namely; Sunken/Uchumi, Law Courts and Bus Station with 235, 223 and 59 parking slots respectively. However, examination of LAIFOMs reflected off street parking revenue of Kshs.8,539,435.00 which was 26.6% of the expected revenue of Kshs.32,054,000.00, resulting to a difference of Kshs.23,514,565.00 not accounted for.

## **9.0 GARBAGE COLLECTION & OTHER ENVIRONMENTAL MATTERS**

### **9.1 Missing Payment Vouchers- Garbage Collection**

- i. Expenditure records produced for audit revealed that the County incurred expenditure on garbage collection and transportation amounting to

Kshs.578,479,011. However, payment vouchers worth Kshs.441,207,890 were not produced for audit verification.

ii. It was not possible to ascertain the propriety and occurrence of transactions contained in the missing payment vouchers.

## **9.2 Failure to Implement Capital Projects under Environment and Natural Resources Sector**

- i. During the financial year 2013/2014, the approved development expenditure was Kshs.336,000,000 under the Environment and Natural Resources Sector.
- ii. Major projects under the allocation included civil works at Dandora dump site and procurement of 34 refuse collection trucks all with an allocation of Kshs.302,000,000.
- iii. It was however noted that the County acquired 25 trucks at a cost of Kshs.247,600,000. The balance of Kshs.88,400,000 was spent on other recurrent activities.

## **9.3 Irregular Payments of Garbage Collection Contractors**

Various companies were contracted to collect and transport garbage within the eighteen zones of the County. Examination of payment documents revealed that some companies contracted to collect garbage in particular zones were in unclear circumstances engaged to collect garbage in zones other than those they were allocated during the procurement process.

- i. The companies were however paid at rates indicated in their contract letter irrespective of the zones they collected garbage. As a result, the companies ended up being paid at higher rates even for zones whose rates were lower due to proximity to the Dandora dump site.
- ii. A firm was contracted to collect garbage from Embakasi East at Kshs.1,680, Dagorreti North at Kshs.1,800, Westlands at Kshs.1,595, and Madaraka at Kshs.1,650 per tonne. Analysis of payments to the Company for the month of July 2013 indicated that the company collected garbage from other zones allocated to other contractors.
- iii. The Company was paid at a flat rate of Kshs.1,800 per tonne despite the fact that some of the zones had lower rates. As a result, the Company was irregularly paid Kshs.1,660,610 during the month.
- iv. This implies that the Company may have been paid at least Kshs.19,927,320 during the financial year. The County had contracted twenty four companies during the period under review.
- v. There was breach of terms and conditions of contract in favour of contractors leading to huge losses in public funds

## **9.4 Operations at the Dandora Dump Site**

Physical verification of the operations at the Dandora dump site during the audit exercise revealed a number of weaknesses. These include:

- i. Lack of standby power back up for the weigh bridge in cases of power failures.
- ii. Lack of adequate protective tools and equipment for the staff working at the dump site.
- iii. Lack of offices, computers and safes for keeping cash. It was indicated by a staff member that they sometimes receive students from universities and colleges on field studies and therefore require a classroom to accommodate the groups during discussion sessions.
- iv. Most of the County heavy equipment used in dumpsite are grounded and the County relies heavily on hired equipment.
- v. Lack of proper facilities may compromise effective operations at the dumpsite.
- vi. Dandora Power Project worth Kshs. 28 billion has stalled due to lack of title deed as demanded by the financier.

## **10.0 I.T. CONTROL ENVIRONMENT**

### **10.1 Irregular Supply, Implementation and Maintenance of an Electronic Revenue Collection & Payments Solution to the County Government**

- (i) The County Government computerized its revenue collection at an implementation cost of Kshs.23,200,000 and a recurrent operational cost of 4.5% of total actual revenue collected through Jambo pay. The 4.5% operational cost is relatively high compared to other bidders, who quoted the rate of 2.5%. It is not clear how the rate of 4.5% was arrived at. It is not also clear why the County failed to contract the lowest bidder who had quoted a rate of 2.5%.
- (ii) Our analysis revealed that the Nairobi City County will incur an extra cost of Kshs.767,486,591.50 in five (5) years on this contract than it would have incurred if it had contracted the other bidders at 2.5% rather than the rate of 4.5% now being used.
- (iii) The County Government appointed a legal firm to do a review and redrafting of the contract for a sum of Kshs.1,200,000.00. It was however noted that although the firm did a review and made very pertinent recommendations, none of their recommendations were taken into account. Consequently, the expenditure of Kshs.1,200,000 paid to the advocates was nugatory expenditure.

- iv. A visit to the cash office revealed that the contracted firm has stationed an officer there which was not factored in the contract. This implies that all revenue collected at the cash office will automatically go through Jambopay thus attracting the 4.5% which has not been justified.



**Edward R. O. Ouko, CBS**  
**AUDITOR-GENERAL**

**Nairobi**

**25 May 2015**

# **DETAILED REPORT OF THE AUDITOR-GENERAL ON THE FINANCIAL OPERATIONS OF NAIROBI COUNTY EXECUTIVE FOR THE PERIOD, 1 JULY 2013 TO 30 JUNE 2014**

---

## **DETAILED AUDIT REPORT**

### **1.0 CURRENT ASSETS**

#### **1.1 Cash and Bank Balances**

##### **1.1.1 Prior Year Issues**

- i. A list provided by the treasurer's department in the period ended 31 March 2013 indicated that the defunct City Council of Nairobi historically operated 40 bank accounts. However, it was not possible to confirm whether these were the only bank accounts operated by the former City Council of Nairobi before the transition period as the defunct City Council of Nairobi bankers did not respond to our request for confirmation of all accounts previously held and for confirmation of the bank balances,
- ii. During the transition period cash and cash equivalents increased by Kshs.556,130,000.00 from Kshs.524,077,000.00 as at 28 February, 2013 to Kshs.1,080,207,000.00 as at 30 June, 2013. However, the County did not produce for audit the cashbooks and bank reconciliation statements to confirm the accuracy of the cash and cash equivalents.
- iii. The Ministry of Local Government through Circular Ref: MLG/1328/A/(3) dated 7 March 2013 directed that all accounts should be closed and all revenue collected be banked in the General Rates Fund Account and as soon as practicable, a single account was to be opened at the Central Bank of Kenya. Some accounts were still operational as at 30 September 2013, in total disregard of the requirements of the Ministry and Transitional Authority directives.
- iv. Out of the forty (40) bank accounts disclosed, sixteen (16) bank accounts were indicated as being dormant while balances in four (4) accounts were not indicated. The twelve remaining accounts had credit balances totalling Kshs.35,459,356.20 as at 31 August 2012. The balances could not be confirmed due to the fact that bank reconciliations were in arrears and as earlier stated, the banks did not respond to our request for confirmation of accounts maintained and their balances.

#### **Recommendations**

- i. Bank reconciliations statements and cashbooks should be updated and all the balances in the former accounts disclosed and transferred to the County government accounts.
- ii. The county bankers should also be compelled to disclose all the accounts held by the defunct City Council of Nairobi and the balances as at 28 February 2013.



### **1.1.2 Revenue Collection, Banking and Maintenance of Records**

- (i) There were persistent problems in accounting for revenue. Revenue collected was not banked intact as required by the County Governments Public Finance Management Transition Act, 2013 Sec.9. Revenue records made available for audit revealed that during the period 1 January 2013 to 30 June 2013, a total of Kshs.5,511,732,231.00 was collected from the various sources of revenue but only Kshs.5,258,849,088.00 was banked resulting to under- banking of Kshs.252,883,143.00.

Further analysis of revenue revealed that part of the unbanked revenue totalling to Kshs.223,861,330.00 was issued as cheques to various County employees and later encashed for various direct expenditures while the balance of Kshs.29,021,813.00 was irregularly issued as IOU's to various officers.

- (ii) Revenue records made available from the divisions indicated that during the period under review, excess revenue totaling Kshs.60,725,305.00 was collected in various divisions out of which only Kshs.57,889,995.00 was received and receipted at cash office and banked. The resultant difference of Kshs.2,835,310.00 was not explained or accounted for.

### **Recommendations**

- i. The county management should streamline the collection and accountability of revenue in accordance with the existing financial regulations and prudent management practices.
- ii. Appropriate action should be taken on the officers who failed to strictly adhere to the financial regulations and procedures.

### **1.1.3 Encashment of Cheques in the Cash Office**

- i. During the twelve months period (July-June) ended June 2014 the County Government collected revenue totalling to Kshs.15,423,615,657 as per daily revenue report against total banking of Kshs.15,348,105,005. The difference between the two sets of records is attributed to encashment of cheques amounting to Kshs.75,510,652.
- ii. Examination of the encashments showed that County Government employees were encashing cheques at the revenue cash office which is contrary to Section 109 of the Public Finance Management Act, 2012. The encashments relates to routine expenses which can be controlled by increasing the imprest float.

## **Recommendations**

- i. All revenue collected should be banked promptly and intact, The County Government should device ways of financing the routine expenses and avoid use of revenue directly.
- ii. The Imprest float should be increased to avoid encashment of cheques.

## **1.2 Receivables**

### **1.2.1 Outstanding Rates**

- i. Rates schedules from LAIFOMS as at 30 June, 2013 and 30 June, 2014 respectively reflected balances of Kshs.62,182,535,633.19 and Kshs.96,151,740,633.00 an increase of Kshs.33,969,204,999.81 respectively, an indication that the County Government has not put measures in place to collect the outstanding rates.
- ii. Further, the County Government has zoned its jurisdiction from Zone A-X where it is indicated that the properties increased (were subdivided) by 11,231 from 68,386 as at 30 June 2013 to 79,672 as at 30 June 2014. No records were provided to show how the properties increased.
- iii. A schedule provided for deletion and amalgamation of properties revealed adjustments of rates which could not be verified amounting to Kshs.135,578,766. It was not possible to confirm whether the deletion or amalgamation was approved or authorized.

## **Recommendations**

- i. The County Government should ensure that measures are put in place to collect rates outstanding.
- ii. Records on all the properties which have deletion or amalgamation should be properly kept for reference.

## **1.2.2 Inventories**

### **1.2.2.1 Excess Procurement of Murram above the Maximum Stock Level**

- i. The County Government has set the minimum stock level for murram to be 1500 tonnes and maximum level to be 3500 tonnes. A visit to Nanyuki Road Stores revealed that Nairobi City County had a stock balance of 16,929.8 tonnes of murram as at 30 June, 2013 valued at Kshs.57,561,320.00 which exceeded the optimal quantity of 3500 tonnes expected to be stored as indicated in the stores records.
- ii. The County Government procured 13,429.8 tonnes of murram valued at Kshs.45,661,320.00 in excess of the optimal recommended quantity at the rate of Ksh 3,400.00 per tonne.

- iii. Store records availed for audit indicate that the County Government procured 5,500 and 11,000 tonnes of murram in 2011/12 and 2012/2013 financial years while only 974.84 and 1627.98 tonnes were used respectively.
- iv. It was however not possible to confirm the actual volume of the murram due to lack of proper documentation.
- v. The County Government risk tying up funds in procurement of excess murram and non-adherence of the set maximum level.

## **Recommendations**

- i. The County Government should only order materials as required and avoids tying up scarce funds with stocks that are not required presently. Management should set up a proper monthly system for all stocks procured.
- ii. Reorder levels should be adhered to and management should ensure that stocks of murram and other materials are properly accounted for.

### **1.2.3 Prepayments**

#### **1.2.3.1 Outstanding Imprests**

- i. Treasury Circular No.16 of 2nd November 1970 and No.2 of 21st March, 1983 and Government Financial Regulations and Procedures, require that imprests issued be surrendered within 48 hours following return from official duties. The same regulation stipulates that imprests must not be authorized unless and until all previous imprests have been surrendered and fully accounted for. Imprests must never be treated as loans or personal advances and where one has failed to account for an imprest on the due date, his/her entire salary must be deducted until the imprest issued is fully recovered.
- ii. Audit of imprest issued to various County Government officers revealed that the County Government issued imprest warrants totalling to Kshs.260,807,595 in the financial year under review while surrender of the vouchers amounted to Kshs.229,518,406.00 leaving an outstanding balance of Kshs.31,289,189.00.

The following was also noted:-

- i. Imprest register was not made available for review.
- ii. Imprests are being controlled from different points by different officers in the County; as a result, the completeness of records on imprest cannot be ascertained.
- iii. Surrender of imprest is not done on time after completion of the intended purpose.

- iv. Cases of multiple imprests are very rampant. The County Government has not complied with the requirements of processing and issuance of imprest as envisaged by the financial regulations.

## **Recommendations**

- i. All imprest issued cannot be properly controlled without an imprest register therefore the County Government should open up an imprest register. This should preferably be centralized for easier monitoring.
- ii. Payment Vouchers should be prepared and maintained. This will ensure that reference records are available for any future review.
- iii. Imprest should be surrendered in time and in accordance with the requirements of the Government Financial Regulations and Procedures.
- iv. Imprest surrendered should be properly accounted for under the relevant accounting head.
- v. The County Government should familiarize itself with the Public Finance Management Act, 2012 and the Government Financial Regulations and Procedures.

## **2.0 NON-CURRENT ASSETS**

### **2.1 Land and Buildings**

#### **2.1.1 Non Maintenance of Updated Fixed Assets Register**

The County Government did not maintain a proper fixed assets register for her non-movable assets. The register provided revealed the following anomalies:-

- i. Values of each property were not indicated.
- ii. Properties did not have the sizes/acreage.
- iii. Some properties are indicated as unsurveyed .

It was therefore not possible to confirm the actual land owned by the Nairobi City County. Further, without the land being surveyed and sizes determined the County Land is prone to theft and loss to speculators and land grabbers.

## **Recommendations**

Management should ensure that the properties owned by the County Government are:-

- i. Properly surveyed and demarcated
- ii. Their sizes should be properly known and indicated.

- iii. The properties should be valued.
- iv. Ownership documents should be obtained and secured.

### **2.1.2 Construction of Perimeter Walls**

- (i) As reported in the special report in December 2013, perimeter walls were constructed in various County properties to protect County land from grabbers. However, the survey department did not survey the land before commencement of construction. Site visit to some of the areas showed that private developers had encroached on some of the properties and construction of the walls was done inside the beacons.
- (ii) In Lang'ata Primary School, a portion of land was allocated to a private developer. Allocation records were however not made available.
- (iii) At Madaraka Primary School; the land has been encroached on and boundaries interfered with. Allocation records were also not made available.
- (iv) In Nairobi River Primary School; the land is encroached on and allocation records are not available.

### **Recommendations**

Management should ensure that the properties owned by the County Government are:-

- (i) Properly surveyed and demarcated.
- (ii) Their sizes should be properly known and indicated.
- (iii) The properties should be valued and,
- (iv) Ownership documents should be obtained and secured.

### **2.1.3 Allocation of County Land to Private Developers**

The then defunct City Council of Nairobi allocated various parcels of land to private developers. Some of the developers have since demolished properties previously owned by the defunct Council. The process of allocating the land to private developers did not appear transparent as no documents were available for verification.

Some of the land issued to private developers included;-

- i. Highridge Health Centre; the health centre was demolished and the parcel of land allocated to private developers. Allocation records were not made available.
- ii. Nanyuki Roads Store and Depot; the land was reserved for road maintenance materials. It was demarcated and 1.227Ha hived off and allocated to a petroleum firm. It was further noted that the depot lost materials estimated at Kshs.22M

- stored in the demarcated land and two offices which have since been converted into private offices by the beneficiary firm.
- iii. It was noted that due to this interference numerous breakages and theft have been reported which has occasioned loss of unconfirmed amounts to the County.
  - iv. The parcel of land left is not sufficient to store the building materials.
  - v. There is no evidence that the consent of the then Minister of Local Government was sought as per requirements for Local Government Act Cap.265.

### **Recommendations**

- i. The County Government should develop a more transparent way of allocating its land to private citizens.
- ii. Irregular allocations should be revoked and officers responsible held to account.
- iii. Both the officers who allocated the land and the company that was allocated the land should make good for the loss of materials worth Kshs.22 million.

#### **2.1.4 Irregular Allocation and Disposal of County Land LR. No.209/2531/1**

- i. The above land, now occupied by Highways Stores was originally allocated to the then Municipal Council of Nairobi title No. I.R.4786, L.R No. 209/2531 for a term of 99 years from 1 October, 1929 to 1 October, 2028 measuring 20.5acres. On 18th June, 1952 the Kenya Meat Commission was allocated part of the land measuring 2.5 acres and the rest remained (18 acres) with the Council. On 10 October 1969, 9.5 acres was allocated to St. Peter Claviers' and Muthurwa Primary Schools. A visit to the site showed that portion of the remainder of the land 8.5 acres has been allocated to unknown private developers as follows:-
  - Part of Country Bus Station phase 2
  - Part of the Nairobi City County depot
- ii. The county did not produce the following documents to show how the private developers were allocated the land:-
  - Consent of the then Minister for Local Government in line with Cap 265 (5) (a), and (b)
  - Planning committee minutes.
  - Full council minutes approving the same.
  - Proof of payment of annual lease fees.
  - Other relevant documents to support the propriety of this demarcation and lease.

## Recommendations

- i. The County Government should develop a more transparent way of allocating its land to private citizens.
- ii. Irregular allocations should be revoked and officers responsible held to account.

### 3.0 CURRENT LIABILITIES

#### 3.1 Pending bills

- i. During the year under review, the County Government had pending bills totalling to Kshs.53,312,376,122 as at the closure of the financial year 2013/2014 compared to balances in the previous year 2012/2013 Kshs.11,069,683,000. This represents an increase of 381.6 % which cannot be confirmed as follows:-

<b>Pending Accounts Payable Statutory Deductions</b>	<b>Total Kshs</b>	<b>Supported (Kshs)</b>	<b>Unsupported (Kshs)</b>
Unionisable employees	5,304,881,864		5,304,881,864
Amounts due to National Government entities	5,269,359,533		5,269,359,533
Others	171,766,526		171,766,526
<b>Total</b>	<b>10,746,007,923</b>	<b>-</b>	<b>10,746,007,923</b>
<b>Pending Accounts Suppliers of Goods and Services</b>	<b>Total Kshs</b>	<b>Supported (Kshs)</b>	<b>Unsupported (Kshs)</b>
Construction of buildings	57,244,857	57,244,857	-
Construction of civil works	329,009,497	329,009,497	-
Supply of goods	1,386,626,761	1,378,637,246	7,989,515
Supply of services	4,541,313,704	1,734,974,374	2,806,339,330
<b>Total</b>	<b>6,314,194,819</b>	<b>3,499,865,974</b>	<b>2,814,328,845</b>
<b>Long Term Liabilities</b>			
<b>Long Term Loans</b>			

Amounts due to third parties	7,249,419,204		7,249,419,204
<b>Total</b>	<b>7,249,419,204</b>		<b>7,249,419,204</b>
<b>Other Pending Payables</b>			
<b>Contingent Liabilities</b>	29,002,754,176	0	29,002,754,176
<b>Total</b>	<b>29,002,754,176</b>	<b>0</b>	<b>29,002,754,176</b>
<b>Grand Total</b>	<b><u>53,312,376,122</u></b>	<b><u>3,499,865,974</u></b>	<b><u>49,812,510,148</u></b>

- i. A committee on pending bills was formed by the County Governor to scrutinize the authenticity of these pending bills which had all the documents relating to accounts payable hence it was not possible to confirm the propriety of these expenditures.
- ii. Construction of buildings and civil works balances have been supported leaving all the other balances under this component as unsupported.
- iii. In addition, no individual creditor's ledgers and movement schedules were maintained by the County Government. Supporting schedules on suppliers' balances for goods and services and other categories of pending bills were not availed for audit purposes.
- iv. Due to failure to maintain proper accounting records, it is not clear how the bills arose.

The amount of pending bills far outstrips the total budgetary allocation for the City County in a year. Furthermore the growth of the bills by almost 400% in one year is practically not possible.

### **Recommendations**

- i. Immediate action should be taken to investigate the source of the pending bills that have increased by Kshs.42 billion in one year.
- ii. The National Treasury should take note of the huge bill before it gets out of hand, considering that the bills are not supported with any work done.
- iii. Those culpable for increased unsupported bills should be held to account.



## **3.2 Suppliers of Goods and Services**

### **3.2.1 Failure to Produce Tender Documents for Goods, Works and Services**

The County did not produce all the tender documents requested for audit verification. Tender documents for a sample ten (10) contracts were not produced for audit verification. It was not possible to confirm whether laid down public procurement procedures were followed in execution of the concerned contracts. It is therefore possible that no supplies were made.

In absence of the tender documents, it was not possible to determine the amounts involved.

### **Recommendations**

- i. Management should ensure that procurement records are properly maintained for future reference.
- ii. Officers responsible for the contracts should be made to account for the amount that is not accounted for.

### **3.2.2 Direct Procurement of Modernization and Upgrading of Existing Three Lifts**

An award to service, modernize and upgrade lifts at City Hall Annex was given to a firm at a sum of Kshs.28,817,512.00 which has been in poor condition through direct procurement. The following has been observed:-

- i. The lifts are always non-functioning and cases of accidents to staff and clients have been observed.
- ii. A down payment of Kshs.14,481,990 was paid on 28 February, 2014 with only a proforma invoice.
- iii. The payment of Kshs.14,481,990 was not supported by pre and post Electrical/Mechanical engineers report and progress reports.
- iv. Further, the contract was for a period of thirty six (36) months with notification of award given on 11 December, 2013.
- v. A site visit revealed that the lifts have never been repaired and the problem still persists. The contract period is almost elapsing with no tangible improvement.
- vi. The County Government did not produce a record of total payments made towards repairs and maintenance of the lifts during the 2013/2014 financial year. Consequently the total cost so far expended on the lifts cannot be ascertained.
- vii. In absence of the supporting documents and schedules, it was not possible to confirm the propriety of the expenditure while the failure to provide

- mechanical/electrical engineers reports cast doubts on the quality and extent of works done.
- viii. It was not possible to confirm whether the County Government got value for money from the direct procurement. Further the County was in breach of Section 74 of the Public Procurement and Disposals Act (Rev.2010).
  - ix. The contract period is over and there is risk that the services will be not rendered. Payments made without proper documentary support may expose the Government to possible frauds and loss of funds.

This is contrary to Section 149(20) of the Public Finance Management Act (2012), requires that the respective government entity should have adequate systems and processes in place for management of public funds.

### **Recommendations**

- i. All procurement should be supported with adequate documentary evidence. These documents should be available for future reference and review.
- ii. Payments should be supported by completion certificates and not proforma invoices. Any deviation from this should be properly supported in accordance with the law.
- iii. The County Government should ensure that procurement is done in accordance with the law.
- iv. Necessary steps should be taken to ensure that all funds expended are done so legally and for the maximum benefit to the public.
- v. Officers who violate procurement laws and regulations should individually be called to account in accordance with the law.

### **3.2.3 Irregular Payments for Legal Services**

The following irregularities were observed in payment of legal fees:-

- i. The Nairobi City County paid Kshs.30,000,000 on 7 January 2014 to a legal firm for legal services.
- ii. The legal fee HC.Petition No.486 of 2013 Nairobi Metropolitan PSV SACCO LTD vs. County Government of Nairobi was quoted as Kshs.92,800,000 but was however revised down to Kshs.30,000,000 after negotiations.
- iii. The Nairobi City County did not explain the basis of the negotiation and revising the sum by 68% of the contract sum.

- iv. The payment of the legal services is guided by Advocate and Magistrates Remuneration Act, therefore it was not clear why the advocate quoted Kshs.92,800,000 then revised downwards to Kshs.30,000,000.
- v. This is an indication that the Nairobi City County entered into a contract without due diligence and proper review or advice from the legal department.
- vi. Tender documents and prequalification for the service were not presented for audit review.
- vii. There seems to be laxity in the legal department to study the contracts and advise the County Government appropriately.
- viii. The authenticity of the payments in respect of Legal services of Kshs.30,000,000 cannot be confirmed and the adjustment of the legal fee note by 68% could not be explained. Payment without proper documentation exposes the Government to possible fraud.

This is contrary to Section 30 (3) of Public Procurement and Disposals Act, (Rev.2010) which states that Standard goods, services and works with known market prices shall be procured at the prevailing market price. Further, Section 30 (4) of Public Procurement and Disposals Act, (Rev.2010), states that Public officials involved in transactions in which standard goods, services and works are procured at unreasonably inflated prices shall, in addition to any other sanctions prescribed in this Act or the regulations, be required to pay the procuring entity for the loss resulting from their actions.

### **Recommendation**

- i. All payments should be made when proper documents are available and properly authorized/approved.
- ii. Documents to show the negotiations should be properly kept and maintained for future reference.
- iii. A review of legal fees by 68% is quite substantial and reflects a failed system. The County Government should set systems that ensure that public funds are expended in accordance with the law and for the benefit of the residents.

#### **3.2.4 Street Lighting Installation along Olalua Ridge Karen**

The contract for Street Lighting Installation along Olalua Ridge Karen Phase I – CCN/CE/Q169/2010-2011 was awarded to a company on 19 August, 2011(Ref DOP/JOK/Min.04:15/10-11/ab/992/2011 at a contract price of Kshs.6,439,508. According to the contract agreement, the works were to be completed within a period of six weeks. Perusal of documents for the contract revealed the following:

- i. The contract document was not dated,
- ii. Tender committee minutes indicated that quotations were received from four bidders. There was no evidence of how the four bidders were identified and invited which was contrary to the provisions of Public Procurement and Disposal Act, (Rev. 2010).
- iii. One of the members of the evaluation committee confirmed that she did not sit in the tender evaluation meeting as indicated, which implies that the information provided is not correct.
- iv. The inspection and acceptance of works was dated 30 October 2013. No explanation was provided for the delay of completion works by seventy three weeks.

The County Government contravened the provisions of the Public Procurement and Disposal Act (Rev.2010) in procuring the works. It was not possible to ascertain whether the County got value for money.

### **Recommendations**

- i. The county management should comply with the requirements of the Public Procurement and Disposals Act (Rev.2010) and the Public Financial Management Act, (2012).
- ii. Management should ensure that works are always carried out in accordance with the contract to protect public position.
- iii. Appropriate action should be taken against officers who may have failed to follow laid down procedures in procurement of the works and its supervision.

### **3.2.5 Doubtful Supply and Delivery of Motor Vehicle Spare Parts**

The following payments were made for supply and delivery of motor vehicle spare parts for transport/garage section.

<b>Voucher No.</b>	<b>Date Paid</b>	<b>Cheque/ Ref No.</b>	<b>Amount (Kshs)</b>
1210-4129	24-Oct-12	46302	988,000
1210-4130	24-Oct-12	46303	696,000
1210-4131	24-Oct-12	46304	680,000
1210-4131	24-Oct-12	46304	680,000
1302-0271	10-Jun-13	102	1,986,120
1302-0273	10-Jun-13	101	1,467,970
1303-0123	17-Jul-13	509	727,312
			<b>7,225,402</b>

Examination of the payment vouchers revealed the following in respect of supply and delivery of motor vehicle spare parts:-

- i. Payment vouchers supplies did not have invoices, delivery notes and inspection and acceptance report. Proforma invoices only were attached.
- ii. Further, the County procured the spare parts through direct procurement process contrary to Public Procurement and disposals Act, (Rev.2010) Sec.74.
- iii. A visit to the Transport depot showed that the deliveries of these spare parts were not entered in the bin cards. Failure to take into charge the materials purchased can lead to misuse of them. Further, there was no value for money.

### **Recommendations**

- i. The County management should ensure that all payments are supported by documents.
- ii. The stock of spare parts paid for should be accounted for in full.
- iii. The County Management should explain why the spare parts were purchased without the involvement of the Chief Mechanical Engineer and how the fleet department determined the re-order level.
- iv. Those involved in procurement of the above spare parts resulting to a possible loss of Kshs.7,225,402 should be held accountable as per Section 30(3) of the Public Procurement and Disposals Act (Rev.2010).

### **3.2.6 Unaccounted Drugs, Non-Pharmaceutical and Food Items Mbagathi District Hospital**

- i. Examination of stores records at Mbagathi District Hospital revealed that the internal controls were weak and the physical count of various stock items differed with the actual balance in the Stock cards (Bin cards).
- ii. Analysis of different drugs and non-pharmaceutical items could not be quantified in monetary terms as the unit cost was not indicated in the stock card.
- iii. Quantified food items revealed a total of Kshs.64,824,092 as unaccounted for stock. No explanation was given on the variances/discrepancies.

### **Recommendations**

- i. The management should ensure that all the stock is fully accounted for.
- ii. Proper controls should be put in place to ensure accountability of the stock items.
- iii. The officers responsible for the unaccounted for stock should be held liable.

### 3.2.7 Unaccounted drugs at Mama Lucy Kibaki Hospital

- i. Examination of stores records at Mama Lucy Kibaki Hospital revealed that the internal controls were weak and the physical count of various stock items differed with the actual balance in the Stock cards (Bin cards).
- ii. Analysis of different drugs and non-pharmaceutical items could not be quantified in monetary terms as the unit cost was not indicated in the stock card as detailed below:-

<b>Drugs Store Cards Not Agreeing With Bin Cards</b>				
<b>Card No.</b>	<b>Drug</b>	<b>Card Balance</b>	<b>Physical Balance</b>	<b>Un Accounted</b>
678172	Amoxi Clar 600 Mg	30	18	12
672579	Amniphyline 250 Mg/MI/Injection	60	56	4
672578	Atracurium 50 Mg Injection	40	55	15
678184	Beuzyl Pencillin 5 MU	200	150	50

- iii. No explanation was given on the variances/discrepancies.

### Recommendations

- i. Management should ensure that all the stock is fully accounted for
- ii. Proper controls should be put in place to ensure accountability of the stock items.
- iii. The officers responsible for the unaccounted for stock should be held liable for misusing stock of medicines.

## 4.0 LONG -TERM LIABILITIES

### 4.1 Long Term Loans

- i. The defunct City Council of Nairobi obtained a loan of Kshs.5 billion from Equity Bank which was charged a transaction fee of Kshs.50 million. The Loan was meant to cater for payment of outstanding statutory debts which were attracting huge interest charges and was repayable in sixty (60) months installments of Kshs.333,333,333.4 payable every quarter at an interest rate of 10% P.A. However the contract spelt out that the bank could vary interest from time to time, subject to prior notice in writing. A letter dated 26 September 2012 from Equity bank revised the interest rates from 24% to 20%.
- ii. A consultant was contracted by the Auditor-General to carry out forensic audit of pending bills. The consultant confirmed the existence of Kshs.2,433,067,465 in pending bills. Subsequently an amount of Kshs.2,433,067,465 was approved for payment. It was established that the County has defaulted in the principal loan

repayment and this may attract additional penalties. The outstanding balance as at 30 June 2014 was Kshs.2,970,688,867.47.

- iii. Subsequent to the year end, the Kenya Commercial Bank purchased the loan at Kshs.3,300,000,000 and a Deed of Assignment was signed on 10 September 2014. From the bank statement of Equity bank and confirmed bank balances, the outstanding loan amount was Kshs.2,824,964,790 resulting to unexplained variance of Kshs.475,035,210. Further the Kenya Commercial Bank is to be paid a negotiation fee of 1% on the outstanding balance and the interest rates applicable is 18% plus a default interest of 6%. A letter dated 19 August 2014, was silent on the basis of the interest rates (Fixed, Floating or reducing balance) and the same is excluded in the deed of assignment.
- iv. Analysis of the bank loan revealed that out of the Kshs.5 Billion borrowed, accrued interest paid was Kshs.2,384,799,883.75 and the principal repayment was Kshs.2,619,078,522 (Kshs. 5,003,878,406 already paid) leaving unpaid balance of Kshs.2,824,964,790. The County has defaulted in the repayment of the loan leading to increased interests on the outstanding balance. Further the loan was supposed to pay off statutory creditors and other approved creditors. However, from records available the outstanding statutory creditors' balances remain high, an indication that they were never paid.

### **Recommendations**

- i. The County Government should adhere to the legal requirements for borrowing as envisaged in the Public Finance Management Act, 2012.
- ii. Non-compliance with the legal requirements makes the loan expensive to finance and repay. Further this does not augur well in service delivery to the public.
- iii. The County management should ensure that the loans are paid on due time to avoid additional interests. Further, the buying of Kshs.3,300,000,000 by KCB being more than the existing loan balance from Equity Bank by Kshs.475,035,210 should be properly supported. The basis of interest rates of 18% should be well spelt out in the Deed of Assignment.

### **4.2 Other Contingent Liabilities**

- i. During the year under review, the County Government had pending bill's totalling to Kshs.29,002,734,176 being contingent liabilities.
- ii. In addition, no Individual Creditor's ledgers and movement schedules were maintained for the contingent liabilities.
- iv. The schedule or composition of the Contingent liabilities was not disclosed.

## **Recommendations**

- (i) A proper record of the contingent pending bills should be maintained.
- (ii) The details of the pending bills should be detailed enough to explain the reasons for the anticipation of the bills. Proper records should be maintained for each case.

## **5.0 EXPENDITURE**

### **5.1 Unsupported Payment Vouchers**

The following payment vouchers were not supported and the propriety of the expenditure could therefore not be ascertained.

#### **5.1.1 Ministry of Public Health**

- i. Examination of payment vouchers for supply of goods and services to Ministry of Public Health totalling to Kshs.39,527,402.00 payable to different firms for supply of medical equipment, surgical materials, patients cards, laboratory chemicals and laboratory equipment were not supported with delivery notes.
- ii. Furthermore, the items were not supplied in accordance with the Local Purchase Order (LPO). It was noted that the prices indicated were inconsistent with the unit prices in the LPO, and it was also observed that units indicated were different from the units delivered and invoiced.
- iii. A statement of issuance voucher (SIV) was also not available, which implies that goods may not have been bought, taken on charge and distributed to respective offices.

#### **5.1.2 Ministry of Environment**

Examination of payment vouchers for supply of goods and services to Ministry of Environment and Sanitation totalling to Kshs.53,679,754.42 revealed the following:

- (i) The amounts were paid to several firms for hire of machinery, provision of insurance cover, hire of garbage collection etc.
- (iii) The suppliers paid for the services were not prequalified
- (iv) Payment for garbage collection amounting to Kshs.2,062,681 was not supported with weigh return summary.
- (v) Amounts of Kshs.7,109,216 were not supported by invoices.

This is contrary to Section 149 (20) of the Public Finance Management Act, (2012) which requires respective government entity to have adequate systems and processes in place for management of public funds.



### **5.1.3 Ministry of Public Works and Infrastructure**

Examination of payment vouchers at the Ministry of Public Works and Infrastructure totalling Kshs.44,262,748 and payable to different firms for supply of electrical materials, calseal ready-made prefix, access road drainage, supply of office furniture, painting materials, purchase of publicity sign boards, road paints, screw type bulbs for traffic signs, culverts, hardware materials, paving blocks heavy duty, cables, cleaning materials; revealed that the payments were not supported by goods receipt note or payment vouchers.

### **5.1.4 Ministry of Physical Planning, Housing and Lands**

Examination of payment vouchers at the Ministry of Physical Planning totalling Kshs.2,442,286 and payable to different firms for supply and provision of different services some of them being; Registry Index Maps, regional planners congress, payment of allowances, payments for report writing, electronic equipment were not supported with documentary evidence.

### **5.1.5 Finance and Economic Planning**

Examination of payment vouchers during the period revealed that Payment Vouchers amounting to Kshs.39,247,401.00 were not supported with relevant documents:-

- i. The payments were not supported by a copy of Registry Index Maps.
- ii. There was no reason was provided for payment of allowances for 15 days.
- iii. There was no approval of training programme.
- iv. There were no invitation letters for the training attended.
- v. There was no signed list of officers paid allowances.
- vi. There was no evidence of any form of acknowledgment for goods and services procured.

In the absence of any documentary evidence it was not possible to confirm the propriety of expenditure totalling Kshs.39,247,401 under the Ministry of Finance and Economic Planning.

### **5.1.6 Mbagathi District Hospital**

- i. Examination of payment vouchers revealed that the Mbagathi District Hospital made payment totalling to Kshs.2,003,291.00 without supporting documents.
- ii. The expenditure was incurred mainly on payment to the County Health Office, remittance of NSSF employees deductions, catering services and replacing window panes among others.
- iii. The payment vouchers lacked Miscellaneous Receipt (MR) acknowledging receipt of the funds by the County Health Office, authority to spend cash instead of use of

standing imprests, reasons for not remitting NSSF deductions on time, approval for the training program, schedule of windows replaced and other relevant documents.

- iv. Without the necessary supporting documents, it could not be established whether the expenditure was a proper charge to public funds.
- v. Further the hospital paid a total of Kshs.718,750 to two firms M/S Fanstanc Agencies, M/S Tenestone for collection and disposal of wastes, clearing of shrubs and sorting garbage.
- vi. The expenditures were committed in the vote book in 2010/2011 financial year. The management did not produce pending bills records showing the amount as not having been paid in the 2010/211, 2011/2012, 2012/2013 financial years. The management did not explain why it took four financial years to make the payments.

#### **5.1.7 Mama Lucy Hospital**

- (i) Examination of payment vouchers for supply of goods and services like liquefied petroleum gas, drugs, non -pharmaceutical items, casual wage payments among others at the Mama Lucy Hospital totalling to Kshs.1,698,489.00 were not supported with the relevant documents.
- (ii) The payment vouchers lacked inspection and acceptance committee reports, goods receipt note and other relevant documents.
- (iii) Without the necessary supporting documents, we could not establish whether the expenditure was a proper charge to public funds.

#### **Recommendations**

- i. Management should ensure that all payments are properly authorized and supported with documentary evidence.
- ii. Such payments should adhere to the existing laws on procurement and financial management.

#### **5.2 Missing Payment Vouchers**

##### **5.2.1 Mbagathi District Hospital**

- i. Payment vouchers totalling to Kshs.4,475,738.75 were not presented for audit in Mbagathi District Hospital.
- ii. It was not possible to establish whether the expenditure was a proper charge to public funds.

### **5.2.2 Mama Lucy Hospital**

- i. Payment vouchers amounting to Kshs.2,003,094 were not availed for review.
- ii. It was not possible to establish whether the expenditure was a proper charge to public funds.

#### **Recommendations**

- i. Management should make sure all payments are supported with payment vouchers and these are retained for future review.
- ii. Officers who may have been responsible for the unsupported expenditure should be surcharged for the loss of Kshs .2,003,094.
- iii. Other disciplinary process should be taken against officers who abdicate their responsibilities as they continue to earn salaries.

## **6.0 HUMAN RESOURCE**

### **6.1 Irregular Hiring of Employees**

- i. The Nairobi County Government employed fifteen new officers to serve in the county headquarters without requests from various user departments.
- ii. There were no advertisements made for the vacancies and the selection criteria was not clear, thus making recruitment process non-competitive.
- iii. There were no board resolution to acquire more human resource, appointment letters stating terms of employment for the officers were not availed for audit and verification.
- iv. Further, the County Government also employed twenty five (25) senior officers without user department requisition. Mostly they were employed in the Planning and Environment sectors.
- v. Generally there is no skill and needs assessment in the human resource department to determine the number of employees required and the current status.

#### **Recommendations**

- i. Management should carry out a skill needs assessment and ascertain the current status so as to determine human skills requirement.
- ii. Staff recruitment should be carried out in a transparent manner, and as envisaged by the Kenyan Constitution.

## **6.2 Non-Remittance of Provident Funds, LAPTRUST and PAYE deducted**

- i. A schedule provided for statutory deductions from employees revealed that the County Government was not remitting the statutory deductions to the relevant authorities.
- ii. Outstanding amounts which includes penalties amounted to Kshs.2,844,168,193.21, Kshs.616,418,874.74 and Kshs.1,569,882,227 respectively for LAPTRUST, Provident Fund and PAYE respectively.
- iii. This is illegal and could attract severe penalties to the County Government and its Management.
- iv. The County Government is not adhering to the budget and budgetary provisions.

### **Recommendations**

- i. The county government should remit the deductions when payment is made by employees to avoid penalties.
- ii. Holding the remittances increases county debts putting it into a bad financial position.
- iii. The management should make sure they adhere to the budgetary provisions.

## **7.0 FUEL AND WORK TICKETS MAINTENANCE**

### **7.1 Misuse of Fuel and Poor Maintenance of Work Tickets**

- i. The Code of Regulations (COR) (2006) Section 11 K gives a summary of how the work tickets are maintained, which includes; fuel and oil drawn and distance travelled, with the relative work ticket number.
- iii. Evaluation of internal controls on fueling of County vehicles showed the following weaknesses:
  - Work tickets examined did not have actual date, distance covered, fuel and oil drawn amounting to Kshs.677,600.00.
  - Work tickets did not show the mileage covered by the vehicle yet the driver did not report any defect in the work ticket.
- (i) The following vehicles consumed fuel which was unproportional to the distances covered:

Registration no.	Date of fueling	Destination	Amount (Kshs)	Approximate KM covered
KAN 078P	23/04/2014	Garage	12,000	10KM
KAN 078P	23/04/2014	Garage	6,000	10KM
KAN 079P	23/04/2014	Broken down	16,000	no movement
KAN 079P	23/04/2014	Highway Nanyuki	10,000	12KM
KAN 079P	23/04/2014	not indicated	6,000	not indicated
KUL 083	30/04/2014	Nrb area – Highways	4,000	not indicated
KUL 083	30/04/2014	Nrb area – Highways	6,000	not indicated

(ii) The County contravened Section 11 K of the Code of Regulations (2006). Failure to indicate date of fueling, distance covered and the liters drawn could lead to misuse of funds.

## 7.2 Irregular use and issuance of fuel at Mbagathi District Hospital

- i. Analysis of different vehicle work tickets revealed fuel worth Kshs.80,009 was drawn. However, the fuel register was not signed by the authorising officer.
- ii. It was also observed that, Kshs.20,180 worth of fuel was drawn for GKA 419 B, however, the same was not entered in the work ticket.

## Recommendations

- (i) The County should adhere to Section K (11) of Code of Regulations, (2006).

The work ticket should indicate the following at all times;

- Fuel and oil drawn,
  - Distance covered,
  - Any defects noted.
- (ii) The drivers of the vehicles who consumed fuel un proportional to the journey covered should give an explanation to the management how the fuel was authorized and consumed. The County Government should explain how the surrender of unsupported work tickets was authorized and approved without proper support documents. The concerned officers should either account for the money of the unsupported work tickets or refund the money.
  - (iii) The amount of loss indicated above for fuel consumed amounting to Kshs.100,189 should be recovered from respective officers.

## **8.0 REVENUE RECORDS**

### **8.1 Un surrendered Parking Revenue Books**

- i. Examination of Local Authorities Integrated Financial Management Systems (LAIFOMs) revealed that the County had outstanding car park books amounting to Kshs.20,268,580.00 issued to various revenue collectors not fully accounted for.
- ii. Failure to account for revenue will affect the budget realization which is pegged on own source revenue and National Treasury allocations which can lead to loss of revenue.

### **Recommendations**

- i. All revenue outstanding books issued should be accounted for fully,
- ii. Management should ensure that the concerned officers are held responsible for the non-surrender of the car park revenue books.
- iii. The County should show measures taken to recover the outstanding amount of Kshs.20,268,580.00.

### **8.2 Parking Income Variance**

Examination of Parking Revenue (for twelve (12) months July-June, 2014) as per daily returns - Parking Department showed a total collection of Kshs.1,680,132,742.00 while total parking revenue as per LAIFOMs amounted to Kshs.1,607,494,953.00 resulting to unexplained variance of Kshs.72,637,789.00.

### **Recommendation**

- i. The County should account for the Kshs.72,637,789.00 parking fees.
- ii. The County should prepare reconciliation between the actual amount recorded in the LAIFOMs and the receipt books used during the financial year under audit.
- iii. Officers responsible for the loss amounting to Kshs.72,637,789 should account for the loss.

### **8.3 Loss of Revenue Due to Computerization of Off Street Parking**

- i. The County computerized three off parking lots streets namely; Sunken/Uchumi, Law Courts and Bus station with 235, 223 and 59 parking slots respectively. However, examination of LAIFOMs reflected off street parking revenue of Kshs.8,539,435.00 which was 26.6% of the expected revenue of Kshs.32,054,000.00.

- ii. The difference of Kshs.23,514,565.00 between the actual revenue and expected revenue was attributed to computerization of the revenue collection system.
- iii. A visit to the three off streets parking lots revealed that the computerized system has not been working, and instead manual ticketing was being used which is subject to manipulation. Further, the street is usually double parked implying that the revenue collected should have been more than the expected revenue of Kshs.32,054,000.00.
- iv. There is no control of the revenue collection in the off street parking slots since ticketing is done manually instead of the computerized ticketing as per the contract. Further, there was no need to contract a third party as there is no value for money to the County Government.

### **Recommendations**

- i. The County should do a cost-benefit analysis on the off street parking to avoid unnecessary revenue loss;
- ii. Explanation should be given on how to make good the variance of Kshs.23,514,565.00.
- iii. Further, due diligence should be followed in the award of contract to 3rd party service providers. This will ensure that whatever decision is taken by the County is for the benefit of the County residents.

### **8.4 Inefficiencies in Sub-Counties**

A visit to two Wards revealed weaknesses in revenue collection systems as highlighted below:-

#### **i. Njiru Ward**

This Ward had five revenue collectors and one revenue supervisor during the period under review. Analysis of revenue collection data for April, May and June, 2014 indicated that each collector realized an average of Kshs.22,737.00 per month.

#### **ii. Mwiki Ward**

This Ward had five revenue collectors and one revenue supervisor during the period under review. Analysis of revenue collection data for April, May and June, 2014 indicated that each collector realized an average of Kshs.24,173.00 per month.

- i. The above average monthly revenue collection figures per collector are far below the monthly average gross salaries of the revenue collectors. Whereas the County Government is not a profit making organization, services offered by each employees of the County should justify their continued engagement, if the County is going to operate sustainably.

- ii. It was further noted that the Ward revenue supervisors travel daily to the County headquarters at City Hall to bank and surrender daily revenue collections from the Wards. From the above data daily average revenue collection for Njiru Ward was Kshs.5,789 and Kshs.6,165 for Mwiki Ward. It would cost about Kshs.1,200 per supervisor in daily subsistence and transport expense for the daily travel to City Hall which is an equivalent of about 20% of the revenue collected. Time taken by each supervisor queuing in banks is also an expense to the County.
- iii. It therefore does not make economic sense for the county to engage the staff at costs higher than the benefit they bring to the County.

### **Recommendations**

- i. The County should put measures in place to ensure efficiency, effectiveness and economy in revenue collection.
- ii. County staff resources including personnel should be efficiently utilized in provision of services.

### **Non-Provision of Accountable documents**

Accountable documents for the year 2013/2014 in the Sub Counties (cess receipts, building materials) from the following collection points were not presented for audit review:-

- i. Kamulu Shopping Centre in Ruai Ward,
- ii. By Pass in Ruai Ward,
- iii. County Cess Collection point in Ruai Ward,
- iv. Gitwamba (Kenyatta) in Mwiki Ward ,
- v. Thika Road in Kasarani Ward.

It was also noted that the above collection points though fall under Kasarani Sub County are controlled and supervised by officers from Nairobi City County Offices which negates the idea of devolving management of revenue services to the sub County level.

The Sub County Management is not able to deal with daily revenue collection problems in such areas due to the fact that decisions are made at the head office.

### **Poor Storage of Accountable Documents and Other Office Documents at Ward Offices**

- i. A visit to Njiru and Mwiki wards revealed challenges in terms of the state of the office, space and office equipment. The wards are operating in donated offices, which are in bad state and also insecure.
- ii. This poses a serious security threat to the accountable documents and other official records stored in the offices.



- iii. Housing County staff in donated premises which are insecure is a security threat, both to them and the County's accountable documents.

### **Recommendations**

- i. Management should review revenue collection structures at the wards with a view of eliminating the current inefficiencies.
- ii. The Sub-county revenue offices should be strengthened in terms of security, transport and equipment so that ward supervisors can surrender revenues at the Sub-counties.
- iii. Banking should be done at the nearest Bank instead of banking at the county headquarters to minimize cash transfer risk and queuing time.
- iv. The County Government should account for all accountable documents issued for the financial year 2013/2014 to Kamulu Shopping Centre in Ruai Ward, By Pass in Ruai Ward, and County Government Cess Collection point in Ruai Ward, Gitwamba (Kenyatta) in Mwiki ward and Thika Road in Kasarani ward.
- v. The County Government should make arrangements to have adequate and secure offices. This will ensure that both her staff and official documents are adequately secured.

### **8.5 Fake Receipts in Circulation**

- i. A field visit to various Sub Counties revealed that the County had fake licenses and seasonal tickets in circulation.
- iii. A sample of confirmed fake receipts amounting to Kshs.139,500.00 was noted.
- iv. The County could be losing revenue occasioned by poor monitoring of accountable documents.

### **Recommendations**

- i. The County should do a routine inspection of the licenses/receipts and seasonal tickets in circulation. Traders with fake receipts and licenses should be tracked down to establish the source and seal the loophole.
- ii. The County should follow up on the above sample of Kshs.139,500.00 and revoke their licenses/ receipts and seasonal tickets.

### **8.6 Irregular Allocation of Loading Zones**

- i. An audit of the documented loading zones revealed that the County issued four hundred and one (401) loading zones to various buildings within the County.

Documents to verify how the loading zones were requested, approved and issued were not produced for audit verification.

- ii. The allocation of loading zones should be under the sector of Public Works and Infrastructure and not Finance Administration and Planning as it has been. Sample of loading zones issued during the year showed that the Accountant in charge of car park was issuing the loading zone. A letter authorizing the officer to do that was not provided for audit.
- iii. Paid up loading zones for the period ended 30 June, 2014 totaled to Kshs.182,753,652.00 against expected income as per the allocated loading zones of Kshs.224,000,000.00, leading to uncollected revenue of Kshs.41,246,348.00.
- v. Among the paid up amount were loading zones slots worth Kshs.9,330,000.00 captured as paid up but lacked LAIFOMS receipt no./Bill No. thus casting doubts as to whether the income was actually realized as tabulated below:-

<b>Loading Zones Slots Without Receipt Nos/ Bill Nos</b>				
	<b>Allotee</b>	<b>Street</b>	<b>Amount Paid (Kshs).</b>	
1	Kenya Commercial Bank	Biashara St	200,000.00	1
2	Laico Regency Hotel	Off Loita St	1,200,000.00	6
3	Equity Bank	Kimathi Lane	280,000.00	not indicated
4	Standard Chartered Bank	Koinange St	360,000.00	not indicated
5	Prime Bank	Ukwala Rd	400,000.00	2
6	OlkejuRonkai	Kaunda St	50,000.00	not indicated
7	KBC	Ngara Rd	200,000.00	1
8	Teq System	Tubman	200,000.00	1
9	Diamond Palace Hotel	Eastleigh	200,000.00	1
10	Ministry of Sports Culture	Moi Avenue	1,000,000.00	10
11	Co-Operative Bank	Mama Ngina	200,000.00	1
12	Equity Bank	Kenyatta Avenue	400,000.00	2
13	Equity Bank	Kenyatta Avenue	240,000.00	2
14	China Jiangxi	Monrovia Avenue	1,800,000.00	9
15	China Jiangxi	Monrovia Avenue	400,000.00	2
16	China Jiangxi	Monrovia Avenue	2,200,000.00	11
		<b>Total</b>	<b>9,330,000.00</b>	

- vi. The process of identifying who deserves a loading zone and who is not appears casual and open to abuse. The County may be losing a lot of revenue for various loading zones because of the poor administration of the process. There appears to be no fairness in the allocation of the loading zones.
- vii. The issuance of the loading zones is not being approved by the County secretary or her nominated representatives, implying that any contract entered into is not binding. There are no records to show how the loading zones were awarded, which implies impropriety.

### **Recommendations**

- i. A proper record of revenue collected on loading zones should be maintained. Revenue collected so far should be fully accounted for by the officer authorizing the issuance of the loading zones.
- ii. Proper criteria for awarding the loading zones should be developed and adhered to.
- iii. Loading zones applications should be approved by a senior officer and preferably the County Secretary.
- iv. Any uncollected amounts on the loading zones should be analyzed and collected.

## **9.0 GARBAGE COLLECTION - ENVIRONMENT AND NATURAL RESOURCES SECTOR**

### **i.1 Missing Payment Vouchers- Garbage Collection**

- i. Review of available expenditure records revealed that the County incurred expenditure on garbage collection and transportation costs amounting to Kshs.578,479,011. However payment records for expenditure totalling Kshs.441,207,890 were not produced for audit verification.
- ii. In absence of supporting expenditure records, it was not possible to ascertain the propriety and occurrence of transactions contained in the missing payment vouchers.

### **Recommendations**

Management should ensure that all expenditure records are properly maintained for full accountability of public funds.

### **9.2 Failure to Implement Capital Projects under Environment and Natural Resources Sector**

- i. During the 2013/14 financial year, approved development expenditure was Kshs.336,000,000 under the Environment and Natural Resources Sector.

- ii. Major projects under the allocation included civil works at Dandora dump site and procurement of 34 refuse collection trucks all with an allocation of Kshs.302,000,000.
- iii. It was however noted that the County acquired 25 trucks at a cost of 247,600,000. The balance of Kshs.88,400,000 was spent on other recurrent activities.

### **Recommendation**

Management should ensure that development projects are fully implemented to ensure sustainable environmental management.

### **9.3 Irregular Payments of Garbage Collection Contractors**

- i. Various companies were contracted to collect and transport garbage within the eighteen zones of the County. Examination of payment documents revealed that some companies contracted to collect garbage in particular zones were in unclear circumstances engaged to collect garbage in zones other than those allocated during the procurement process.
- ii. The companies were however paid at rates indicated in their contract letter irrespective of the zones they collected garbage. As result, the companies ended up being paid at higher rates even for zones whose rates were lower due to proximity to the Dandora dump site.
- iii. A private company was contracted to collect garbage from Embakasi East at Kshs.1,680, Dagorreti North at Kshs.1,800, Westlands Kshs.1,595, and Madaraka at Kshs.1,650 per tonne. Analysis of payments to the Company for the month of July 2013 indicated that the company collected garbage from other zones allocated to other contractors.
- iv. The Company was paid at a flat rate of 1,800 per tonne despite the fact that some of the zones had lower rates. As a result, the Company was irregularly paid Kshs.1,660,610 during the month.
- v. This implies that the Company may have been paid at least Kshs.19,927,320 during the financial year.
- vi. The County Government had contracted twenty four companies during the period under review.

### **Recommendations**

- i. Contracts for the collection and transportation of garbage should be based on proper evaluation of capacities of the companies that deliver.
- ii. The companies should therefore adhere to the terms and conditions of the contracts.

- iii. Contractors engaged in the collection of garbage should be paid in accordance to the terms and conditions in their contracts.
- iv. The irregular payment of Kshs.1,660,610 paid to the above company should be recovered.

#### **9.4 Operations at the Dandora Dump Site**

Physical verification of the operations at the Dandora dump site during the audit exercise revealed a number of weaknesses. These include:

- i. Lack of standby power back up for the weigh bridge in cases of power failures
- ii. Lack of adequate protective tools and equipment for the staff working at the dump site
- iii. Lack of offices, computers and safes for keeping cash. It was indicated by the Deputy Manager that they sometimes receive students from universities and colleges on field studies and therefore require a classroom to accommodate the groups during discussion sessions.
- iv. Most of the County heavy equipment used in dumpsite are grounded and the County relies heavily on hired equipment.
- v. Lack of proper facilities may compromise effective operations at the dumpsite.

#### **Recommendations**

- i. Management should provide adequate facilities at the dumpsite. These include power back-ups, computers, protective equipment for staff, and adequate office space.
- ii. The grounded equipment should be repaired and plans made for acquisition of modern equipment.

### **10.0 I.T. ENVIRONMENT**

#### **10.1 Irregular Supply, Implementation and Maintenance of an Electronic Revenue Collection & Payments Solution to the County**

The above contract was awarded to a private company through contract No. NCC/ICT/RFP/114/2013-2014 at a Bid sum of Kshs.23,200,000 and a recurrent operational cost of 4.5% of total actual revenue collected through Jambopay. Most of the procurement documents have not been availed to us despite numerous requests for them. Our audit was therefore based on information obtained from a payment voucher made to the Advocate who provided legal services to the County Government on this issue. Based on this scanty information, we have reviewed the contract and made the following observations.

- (i) Tender evaluation minutes of 16th December, 2013 indicated that bids were received from eight (8) bidders. At the preliminary evaluations the contracted firm indicated that

it was teaming up with a commercial bank and provided a letter to that effect, the bank subsequently indicated in writing that they only had one teaming agreement with another firm (bidder). This raises doubt on whether contracted company genuinely complied with the mandatory requirement of a teaming agreement.

- (ii) Bidders who never met this criterion were disqualified at the preliminary evaluation evaluation. The capability of the contracted company executing the contract without partnering, which they needed, should have been considered by the evaluation committee as a potential weakness and hence disqualified.
- (iii) Three bidders passed the technical evaluation. A financial evaluation was to be a key determinant of the score. According to the evaluation minutes, financial bid projection for year one (1) was KShs.279,226,074.50 and the contracted firm's was Kshs.365,568,966.19 resulting into a material difference of Kshs.86,342,891.69. This was not discussed further in the financial evaluation.
- (iv) The implementation fee of Kshs.23,200,000.00 was to be paid the contracted firm on signing of the agreement. It is not clear how this figure was arrived at. This information/breakdown should be disclosed to assist in determining the effective contract price.
- (v) Annual transaction cost (4.5%) of the service was based on the total revenue collected for the year 2012/2013 in which Nairobi City County actual revenue collected was Kshs.7,674,865,915. Since the county is able to collect this much through its own effort, then the cost of the contract should have been a percentage of the incremental revenue over and above the average actual revenue collected over an agreed period of time. Basing the cost of the contract on the total Revenue would mean that the contracted firm will gain both from the Nairobi City County own effort\efficiency and convenience brought about by the system.
- (vi) Further, other than the revenue collected, there are other factors which affect the County revenue e.g. fees revision, waiver of interest which was not factored into the contract.
- (vii) The rates provided by the firm of 4.5% are relatively high compared to the other two bidders who passed the financial evaluation. Had the county government engaged the services of Kenya Revenue Authority (KRA), it would have ceded 2.5% of its revenue only. Competitive rates offered by other service providers 2.5% of were not considered. Review of the cost impact using year 2012/2013 actual revenues established that the contracted firm's rate of 4.5% will see the County spend more by Kshs.767,486,591.50 in five (5) year contract period compared to 2.5% of the other bidders as tabulated below:-

<b>Company</b>	<b>Estimated Revenue</b>	<b>Recurrent cost</b>	<b>Annual Cost</b>	<b>Total Estimated cost in year 5</b>
	<b>Kshs.</b>		<b>Kshs.</b>	<b>Kshs.</b>
1	7,674,865,915.00	4.50%	345,368,966.00	1,726,844,830.88
2	7,674,865,915.00	2.50%	191,871,648.00	959,358,239.38
3	7,674,865,915.00	2.5%	191,871,648.00	959,358,239.38

- (i) It was not clearly stated in the contract how the system is to be audited to ascertain its internal controls, efficiency and effectiveness. In case of non-availability of the service at any given time due to system or network failure, the contract indicates a turnaround time of one hour which is too long for response to be done.
- (ii) The Service Level Agreement never defined the frequency and time during which the system maintenance and upgrade should be carried out. This is necessary in order to avoid unnecessary inconvenience during peak revenue collection time.
- (iii) The termination clause of the agreement provides that either party may terminate this agreement by giving six months' notice in writing. This seems to be long especially when the contractor is not able to meet the requirements of the contract. The contract period is specified as five years. No continuity business plan seems to be in place after the expiry of the period. It is also not clear what will happen after the expiry of the period, since the county Government does not have a continuity plan.
- (iv) The County appointed a legal firm to do a review and redrafting of the contract for a sum of Kshs.1,200,000, but whose input was not incorporated in the signed contract.
- (v) A visit to the cash office revealed that the contracted firm has stationed an officer there which was not factored in the contract. This implies that all revenue collected at the cash office will automatically go through Jambopay attracting the 4.5% without any effort. Examination of revenue during the period showed discrepancies on the actual cashiers collections and that of Jambopay. The following documents should be provided to ascertain the total revenue unaccounted (Cashier shortages) for:
- i. Customer Reconciliation report
  - ii. Jambopay revenue report
  - iii. Handing over revenue sheet for Jambo pay
  - iv. Chief revenue officer's report on the shortages
  - v. Internal audit report on the same.
  - vi. Before the implementation of the new system, the Chief Revenue Officer was giving all sectors a summary of revenue collected daily indicating whether revenue has dropped

or increased. Currently it is not easy to know how much revenue has been collected by the county.

- vii. Failure to produce all the procurement documents implies that they do not exist, which is contrary to the Public Procurement and Disposal act or there was need to limit the scope of the Audit contrary to the constitution. Failure to provide teaming agreement which was a mandatory requirement implies that the evaluators did not use due diligence in the evaluation and therefore the awarding of the contract to the firm was highly irregular.
- viii. The evaluators were biased since all other bidders who never met the mandatory criteria were automatically rejected. Lack of information about the implementation fee makes it difficult to ascertain the effective contract price. If transaction cost is based on 4.5% of revenue collected through Jambopay and not incremental revenue then the County is being disadvantaged over the firm.
- ix. The County will lose Kshs.767,486,591.50 over the contract period compared to the other bidders who qualified to the financials evaluations. There is no business Continuity Plan after the five (5) years contract period. The input of the legal advisers was not taken into account. Having a resident officer in the cash office implies that the service provider will get the transaction fee without any effort.
- x. Non reconciled/explained cashier shortages means that the service provider is failing under the terms and conditions of the contract. Failure to produce the daily revenue summaries affects the performance of the sectors since officers are not able to determine their performance.
- xi. There is no value addition using the Jambopay system. The Nairobi City County entered into a contract with the service provider despite the fact that KCB had raised concern that they were not teaming with them. This could imply fraud on the part of the service provider and favoritism on part of Nairobi City County.
- xii. Since the implementation of the system, cashiers have been experiencing shortages. The passwords are known by the service providers and the cashiers have no control over the passwords and therefore their records can be tampered with. The county has not been preparing daily revenue collection summaries as previously done. With the establishment of the system it has not been possible to determine the revenue collected.
- xiii. The County Government has ceded one of its greatest activity of revenue collection. No evidence has been presented to indicate that there will be additional revenue collected. Consequently, there is likely to be loss of revenue.
- xiv. Based on work done and results obtained the contract entered into between the Nairobi County Government and the firm is void from the beginning as the company did not meet the requirements of the awarded tender. The rate of 4.5% of all revenue collected by the Nairobi City County appears to be on the higher side. No reason has been given by Nairobi City County for its failure to engage Kenya revenue Authority in its revenue collection.



- xv. The Nairobi City County entered into a contract with the firm though the company had not met the requirements of the advertisement as it did not have a teaming partner. Consequently, the contract is illegal.
- xvi. This is contrary to Sec.73A of the Public Procurement and Disposals Act provides conditions for procuring entity to use restricted tendering. This only applies if the following conditions are satisfied. (i) competition for contract, because of the complex or specialized nature of the goods, works or services is limited to prequalified contractors: (ii) the time and cost required to examine and evaluate a large number of tenders would be disproportionate to the value of the goods, works or services to be procured; (iii) there is only a few known suppliers of the goods, works or services as may be prescribed in the regulations.

### **Recommendation**

- i. Nairobi City County should therefore void the contract before the situation becomes complicated. The transaction cost of 4.5% of all revenue collected is too high compared to similar charges levied for such services by Kenya Revenue Authority in Kenya.
- ii. The fact that Nairobi County Government failed to award the companies that had charged less rates raises doubts as to the arm's length of the whole engagement. Any system that the County Government may wish to adopt must be beneficial both to the county operations and the public.
- iii. There should be adequate controls to monitor the revenue collected and deposited.
- iv. The County Government's management should revoke the contract with the firm and carry out a proper study of its revenue streams. After identification of the various sources, the county should then develop a system that has adequate inbuilt controls that will protect public good.



**Edward R.O. Ouko, CBS**  
**AUDITOR-GENERAL**

**Nairobi**

**25 May 2015**