

THE COUNTY ASSEMBLY OF NYERI



COUNTY PUBLIC ACCOUNTS COMMITTEE

COMMITTEE REPORT ON THE AUDITOR GENERALS' REPORT ON THE FINANCIAL OPERATIONS OF THE COUNTY EXECUTIVE FOR THE PERIOD 1ST JULY, 2013 TO 30TH JUNE, 2014.

DATED: 8TH OCTOBER, 2015

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Preface

Mr. Speaker Sir,

On behalf of the County Public Accounts Committee and pursuant to the provision of Standing Order 184, it is my pleasant privilege and pleasure, to present to this Assembly the Committee report on the AuditorGenerals’ Report on the financial operations of the County Executivefor the period 1st July, 2013 to 30th June, 2014.

Mandate of the Committee

The Committee derives its mandate from Standing Order 184(1) ***which states that the County Public Accounts Committee shall examinethe accounts showing the appropriations of the sum voted by the Assembly to meet the public expenditure and of such other accounts laid before the Assembly as the Committee may think fit.***

The primary mandate of County Public Accounts Committee is therefore to oversight the expenditure of public funds by departments in the County, to ensure value for money and adherence to government financial regulations and procedures. The Committee executes its mandate on the basis of annual and special audit reports prepared by the Kenya National Audit Office (KENAO).

Guiding Principles

In the execution of its mandate aforesaid, the County Public Accounts Committee is guided by core constitutional and statutory principles on public finance management, as well as established practices. These principles includes:-

- 1) Article 201 of the Kenya Constitution enacts fundamental principles that ,”.....shall guide all aspects of Public Finance in the Republic....”The Principles are,*inter alia*,that:-
 - a. Article 201(a) there shall be openness and accountability including public participation in financial matters.
 - b. Article 201(d) public money shall be used in a prudent and responsible way.
 - c. Article 201(e) financial management shall be responsible and fiscal reporting shall be clear.

The County Public Accounts Committee places a premium on these principles, among others and has been guided by them in the entire process of development of the report.

Article 226 (5) of the Kenya Constitution stipulates that:-

“If the holder of the public office, including a political office, directs or approves the use of public funds contrary to the law or instructions, the person is liable for any loss arising from that use and shall make good the loss ,whether the person remains the holder or not.”

In this regard, the Committee calls upon all Accounting Officers to take notice of this provision and act prudently to safeguard public funds from loss or face dire consequences.

Obligations of Accounting Officers

Section 149(1) of the Public Finance Management Act, 2012 provides that, “**An Accounting Officer is accountable to the County Assembly for ensuring that the resources of the entity for which the Officer is designated are used in a way that is lawful and authorized, and effective, efficient, economical and transparent.**”

This provision obligates all Accounting Officers to appear before the County Public Accounts Committee of the County Assembly to respond to audit queries in their respective Departments.

Section 156(2) of the Public Finance Management Act, 2012 stipulates that, “**If the County Executive Committee Member for Finance reasonably believes that an Accounting Officer has engaged in improper conduct within the meaning of subsection(4), the County Executive Committee Member for Finance shall:-**

- a. Take appropriate measures to address the matter in accordance with laid down procedures; or**
- b. Refer the matter to be dealt with in terms of the statutory and other conditions of employment applicable to that public officer.”**

This section empowers the appointing authority to discipline errant Accounting Officers.

Committee Membership

The Committee Members are:-

- | | |
|------------------------------|------------------|
| 1. Hon.George Baragu Mutahi | Chairperson |
| 2. Hon.Peter Kagume Kario | Vice Chairperson |
| 3. Hon.Keziah Waruinu Mwangi | Member |
| 4. Hon.Simon Mbogo Kiragu | Member |
| 5. Hon.James Kibira Ngunyi | Member |

Acknowledgment

Mr. Speaker Sir, I wish to thank the Almighty God for enabling us to carry out the whole exercise successfully.

Allow me **Mr. Speaker Sir**, to commend each Honorable Member of the Committee for their commitment and exemplary work which made the interrogation of the auditors' report and production of this report a major success.

The Committee registers its unreserved thanks to the Office of the Speaker, the Clerk of the County Assembly, the Kenya National Audit Office and all the Members of the County Assembly for their support which made the production of the report a success. Special appreciation goes to the Officer from the Kenya National Audit Office in Nyeri and the Secretariat for the good work.

The Committee would like to thank the County Secretary, County Executive Secretaries, Chief Officers of the various departments from the County Executive, Clerk of the County Assembly, Public Officers and other witnesses who appeared before the Committee and provided valuable insights on the audit queries.

The commitment and devotion to duty to all those involved in this noble task made the work of the Committee and production of the report a success. We thank each one of them.

Evidence Taken

The Committee held total of (11) sittings in which it interrogated the various Officers on the audit queries. All minutes of the Committee sittings are annexed to this report.

During its sessions, the Committee took both oral and documentary evidence and also made fact finding tours where necessary to collect additional evidence.

The fact finding tours made involved;-

- a) The project on refurbishment of Karson Photo House and Governor's Office in Nyeri Town.
- b) Projects on the non-motorized facility and the marking of the street parking spaces using concrete kerbs in Nyeri Town.
- c) The visit to Nyeri Provincial General Hospital.
- d) The visit to Karatina, Mukurwe-ini and Othaya Level IV Hospitals.

The Committee was guided by the existing procedures and modalities of operations of the Nyeri County Assembly derived from the Constitution of the Republic of Kenya, County Government Act and the Standing Orders.

Challenges Experienced

- a) Some witnesses were unwilling to give information and were reluctant to provide some documents.
- b) Attempt to get independent experts to assess works done in refurbishment and road works were not fruitful.
- c) The Committee was frustrated by some Accounting Officers who appeared unprepared and some provided casual responses.
- d) During the hearings some Officers promised to furnish the Committee with support documents which was not done.

It is the Committees' sincere hope that these challenges will be addressed.

These challenges notwithstanding, though, the County Public Accounts Committee is however proud to have discharged its mandate with honour and valor, as expected by the Kenya Constitution and the Standing Orders.

General Observations

Arising from the evidence taken, the Committee made the following general observations:-

1. Failure by Accounting Officers to respond to the management letter from the Auditor General

The Committee noted that;-

- i. The Auditor General had raised a number of issues which if the Officers responsible had responded they would not be in the audit report hence Nyeri County Executive could not have been portrayed in bad light.
- ii. The County Secretary failed since she never dispatched the management letter to the responsible departments for them to respond to the queries.

The Committee recommends that in future, the management letters should be responded to within the timelines given by the Auditor General

and that the Accounting Officers should take the management letters seriously.

2. Failure by the County Executive Committee Member (CEC) for Finance and Economic Planning

The Committee is of the view that the CEC for Finance and Economic Planning at that time failed in his advisory and supervisory role since most of the financial impropriety arose due to his failure to advise the County Executive to seek approval from the County Assembly before incurring expenditure.

The Committee recommends that the County Assembly should take action against the CEC for Finance and Economic Planning at that time.

3. Lack of prudence and value for money in projects undertaken

The Committee observed that the projects done on refurbishment of Karson House and the Governor's Office, construction of non-motorized facility and marking of parking spaces were not prudently done and that there was no value for money.

Lack of prudence is contrary to Article 201 of the Kenya Constitution which require openness, accountability, prudence and responsibility in the management of public funds and further it is in violation of section 149(1) of the Public Finance Management Act, 2012 which provides that an Accounting Officer must ensure resources are used in ways that are lawful, authorized, effective, efficient, economical and transparent.

In view of this, the Committee accordingly recommends appropriate disciplinary and prosecutorial action against the relevant Accounting Officers and other public officers responsible.

And most importantly, the Accounting Officers and all other Officers involved must face the full force of the law for violating the letter and spirit of the Constitution and regulations.

And in accordance with Article 226(5) of the Constitution of Kenya, they must bear direct personal liability for any public funds lost, wasted or misapplied by reason of their direction or under their watch. The Director of Public Prosecution, Criminal Investigation Department, Ethics and

Anti-Corruption Commission and Public Procurement Oversight Authority are invited to act accordingly to carry out investigations.

4. Pending Bills

The Committee observed that the authenticity of the pending bills could not be confirmed and that the pending bills affected subsequent budgeting.

The Committee recommends that the County Treasury should put in place sufficient austerity measures to ensure that bills are always cleared within a financial year and that expenditure is not incurred without funds being available.

Mr. Speaker Sir,

On behalf of the Committee, I now wish to table the report and urge the Assembly to adopt it and the recommendations therein.

Signed Date:

Hon.Baragu Mutahi (Chairperson, County Public Accounts Committee)

We members of County Public Accounts Committee do hereby affix our signatures to this report to affirm the correctness of the contents and support for the report:-

1. Hon.Peter Kagume Kario Vice Chairperson

2. Hon.Keziah Waruinu Mwangi Member

3. Hon.Simon Mbogo Kiragu Member

4. Hon.James Kibira Ngunyi Member

1.0 Introduction

The Auditor General's Report on the financial operations of the County Executive for the period 1st July, 2013 to 30th June, 2014 was tabled in the Nyeri County Assembly on 21st July, 2015 and consequently committed to the County Public Accounts Committee to consider and table a report within two months. In this regard, the Committee held a total of (11) sittings and fact finding tours and the following was the responses provided by various Officers, the Committee observations and the recommendations.

1.1 Audit Queries

1.1.1 Lack of I.T Policy

During the period under review, the County Government did not have in place an approved IT policy, strategic plans and policies to guide the County on Information Technology in order to improve on delivery of services to the public. The document which was availed for audit verification was a draft copy of the IT policy which had not been approved.

The Officers informed the Committee that;-

- a. They had developed an I.T policy which was in draft form and was waiting for a formal approval by the County Assembly.
- b. The County had developed and launched an IT Strategic Plan.

The Committee was provided with the draft ICT Procurement Policy.

The Committee observed that;-

- a) A draft I.T Procurement Policy was provided but was not addressing the audit query.
- b) The County Executive had not initiated the process of the development of the I.T Policy.
- c) The strategic plan was said to have been launched but was not availed to the Committee for verification.

The Committee recommends;-

- i. The County Executive should formulate the necessary I.T policy and plans and should align them with the financial and institutional resources to agreed policy objectives and programmes.**
- ii. The draft IT Procurement Policy should be approved and implemented by 31st December, 2015.**

1.1.2 Lack of Audit Committee

The County Government of Nyeri had not constituted an internal audit committee as at the time of audit to review the reports of the executive and ensure implementation of their recommendations.

The Officers informed the Committee that the County was in the process of constituting an Internal Audit Committee once the process of recruitment of the Director of Audit was concluded by the County Public Service Board.

The Committee observed that the County Executive had been reluctant in forming an Internal Audit Committee and that the reason given for the lack of the Director was not satisfactory since an Interim Secretary of the Committee could have been appointed.

The Committee recommends that the County Audit Committee should be in place by the 31st December, 2015.

1.2 Cash and Bank Balances

1.2.1 Irregular Opening and Operation of Revenue Collection Account

During the period under review, the County Government of Nyeri opened a revenue account with Equity Bank to deposit all revenue collected within the County. It closed a similar account held at KCB without any explanations. The agency agreement made available for audit between the County Government and Equity Bank Ltd on the operations of the account was not dated and hence it was not possible to know when the deal was sealed. The agency agreement was to remain in force for 2 years and shall be renewable unless and until terminated by either party. Without the effective date of the agreement, it was not possible to tell the effective dates for the beginning and end of the agreement. Further, the Nyeri County Executive did not avail the signatories and specimen signatures to the Equity revenue account. Further, terms of remission of the collected revenue to the Central Bank of Kenya were not clear and there appeared to be unnecessary delay. The regularity of the opening this account could therefore not be confirmed.

The Officers informed the Committee that;-

- a) The account was opened at Equity Bank to enable demonstration by the bank as they introduced a cashless system and once the system was confirmed satisfactory to the County a comprehensive agreement could be entered into.
- b) The KCB revenue collection account was not closed but was still running and the remission of funds to the Central Bank was still going on.
- c) The signatories to the K.C.B Revenue Account were the Acting Chief Officer for Finance Mr. Kimani and the Former Acting Chief Officer for Finance Mr. Mukira.

- d) The County Executive Committee Member for Finance had used the powers given to him by the Public Finance Management Act, 2012 in appointing the Equity Agency in collection of revenue.
- e) The signatories for the Equity Bank revenue account were the County Executive Committee Member for Finance at that time Mr. Wamwea and the former acting Chief Officer for Finance Mr. Mukira.
- f) The agreement with Equity Bank was signed in the month of March, 2014.

The Committee was provided;-

- a) With bank statements for the K.C.B and Equity Bank Revenue Collection Accounts.**
- b) Agency agreement between the County Government of Nyeri and the Equity Bank Limited.**

The Committee observed that;-

- i. The County Treasury operated a secret account in the K.C.B Bank Account since most of the Officers from the County Executive did not know the existence of the Account.
- ii. Some of the signatories of the K.C.B Bank Account and Equity Bank Account had long left the County Government.
- iii. The agreement between the Nyeri County Government and the Equity Bank had no date.
- iv. K.C.B Bank Revenue Account was operating but the Committee was not provided with information on how it was operated.
- v. Procurement regulations were not followed in procuring the services of Equity Bank Limited as an agent for revenue collection.
- vi. It was not clear how much was charged as bank fees for the services rendered by the Equity Bank Limited.
- vii. The County Government and the Equity Bank agreement was signed without a lawyer witnessing the process yet it involved huge amount of revenue.

viii. The bank statements provided for the accounts did not address the query since some were not within the financial year in question.

ix. The opening of the account at the Equity Bank was irregularly done. The Committee was not provided with the specimen signatures of the signatories to the bank accounts, Minutes of County Executive Committee Members Meeting and the terms of remission of the collected revenue.

The Committee recommends that;-

- i. Justification for opening the Equity Bank Account should be provided.**
- ii. Investigation should be done by Ethics and Anti-Corruption Commission on the procedure followed in procurement of the Equity Bank, how the accounts were operated, why the KCB Bank Account was operating despite the assertion that the Account was closed and on why only few Officers knew the existence of the KCB Bank Account.**

1.2.2 Irregular Creation of County Funds Kshs.22, 000,000.00

The County Government opened a Nyeri County Emergency Fund at Family Bank A/C No.0555000029747 during the year. A memo dated 8th May 2014 by the County Executive Secretary directed Kshs. 20million to be deposited in the Family Bank, Nyeri Branch which was done. However, the County Executive minutes authorizing the opening of the account were not made available for audit verification and the specimen authorized signatories for the account were not also availed. Further, Kshs.2 million was transferred for establishment of a Widows Empowerment Fund through the County Executive Committee in its meeting of 21st April, 2014. However, the County Executive Committee minutes were not availed to confirm the committee's approval for the establishment of this Fund. In addition no documentation was availed by the County Government of Nyeri to prove that the Widows Empowerment Fund had actually been established. Furthermore, no records were made available to show how funds from this kitty were being utilized and accounted for.

The Officers informed the Committee that;-

- a) The Nyeri County Emergency Fund Act, 2015 was in place and had been created as per the requirements of section 110 of the Public Finance Management Act, 2012.
- b) The Widows Empowerment Fund was created through a meeting of the Executive Committee Members to receive funds from both the government and the well-wishers.
- c) Draft regulations for both accounts had been developed.
- d) No amount of money had been withdrawn from either of the accounts.
- e) The signatories to the accounts were the County Executive Committee Member and Chief Officer for the department of the Special Programme.
- f) The budget for 2013/2014 financial year was passed with the provision for the funds.
- g) There were no beneficiaries.

The Committee was provided with;-

- a. A copy of bank statements for the Emergency Fund Account and for the Widows Empowerment Fund.**
- b. Correspondences in regard to Executive approval of the Widows Empowerment Fund.**

The Committee observed that;-

- i. The Widows Empowerment Fund was irregularly created since section 116 of the Public Finance Management Act, 2012 was not adhered to and the funds hadnot been included inthe budget for 2013/2014 financial year.
- ii. There was no value for money since the funds have remained in the Bank Account for two years with no beneficiary.
- iii. The County Emergency Fund had been regularized since the County Emergency Act, 2015was in place.

The Committee could not understand why there was a hurry to create the funds without the necessary regulations yet there was no beneficiary so far.

The Committee recommends that the County Executive should regularize the Widows Empowerment Fund so that the intended beneficiary can benefit and if it is not done by 31st December, 2015 the account should be closed and the funds transferred to the County Treasury.

1.2.3 Lack of a Revenue Cashbook at the County Treasury

The Nyeri County Treasury did not maintain a cashbook for recording revenue collected from the sub counties as well as other revenue collected on its behalf. This is in contravention of the Public Finance Management Act, 2012 and the Government Financial Regulations and Procedures.

The Officers informed the Committee that;-

- i. They adopted LAIFOMS in revenue collection and in itself it generates a cashbook.
- ii. The County had a cashless system of revenue collection and whatever amount was collected by cash was banked intact on the same day.
- iii. The County Treasury was currently maintaining an exchequer cashbook.
- iv. The Administrator in every Sub County usually submits to the County Treasury weekly returns' hence tracking of revenue collected is done.
- v. There were no casual workers involved in revenue collection.

The Committee was provided with the exchequer cashbook for financial year 2014/2015.

The Committee observed that;-

- i. The Government financial regulations require a manual cashbook to be maintained hence the County Treasury had not complied.
- ii. The document provided on exchequer cashbook can only be reconciled against the Controller of Budget exchequer and was not for the financial year in question hence did not address the query.

The Committee holds the opinion that the Nyeri County could be losing a lot of revenue due to lack of revenue reconciliations among the Sub Counties.

Based on the information and the documents provided by the Officers it was not possible to ascertain that the revenue collected was banked intact hence the Committee recommends that investigation should be done by Ethics and Anti-Corruption Commission in regard to revenue collection in Nyeri County.

1.2.4 Poor Cashbook Maintenances

During the period under review, the Nyeri County Government operated Seven (7) bank accounts which are, 1000171634 held at Central Bank, Nyeri County Assembly A/C No.05500026464 held at family bank, Recurrent Account No.1000171227 held at Central Bank of Kenya, Imprest Account No.01141511315000 held at Co-operative Bank, Revenue Account No.1140760319 held at Kenya Commercial Bank and a revenue account No.0110261912354 held at Equity Bank. The following anomalies were noted:

- i. The Recurrent, Development and Imprest account cashbooks were not checked by an authorized officer including the internal auditor. The cash books were balanced using pencils and had many alterations /cancellations.
- ii. A review of the bank reconciliation statement as at 30th June 2014 for one of the Accounts revealed that the statement was not signed and had payments in bank statement not in the cashbook amounting to Kshs. 75,229. It was not explained why payments cleared by the bank were not posted in the cashbook.
- iii. The Recurrent cashbook in one of the Accounts bank reconciliation statement as at 30th June 2014 reflected Kshs. 1,126,467.60 as payments in the bank statement not yet recorded in cashbook and Kshs.1,525,130.00 receipts in bank statement not in cashbook. There was no explanation provided for not recording the payment and receipts in the cash book.
- iv. The bank statement for Nyeri County imprest reflected a credit balance of Kshs.91, 024,876.15 while the cashbook reflected Kshs.16, 954,941.76 as at 30th June 2014. According to bank reconciliation statement for the period, deposits in the bank statement not in the cash book amounted to Kshs 4,313,584.85. The nature of the deposits was not however explained.

v. The County Assembly of Nyeri account and Nyeri County Emergency Fund account reflected Kshs.6, 597,124.07 and Kshs.19, 999,400.00 respectively. However, no cashbooks or bank reconciliation statements were available to confirm the accuracy of the balances.

The Officers informed the Committee that;-

- a. The purpose of bank reconciliation was to ascertain the cause of the difference in the bank statement and the cash book and that currently cashbooks were properly maintained and checked by an Accountant regularly.
- b. Payment of kshs.75, 229 was not recorded in the cashbook and had to be factored in during the reconciliation.
- c. Payment of kshs.1, 126,467.60 was not recorded in the cashbook and had to be factored in during the reconciliation.
- d. Kshs.1, 525,130 was payment made but reversed by the bank due to various reasons such as invalid account numbers and business names.
- e. The figure of kshs.16, 954,941.76 represented the retention amount held in the bank as per the schedules provided.
- f. Kshs.36, 017,178 was returned to the Central Bank revenue collection account.
- g. The difference of kshs.38, 052,757 was for unrepresented cheques for works on refurbishment.
- h. The Officers used pencils so that when the reconciliations were done and all figures agreed they were captured in ink.
- i. They did not have reconciliations for the County Emergency Fund since the account had never been utilized.

The committee was provided with copies of bank reconciliation for all the queries, bank statement and the list of unrepresented cheques.

The Committee observations were that;-

- i. The Officers agreed that they were using pencils in filling of the cashbook.

- ii. The Committee was provided with payment vouchers for Kshs.75, 229 and kshs.1, 525, 130.
- iii. The Committee did not understand why proper records were not being maintained and also why retention amount was kept in the Imprest Account.

The Committee recommends that;-

- i. Every transaction must be recorded in the cashbook since it is a book of original entry.**
- ii. Reconciliation should be done in time.**
- iii. Proper record keeping should be maintained.**

1.2.5 Outstanding Temporary Imprests – kshs.26, 818, 149.75

The Nyeri County Government outstanding imprests as at 30th June, 2014 stood at Kshs.26, 818,149.75. There were cases of officers being issued with additional imprests while previous ones had not been surrendered. The imprest register did not show when the imprest is due for surrender while designation and personal numbers were also not indicated in the register.

The Officers informed the Committee that;-

- a. Surrender of imprests was still ongoing through the IFMIS system.
- b. A total of kshs.983, 111 had so far been recovered from the payroll leaving a balance of kshs.3, 008,280 as the outstanding amount.
- c. The outstanding amount will be recovered from the Officer's salaries.
- d. Communication had been done to all the affected Officers.

The Committee was provided with a copy of the letter from the County Secretary on recovery of the outstanding imprest and an updated imprest register.

The Committee observed that the laws' governing the imprest states that one must surrender the previous imprest before a new one is issued yet the Officers were being issued with more than one imprest.

The Committee recommends that;-

- i. Recoveries should be made immediately.**

ii. Imprest should not be given before surrendering of the previous one.

iii. Accounting Officers should institute measures to ensure that government financial regulations and procedures on imprests, including the requirement that imprest should be surrendered within 48 hours after completion of the assignment, be strictly adhered to.

2.0 Non-Current Assets

2.1 Lack of prudence on refurbishment of buildings – kshs.81, 384,118.40

The County Government entered into a lease agreement with Deborah Wambui Mwangi the lessor who agreed to lease a commercial building title No- Nyeri Municipality/block 1/74 known as Karson Photo House measuring 4700sq ft on the first floor (1,700sq ft) and second floor (3,000sq ft) for a term of five years three months (63 months) from the 1st May, 2013 to 30th September, 2017. According to the agreement the County Government was to pay Kshs.156,800 per month, which was to be subjected to service charge of 10%(Kshs.15,800), making a monthly total of rent of Kshs.172,480.00.

This implies that the County Government would pay a total of Kshs.10,866,240.00 as rent during the lease period. However, no reasons were provided as to why the County Government spent Kshs.29,173,582.40 to renovate the rented building and continue to pay rent for the same. Further, another expenditure of Kshs.41,340,946.00 was incurred on renovation of the Governor's office. It was not explained why the County Government was to spend to a total of Kshs.81,384,118.40 being Kshs.41,340,946.00, for renovating the Governor's Office, Kshs.29,176,932.40 for Karson's House and kshs.10,866,240.00 for rent. This amount if prudently applied would have been sufficient to construct a modern office block for the County Government.

The Officers informed the Committee that;-

- a) Part of the funds spent amounting to kshs.61.5 million were given by the Transition Authority and were meant for refurbishment.
- b) The value for money could not be seen from the shilling perspective but could be seen from intangible benefit.
- c) When County Government came in March, 2013, there was demand for Offices suitable for the Executive Committee Members and the Transition Authority identified the Karson House and entered into the contract with the owner of the building.
- d) Refurbishment of Block C Offices in the County Commissioners compound was ongoing.
- e) The County Government intends to negotiate with the owners of the Karson Photo House given the extensive renovations that were carried out.

The Committee was provided with a copy of the letter from the Transition Authority, the lease agreement and the Bills of Quantities.

Committee Observation

Refurbishment of Karson Photo House

The Committee observed that;-

1. It was awkward and ridiculous for the County Executive to have renovated the Karson House with kshs.29, 173,582.40 and still continues to pay rent yet it was expected that the rent could have been reduced by the amount incurred in the renovation work.
2. The amount paid for refurbishment of the Karson Photo House was grossly exaggerated and could have been enough to construct a modern building block since the County Government have enough land.
3. In terms of procurement of the contractors to carry out the refurbishment of the Karson photo House the requirement of Public Procurement and Disposal Act, 2005 was not adhered to since the Companies that were given the tenders were single sourced, restrictive tendering was done and there was no openness or transparency in the procurement process.

4. Splitting the tender was aimed at corruptly giving misleading figures to avoid open tendering hence violating Section 30 of the Public Procurement and Disposal Act, 2005 which states that, “**no procuring entity may structure procurement as two or more procurements for the purpose of avoiding the use of a procurement procedure**”. The tender for refurbishment was split into;-
 - a. Proposed refurbishment of 1st and 2nd floors of Karson Photo House contract of kshs.14, 098,860.4.
 - b. Electrical installation works contract of kshs.6, 583,552.
 - c. Plumbing, drainage and fire protection services contract of kshs.2, 333,800.
 - d. Telecommunications installation works contract of kshs.6, 157,370.
5. The amounts of kshs.29, 173,582.40 spent in the renovation works was grossly exaggerated and was not commensurate to the work done since only 1^{1/2} floors of the Karson House were renovated.
6. A private lawyer Wahome Gikonyo Advocate whose procurement is questionable represented both the County Government and the Lessor which is unethical.
7. The letter that came from the Transition Authority giving kshs.61.5 million was clear that the funds could be used either for construction or refurbishment.

Refurbishment of the Governor’s Office

The Committee observed that;-

1. The amount of kshs.41, 271,933 spent in renovation of the Governor’s Office was grossly exaggerated since only half of the Town Hall Building was renovated and could have been enough to construct a modern building block.
2. Splitting the tender was aimed at corruptly giving misleading figures to avoid open tendering hence violating Section 30 of the Public Procurement and Disposal Act, 2005 which states that, “**no procuring entity may structure procurement as two or more procurements for the purpose of avoiding**

the use of a procurement procedure". The tender for refurbishment was split into;-

- a. Refurbishment and alterations contract of kshs.19, 993,220.
 - b. Supply, installation, testing and commissioning of electrical installation works contract of kshs.8, 123,880.
 - c. Plumbing, drainage and fire protection services contract of kshs.4,514,837,
 - d. Air conditioning installation kshs.2, 143,466.
 - e. Telecommunication installation works contract of kshs.6, 496,530.
3. In terms of procurement of the contractors to carry out the refurbishment the requirement of Public Procurement and Disposal Act, 2005 was not adhered to since the Companies given the tenders were single sourced, restrictive tendering was done and there was no openness or transparency in the procurement process.
4. There was no value for money or prudence in the refurbishment that were done which violates Article 201(d) of the Kenya Constitution and Section 149(1) of the Public Finance Management Act, 2012.

The Committee agreed with the Auditor General observations that the amount spent on refurbishment of both Karson Photo House and Governor's Office could have been sufficient to construct a modern office block.

The Committee was informed that a taskforce had been formed to identify a building to be leased but the report of the taskforce was not provided nor any procurement documents to ascertain how the Karson House was identified.

The Committee noted myriad of irregularities and violation of the Constitution ,Public Finance Management Act,2012 and Public Procurement and Disposal Act,2005 hence recommends that;-

- 1. The Team of Engineers that gave the estimates on refurbishment should be investigated as to whether they acted prudently and independently.**

- 2. The Ethics and Anti-Corruption Commission and the Criminal Investigation Departments should investigate with a view to prosecuting the Officers involved.**
- 3. The Office of the Director for Public Prosecutions should establish whether there is a case for prosecution.**
- 4. The Public Procurement Oversight Authority should investigate to establish whether procurement procedure and regulations were followed.**
- 5. The Accounting Officers and the Public Officers involved should face the full force of the law for violating the Constitution and regulations and must bear direct personal liability for any public funds lost, wasted or misapplied by reason of their direction or under their watch in accordance with Article 226(5) of the Kenya Constitution.**

2.2 Over expenditure on the purchase of Motor Vehicles –kshs.28, 401,980

During the period, the County Government spent Kshs.213,416,126 on purchase of motor vehicles against a budgeted amount of Kshs.185,014,146, leading to an over expenditure of Kshs.28,401,980. The expenditure in excess of the budgeted amount was incurred from the Bicycles and Motorcycles, current grants to Local Authorities and purchase of specialized plant votes. However no supplementary budget was availed to support the reallocations from the quoted votes.

The Officers informed the Committee that;-

- i. On the over expenditure on motor vehicles, a supplementary budget was done and additional expenditure was approved by the County Assembly.
- ii. Amount that was budgeted for purchase of motor vehicles in the budget for 2013/2014 financial year was amounting to kshs.185, 014,146.
- iii. Kshs.28, 401,980 was reallocated towards Motor Vehicles from Plant and Machinery Vote and LATF Vote.

The Committee was provided with a copy of the supplementary budget.

The Committee observed that;-

- i. The supplementary budget for 2013/2014 financial year the motor vehicles vote included only kshs.185, 014,146.
- ii. The over expenditure of motor vehicles of kshs.28, 401, 980 which was confirmed by the Officers during the hearings was not included in the supplementary budget.
- iii. The kshs.28, 401,980 remains unauthorized.

The Committee holds that the over expenditure on motor vehicles of kshs.28, 401,980 remain unauthorized hence recommends that in accordance with Article 226(5) of the Kenya Constitution the responsible Officers who authorized the expenditure must be held accountable.

2.3 Neglect of Serviceable Equipment and Motor Vehicles

Records held at the County Government offices revealed that 75 Motor vehicles and 20 equipment were inherited from the defunct local authorities. Out of these, 13 motor vehicles and 1 equipment had been recommended for boarding. However, as at the time of the audit, the exercise had not been carried out. Ten (10) motor vehicles required repair but this had not been done despite the fact that the County Government has spent hundreds of millions to purchase new motor vehicles.

The Officers informed the Committee that;-

- a) They inherited assets and liabilities from the defunct Local Authorities.
- b) They were waiting for verification of assets and liabilities by the Transition Authority.
- c) Boarding could not be done before verification was completed.

The Committee was provided with the handing over reports which contains the assets and liabilities.

The Committee observed that there was laxity on the part of the County Executive in ensuring proper handing over was done.

The Committee recommends that;-

- i. The unserviceable motor vehicles and machinery should be boarded while serviceable ones should be serviced and consistent maintenance of the same should be ensured.**
- ii. The County Executive should ensure the process of taking over is hastened.**

2.4 Irregular Purchase of Security Vehicles - Kshs 53,238,656.00

During the financial year 2013/2014, Nyeri County Government developed its Integrated Development Plan for the Period 2013-2017 which highlighted development objectives, potential strategic policy thrusts and prioritized its development projects. It was noted that during the period under review, the County Government purchased vehicles for the Regular Police, Administration Police and the Criminal Investigation Department at a cost of Kshs.53,238,656.00. It was also observed that the County Government was issuing fuel to the police vehicles. However, the purchase of the vehicles was not listed in the Integrated Development Plan as part of the projects to be undertaken by the County. In addition Police Services is a function of the National Government and not County Government.

Further, no minutes of the Executive Committee on purchase of these vehicles were available to support the decision to Purchase the police vehicles. There were no correspondences to show that the Police and the CID raised a requisition or requested for the vehicles.

The Officers informed the Committee that;-

- a) The sector directions in the County Integrated Development Plan 2013 to 2017, page 98 has proposed the facilitation of the mobility of security officers in the County.
- b) The Police Service Act set up County Policing Authority with the Governor as the Chairperson which formed the basis for the County involvement in the security matters.
- c) The eight (8) police vehicles were procured and distributed in all the Sub Counties in Nyeri County guided by the security reports.

d) The reason for the purchase and for fueling of the vehicles is meant to ensure a quick response to security matters in the County by the police.

The Committee was provided with a Memorandum of Understanding signed between the National Police Service and the County Executive, the crime trend report and a report on security vehicles that had broken down.

The Committee was not provided with the procurement document, minutes of meetings of Executive Committee Members, requisition letters, list of the vehicles and their log books.

The Committee observed that;-

- i. The security function was for the National Government.
- ii. The National Government had a budget in 2013/2014 financial year for the police.
- iii. The Police had not requisitioned the vehicles.
- iv. The purchase of the police motor vehicles was neither authorized nor approved by the County Assembly since it was not a function of the County Government.

The Committee holds that the expenditure was irregular since it was not approved by the County Assembly and thus recommends that the Officers who approved the expenditure should be held accountable in accordance with Article 226(5) of the Kenya Constitution.

2.5 Irregular Procurement of Fleet Management and Tracking System-Kshs.1, 368,000

An amount of Kshs.1, 368,000.00 was paid to M/s Leighton Tracking for supply and installation of a fleet management and tracking system for 30 motor vehicles. The payment was effected vide payment voucher number 924 dated 19th June, 2014. However, the system could not be verified.

The Officers informed the Committee that;-

- i. The fleet management and tracking system was working and was being monitored by the department of Public Administration, Information and Communication.
- ii. Data produced daily was available for verification at Leighton web site.

The Committee was not provided with the procurement document and the list of the 30 motor vehicles that were being managed by the system. The Committee could not verify whether the system was working and hence recommends that the department of Public Administration, Information and Communication should avail the documents to the Kenya National Audit Office in Nyeri by 30th November, 2015 for verification.

2.6 Incomplete Land Details

Nyeri County Government inherited one hundred seventeen (117) parcels of land from the defunct local authorities. However, details pertaining to their size, locations and existence were not complete. Further, most of them did not have ownership documents and their ownership could not therefore be confirmed.

The Officers informed the Committee that;-

- i. What was handed over by the defunct Local Authorities was only two title deeds and allotment letters for parcels of the land owned by the County.
- ii. The County Executive was awaiting the Transition Authority to finalize on the verification of assets and liabilities so that they could take over all the assets and secure the ownership documents.

It is in the attention of the Committee that Land may be grabbed in the Nyeri County if this situation of incomplete land details continues.

The Committee observed that there was laxity by the County Executive in ensuring proper taking over of assets was done.

The Committee recommends that by 31st March, 2016;-

- i. The County Executive should ensure that the land details are established and properly documented.**

- ii. The County Lands Board should ensure that the value of all the County Government parcels of land is known and all the lands have title deeds.**
- iii. The County Executive should initiate the process of taking over of the County assets.**

2.7 Lack of a Fixed Asset Register and Asset Management System

The County Treasury did not maintain a fixed asset register for all the County Government's assets.

The County Government had not consolidated all the necessary information about all the assets in its possession, some which were acquired by the defunct local authorities as well as assets which it has purchased since March, 2013 e.g. sizes of plots of land, location of the assets, asset allocation and asset usage.

It was also noted that the County Government did not have an asset management system in place for all its assets even though the County Government had a large number of assets and continued to purchase more. The Officers informed the Committee that;-

- a) The Transition Authority had not concluded on the process of verification of assets and liabilities.
- b) They did not have an asset register but they were in the process of engaging a service provider in tagging and recording of the assets.
- c) They were maintaining schedules of assets.

The Committee observed that the County Executive was reluctant in setting up a fixed asset register.

The Committee recommends that;-

- i. The County Government should ensure it has taken the necessary measures to safeguard its assets by maintaining a detailed and an updated fixed asset register for all its assets.**
- ii. The County Executive should also ensure it has an asset management system in place.**

3.0 Current Liabilities

3.1 Long Outstanding Legal Fees - Kshs.6, 206, 803.00

Records maintained at the Nyeri County Executive revealed that legal fees amounting to Kshs.6, 206,803.00 were outstanding as at 30th June, 2014. No reason was provided for failure to clear the same.

The Officers informed the Committee that;-

- a) A substantial amount had been paid to Muthoga Gaturu and Wahome Gikonyo and Company advocates.
- b) They could not pay the fees from the defunct Local Authorities unless they were verified by the Transition Authority.

The Committee observed that the process of procuring the services of the Muthoga Gaturu Company, G.K Kibira & Company and Wahome Gikonyo Company Advocates was not clear since no procurement documents were provided and it was not clear how verification of the fee was being done. In the absence of the support documents, the Committee concluded that there was violation of the Public Procurement and Disposal Act, 2005.

The Committee recommends that;

- i. Those Officers who authorized the payments should be held accountable.**
- ii. The County Executive should not pay the outstanding legal fee amounts until their propriety is established.**
- iii. The process of establishment of the Office of the County Attorney should be fast tracked.**
- iv. Procurement of legal services should be done in accordance with Public Procurement and Disposal Act, 2005.**

3.2 Pending Bills - Kshs.120, 425,711.45

As at 30th June, 2014, the County Government had not settled bills amounting to Kshs.120, 425,711.45 comprising Kshs.68, 783,252.00 for Nyeri Provincial

General Hospital and Kshs. 51, 642,459.45 for the other departments in the County. However, the authenticity of these creditors could not be ascertained due to inadequate records.

The Officers informed the Committee that the pending bills arose due to inadequacy of funds since the National Treasury never released the kshs. 938 million and that all records supporting the bills were available for verification. The Officers did not provide documents supporting the pending bills amounting to kshs. 120, 425,711.45 for the Committee to verify the creditors hence the authenticity of the creditors could not be confirmed.

The Committee observed that the money was diverted to non-priority areas for example the purchase of the Police Vehicles which led to accumulation of the pending bills.

The Committee recommends that:-

- a) The Officers who incurred these expenditures should be held accountable.**
- b) The Ethics and Anti-Corruption Commission should investigate on the authenticity of these pending bills.**
- c) Expenditure should not be incurred without the funds being available.**

3.3 Budget Performance

3.3.1 Irregular Reallocation of 2013/2014 Budget

During the period under review, the County Government reallocated Kshs. 740, 497,614.00 from development to recurrent vote without following the laid down procedures. Further, as at 30th June, 2014, the County Recurrent expenditure stood at 72% to 28% of the development. The law requires development expenditure not to be less than 30% of the total budget.

However, according to the County expenditure returns for the period from July 2013 to 30th June, 2014, the approved budget for Recurrent and Development expenditure was Kshs. 3, 089,116,988.00 and Kshs. 1,452,298,721.00 respectively. This was after the County reallocated Kshs. 740,497,614.00 from Development to Recurrent vote.

It was not clear why the County decided to reallocate Development funds to recurrent expenditure. Also no evidence was provided as to how the re allocation was done as no county fiscal strategy paper on amendment/publication of budget was provided for audit verification.

The Officers informed the Committee that;-

- a) The reallocation was irregular but it was necessary in order to be able to pay salaries.
- b) Reallocation of the budget from development to recurrent was necessitated by the National Treasury recovery of the kshs.938 million for salaries paid to the staff in the devolved units from July to December, 2013.
- c) In order for the County to pay salaries for the months of January to June,2014 the County Government prepared a supplementary budget transferring funds from Development to Recurrent as the only option available and the County Assembly approved.

The Committee observed that;-

- a) The County Assembly passed a supplementary budget without the development being 30% as required and the reallocation was done from development to recurrent which is irregular.
- b) No efforts had been done by the County Executive to get documents from the National Government to support the kshs.938 million that was not released by the National Treasury including the list of the staff that was paid.
- c) No documents were availed to the Committee on the recovery of the kshs.938 million.
- d) The amount recovered of kshs.938 million had affected the implementation of various projects and the subsequent budgets.
- e) The County Executive Committee Member for Finance at that time failed in his obligations in regard to giving advice to the County Government in regard to the irregularity of reallocating funds from development to recurrent expenditure.

The Committee recommends that;-

- a) The County should adhere to regulations guiding the budget re-allocation and development expenditure.**
- b) The County Executive Committee Member for Finance at that time should be held accountable because of the irregularity that was done on reallocation of development funds to recurrent expenditure.**
- c) In future, the Assembly should critically scrutinize the supplementary budget to ensure it is in accordance with the law.**
- d) The Officers should avail to the County Assembly supporting the documents supporting the Kshs.938 million that was recovered by the National Treasury before 30th October, 2015.**

3.3.2 Reallocation of Education Development Funds to Installation of CCTVs

-Kshs.1, 554,800.00

The Education, ICT, Youth Affairs and Sports department had been allocated Kshs.63, 500,000 for development expenditure ensuring financial year 2013/2014.

However, only Kshs 3,202,450 was spent under this vote during the year. Out of Kshs.3, 202,450 spent, Kshs 1,554,800 was reallocated for installation of CCTV cameras at the County's leased offices (Karson House). This represents 48 percent of the total development expenditure under this vote. No request and approval of the same by the County Treasury was availed for audit. In addition, no reasons were given for the reallocation. Further at the time of this audit installation of the CCTV cameras at the Karson house had not been carried out.

The Officers informed the Committee that;-

- a) Installation of CCTV at Kshs.1, 554, 800 was done by department of Education and was a proper charge of public funds as the Karson Photo building houses the Human Resources section and security of records is of paramount concern to the Government.**

- b) The amount which had been set aside for CCTV was affected by the failure by National Treasury to release the kshs.938 million yet procurement process had been done.

The Committee observed that;-

- i. The kshs.63.5 million allocated to the Education, Youth Affairs, ICT and Sports Department in 2013/2014 budget meant for construction of the building was not reallocated in the supplementary budget for 2013/2014 financial year.
- ii. The expenditure of kshs.1, 554,800 was not a proper charge since the funds were meant for construction and not for installation of CCTV Camera.
- iii. The County Executive Committee Member for this department failed to implement the projects on construction of the E.C.D.E Centres.

The Committee holds that there was irregularity in the misallocation of kshs.1, 554,800 towards installation of CCTV Cameras. The Committee recommends that the CEC for Education and ICT should account for the kshs.60, 297,550 and should answer to the County Assembly before 30th November, 2015 on why the E.C.D.E projects were not implemented.

4.0 Procurement

4.1 Unsecure Store, Lack of Proper Store Records and Improper Procurement Plan

During the audit, a visit was made to one of the County's stores located in Nyeri town behind Nyahururu stage. It was noted that the store was in a dilapidated state and not secure. The perimeter wall was not high enough to deter criminals despite the fact that it is located next to a slum. Expensive equipment, earth movers and motor vehicles were packed in the store's yard. It was explained verbally that the night guards were not enough to patrol the entire compound. Further, the store ledger cards kept in the store were not enough thus making it difficult to take-on-charge and enter in the store ledger all the items brought in the store. There was also obsolete stock which was

taking a lot of space. During the course of the audit, the County Government availed an annual procurement plan for the 2013/2014 financial year which did not conform to the prescribed format. Further, the County Government did not adhere to the procurement plan while procuring services and goods.

The Officers informed the Committee that;-

- i. An electric fence had been put up in the Municipal Yard store.
- ii. Obsolete items will be boarded once the Transition Authority was through with the process of the verification of assets and liabilities.
- iii. The County Executive had adopted and adhered to the prescribed format of the annual procurement plan.

The Committee was satisfied with the response given but nonetheless recommends that;-

- i. The County Government should prepare and adhere to the prescribed procurement plan.**
- ii. Fast tracking of the process of boarding of the obsolete items should be done.**
- iii. The County Executives should maintain proper records for the store.**

4.2 Unsupported Expenditure - Kshs.10, 946,850.00

An expenditure totaling Kshs.10, 946,850.00 was incurred during the year under different expenditure items and on diverse dates. No proper documentation was availed to support the expenditure.

The Officers provided the Committee with the schedule of the expenditure amounting to kshs.10, 946,850.

Schedule on the expenditure amounting to kshs.10, 964,850

Payment Voucher	Date	Amount(kshs)	Purpose
3722	06/06/2014	1,297,500	Chief Officer, County Executive Committee Members, County Public Service Board meeting to discuss the CIDP and Organizational structures
3998	12/06/2014	1,471,450	
4106	21/06/2014	400,000	Health and Sanitation Training at Outspan Medical College
240	09/12/2013	315,000	Tender evaluation for 2014/2015

286	16/12/2013	682,500	
2730	13/05/2014	1,122,2015	Coffee meetings in Amsterdam,USA by
2729	15/05/2014	1,139,095	Hon.Nderitu Gachagua,Stanley Miano
2727	15/05/2014	208,625	Kigotho and Wachira Mwago
2728	15/05/2014	219,305	Executive Committee Members and Officers attending various meetings in Mombasa
500	17/09/2013	300,000	Luncheon for Governor with other dignitaries
51	20/11/2013	197,280	Attending Cabinet Meetings at Outspan Hotel while Office were under renovations
319	17/09/2013	645,000	-Coffee and Dairy Stakeholders meetings on 26/07/2013. -Youth Polytechnic heads meeting on 26/07/2013
733	27/01/2014	300,000	Tender Committee and EXCOM sensitization workshop by PPOA
1459	11/03/2014	812,000	Governor's appearance for the
1178	24/02/2014	522,000	advertisement of the investors conference
108	08/08/2013	120,000	Taskforce on coffee and tea
1148	24/02/2014	1,195,250	Travel to U.S by Stanley Miano
Total		10,964,850	

The Committee observed that;-

- i. The Officers had deliberately refused to avail documents relating to the query for example the boarding pass, copies of the passports of those who travelled,list of participants, invitation letters, nature of the T.V programmes and reports prepared after the meetings.
- ii. The schedule of the expenditure and the payment vouchers availed did not adequately address the query.
- iii. The County Executive Secretary for Trade, Mr. Miano had travelled to U.S but the purpose of the trip and a report on the trip was not provided therefore the Committee could not understand why the County Executive paid for his trip.

The Committee recommends that since support documents were not provided to justify the expenditures incurred the Officers who authorized the payments should be surcharged the kshs.10, 964,850 pursuant to Article 226(5) of the Kenya Constitution.

4.3 Unaccounted For Fuel – Kshs. 3,150,000.00

Records available revealed that the County Government purchased fuel in bulk on different occasions. However, fuel valued at Kshs. 3, 150,000.00 was not accounted for. The fuel could not be traced to the fuel register and to the work tickets of the vehicles. The fuel register lacked vital details like balance at any given time, number of litres drawn, detail order numbers among others.

The County Government was also purchasing fuel for police vehicles, notwithstanding the fact that police had their allocations from the National Government and work plans independent from the County Government.

Further, fuel purchased for sub counties could not be confirmed as no returns had been filed. Instances were noted where fuel was drawn as per fuel register but not evidenced in the work ticket. In some cases, fuel was drawn yet the vehicle said to have been filled never left the station.

The Officers provided the Committee with copies and the original fuel registers and work tickets.

The Committee observed that;-

- a) The County Executive was fueling police vehicles for prompt response to security matters.
- b) Explanation given on why some vehicles were fueled and never left the station was satisfactory since the vehicles were for the County Executive Committee Members and they were fueled so that the Executive Members could use them at any given time.

The Committee was satisfied with the response and the documents provided answered the query.

4.4 Irregular Hire of Garbage Trucks – Kshs. 2, 525,100.00

The County Government paid Kshs. 2,525,100 to various firms being cost of hiring trucks to assist in garbage collection.

However, the following anomalies were noted;-

- i. Invoices were not made available for audit scrutiny.

- ii. The County Government prepared an excel sheet and went ahead and paid the suppliers.
- iii. The County Government has garbage trucks and therefore, the need to hire additional garbage trucks for a few days were not clear.
- iv. The firms were said to be prequalified, however, the relevant documentation, including their bids were not available for audit.
- v. It was not clear how the rates charged per hour were arrived at.
- vi. It was not clear who was supervising the exercise from the County Government's side.

The Officers informed the Committee that;-

- a) The invoices were attached to all payment vouchers.
- b) Hiring was done since the department had received a statutory notice requiring them to remove nuisance within a stipulated time yet the trucks had broken down.
- c) The department responsible for solid waste management had requested for authority for direct procurement of the hire for the garbage trucks.
- d) The rates were charged according to Kenya Subsidiary Legislation Part B on fees for hire of vehicles, Plant and Equipment of 8th June, 2011.
- e) A team of 7 Officers from the department of Water, Environment and Natural Resources supervised the exercise.

The Committee observed that;-

- a) Procurement regulations were not followed.
- b) Paying on hourly basis and hiring instead of repairing was not prudent and there was no value for money.
- c) The statutory notice had necessitated for hire of the garbage trucks.
- d) Invoices, a copy of the statutory notice, copies of the rates from the Department of the Public Works and correspondences on the trucks that had broken down were provided.
- e) The need to hire garbage truck was not convincing since the priority would have been repairing the broken trucks.

The Committee recommends that in future the Health Services and Sanitation Department should ensure efficiency and effectiveness of garbage collection and that trucks are repaired in time.

4.5 Delay in Completion of Non-Motorized Facility -Kamakwa to Nyeri Town along Baden Powell Road, Nyeri Town to Meeting Point Section along Kenyatta Road

Contract Details:

Contractor Ms Penn Construction Ltd

Contract No. NCG/38/2013-2014

Contract Sum Kshs.48, 744,467.55

Engineer's Estimate Kshs.38, 638,342.00

Variance Kshs.10, 106,125.55

Contract start date 9 May 2014

Contract Period 45 days

Contract end date 27 June 2014

Total payments as at 30.6.14 Kshs.20, 048,525.00

The Nyeri County Government undertook construction of Non-Motorized facility from Kamakwa to Nyeri town along Baden Powell road and Nyeri town meeting point section along Kenyatta road. The valuation report availed dated 11th June, 2014 revealed that real works done stood at 41.1% while time elapsed stood at 64.4% and amount certified was Kshs.20,048,525.00. During the audit verification done in August, 2014, it was found that the contractor was still on site while the contract period ended on 27th June, 2014.

No letter of request for extension from the contractor was availed and no official letter for extension of the contract period was issued by the County Government. It was further observed that the Engineer's estimate for the project was Kshs.38, 638,342.00 against the contract price Kshs.48, 744,467.55 hence resulting in a variance of Kshs.10, 106,125.55 above the engineer's estimate.

The variance of Kshs.10, 106,125.55 was not explained.

The Officers informed the Committee that;-

- a) The variance of kshs.10 million was as a result of the mistake in the Engineers Estimate since there existed no contract of such nature in Nyeri County.
- b) The lowest bidder had quoted kshs.48 million.
- c) Provided the payment vouchers and extension letters.

The Committee observed that;-

- a) The response given was casual.
- b) Engineers Estimate had a variance of kshs.10, 106,125.55 and wonders how such a mistake could have been done.
- c) The County Executive never went for re-tendering after they realized that nobody had quoted the required amount of kshs.38 million.
- d) Letters requesting for extension of contract period, subsequent approval, procurement documents and some payment vouchers had been provided.
- e) The footpath made measures 4 kilometers therefore one kilometer of the footpath measuring one and a half meter width was costing kshs.12 million compared to one kilometer of gravelling and murraming that cost kshs.1 million hence the Committee holds that the cost of the footpath was grossly exaggerated.
- f) The County had the capacity to do the footpath without engaging the contractors.

The Committee recommends that;-

- a) The kshs.10 million variance should be recovered from the responsible Officers.**
- b) Investigation should be carried out by the Ethics and Anti-Corruption Commission on the project.**

4.6 Delay in Completion of Marking of Street Parking Spaces Using Concrete Kerbs

Contract Details:

Contractor Ms Donk Investment Ltd

Contract No. NCG/39/2013-2014

Contract Sum KShs.13, 557,062.51

Engineer's Estimate Kshs.17, 822,868.00

Variance Kshs. (4,265,806.00)

Contract start date 9th May, 2014

Contract Period 45 days

Contract end date 27th June, 2014

Total payments as at 30.6.14 - Kshs.7, 234,964.00.

The Nyeri County Government undertook marking of street parking spaces using concretekerbs including thermoplastic painting in Nyeri town CBD. Valuation report dated 16thJune, 2014 revealed that real works done stood at 53.4% while time elapsed stood at 75.6% and amount certified was Kshs.7, 234,962.00. During the audit verification done in August, 2014,it was found that the contractor was still on site while the contract period was to end on27th June, 2014. No letter of request for extension from the contractor was availed and noofficial letter for extension of the contract period was issued by the employer.

It was further observed that the contractor (Ms Donk Investment Ltd) in his letter dated4th August, 2014 claims to have finished 95 % of works and the delay of 5% was due todisputes that had not been resolved between the County Government and the involvedparties. The 95% of completion could not be ascertained since there was no currentprogress report for the project and the works seems to be far from completion and thecontractor was not on site.

The Officers informed the Committee that;-

- a) The implementation of the projects was done because of the double parking so that each vehicle parks on its own space.
- b) The letters for request for extension of contract period and the subsequent approval had been misfiled during the audit but were now available for verification and they provided the letters.
- c) They were not aware of the dispute between the County Government and the Contractor as raised by the Auditor.

The Committee observed that;-

- a) Most of these markings were causing inconveniences and breaking people's vehicles.
- b) There was no value for money in the project.
- c) The response given was casual.
- d) The certificate of practical completion of the work was not provided hence the Committee could not confirm that the works were completed.
- e) Off-loading of trucks was a challenge since no loading or offloading areas exist.
- f) Letters requesting for extension of contract period, subsequent approval, procurement documents and payment vouchers had been provided.

The Committee recommends that in future marking of the parking should be done by paint since it is economical and does not cause distraction and it is the best practice Worldwide.

4.7 Incomplete Road Works (Grading and Gravelling)

Project Details:

Average cost of grading per KM = Kshs.54, 000. 00

Average cost of gravelling per Km = Kshs.1, 093, 500 .00

While undertaking physical verification of the road works the following was noted:

There were roads where works had been done but no signposts had been erected even though the signposts were part of the works as per the contract and the cost of erecting the signposts was included in the contracts e.g.

Wachinga Junction – Gitugi tea factory road, Kihuri Road in Mahiga Ward, Gachuiro-Mukonye Road in Karatina town ward and Muthua-ini Secondary School Kairia in Kamakwa/Mukaro ward.

There were variances noted between the documented length and actual length of some roads where works were undertaken e.g. Gacatha – Kihuro – Kiandu road the documented graded and graveled length is 15 kms and 5 kms respectively however upon visiting the site the graded and graveled length was found to be 4.6 kms and 3.8 kms respectively.

Muthua-ini Secondary School Kairia-Gathima-kariba-ini-Gitero road in Kamakwa/Mukaroward the documented graded length is 10kms. Upon audit visit the graded and graveled length was found to be 4kms resulting in a variance 6kms.

The Officers informed the Committee that;-

- a) During the time of inspection of the roads works by the County Executive, the publicity signboards had been erected and possibly they had been vandalized by the time of the audit.
- b) The contracted length was an estimate.
- c) The contract documents provided that payment could only be done after re-measurement of the works done and not the contracted length.
- d) Final payment was done after a joint measurement of the works was done between the contractor and the project's inspection and acceptance Committee.
- e) The department had reorganized itself by deploying more road inspectors so that works to be done are measured prior to preparing the contract documents.

The Committee was not provided with an inspection report further no evidence was availed to show that sign boards had been erected.

The Committee recommends that in future, contracts for roads should be done using the actual length and not the estimates.

4.8 Irregular Procurement of Water Pipes - Kshs.38, 452,323.00

The County Government bought water pipes and fittings worth Kshs.38, 452,323.00 for distribution to various points within the County. Procurement meeting minutes showing how the user departments requisitioned the pipes and how the pipes were distributed were not availed. Physical verification of the pipes delivered revealed that the pipes were stored in water companies' stores and CDF offices and it was therefore not possible to verify the same.

The Officers informed the Committee that;-

- a) The S11 and distribution list were available.

- b) Pipes were distributed to water projects and they were received by the beneficiaries.

The Committee received a list of the suppliers which showed the beneficiaries and the value of the pipes.

The Committee was not given the requisition documents for the pipes from the Water Projects.

The Committee recommends that all the stakeholders including the Members of County Assembly should be involved when pipes or other items are being distributed in the Wards by the County Executive.

5.0 Procurement for Health Facilities

5.1 Othaya District Hospital-Idle Equipment, Furniture and Supplies -

Kshs.472, 443,897.50

Othaya District Hospital received pharmaceutical and non-pharmaceutical items worth Kshs.472, 443,897.50 from the Ministry of Health headquarters between February, 2013 and December, 2013. These items/ equipment were procured for the new Othaya Hospital which was under construction. However, the new hospital had not been completed/ had stalled since the contractor abandoned the site and another was being sourced. Records availed during the audit of Othaya District Hospital revealed that out of the Kshs.472,443,897.50, items worth, Kshs.239,160,164.50 were stored at the Othaya CDF hall and others worth Kshs.214,099,183.00 at Nyeri KEMSA stores. Further records availed for audit verification revealed that items worth Kshs.12, 620,500.00 were missing from the CDF Hall. The theft was reported to the police and case No.CR 253/224/2013 CF 321/2013 was opened which is yet to be concluded. A visit to the Othaya CDF hall revealed that it has not been completed, there were no window/door grills and no racks on which to place the items. As a result the security of the Kshs.239, 160,164.50 items stored there was not assured. Further, the items risk being obsolete and spoilt due to conditions under which

they are stored. In fact, some items which are liquid in nature have started spilling and are in filthy conditions.

A visit to the Nyeri KEMSA stores on 18th August, 2014 revealed that out of Kshs. 214,099,183.00 worth of stock (as per Othaya Hospital records), the balance was only Kshs. 204,956,943.00 resulting in Kshs. 9,142,240.00 variance which was not explained.

Further, hospital records indicated that drugs worth Kshs. 3,961,862.28 had expired since they were not being used.

The Officers informed the Committee that;-

- a) The procurement of the pharmaceuticals and non-pharmaceuticals was undertaken by the National Government.
- b) The items were delivered in February, 2013 and were stored in Othaya Constituency Development Fund Offices and the Nyeri KEMSA Depot.
- c) There was breakage and items worth Kshs 12 million were stolen and the case was opened.
- d) The store became a scene of crime hence could not be accessed without a court order.
- e) There were items with short expiry worth Kshs. 8 million which included the non-pharmaceuticals but to use them the County Executive had to write to the Principal Secretary Ministry of Health Headquarter requesting for authority and also had to seek court order that process led to expiry of some items.
- f) The other items with short expiry that had not expired yet they were not needed in Othaya Level IV Hospital had been redistributed to other health facility in Nyeri County.
- g) The variance of Kshs. 9,142,240.00 was later reconciled after the omitted prices were sought.
- h) Drugs worth 3,961,862.28 had expired in Othaya Sub County in a span of 3 years before the County Government came in place but the expired drugs had since been destroyed.

The Committee was provided with the list of the items for the Othaya Level IV Hospital stored at CDF Hall, minutes of stock taking done at the CDF Hall, the list of drugs stored at Nyeri KEMSA Depot and a list of the expired drugs amounting to kshs.3,961,862.28.

The Committee observed that Othaya CDF Hall was not secure since windows had no grills but nonetheless was satisfied with the response given.

The Committee recommends that;-

- i. The County Executive Committee Member for Health Services and Sanitation should follow up with the National Government to hasten the process of construction of the Othaya Level IV Hospital.**
- ii. The County Executive should look for a better store other than the Othaya C.D.F Hall since it was not secure.**
- iii. The items not required by the Hospital should be redistributed to other health facility in Nyeri County.**
- iv. In future measures should be put in place to ensure there is minimal drug expiry.**

5.2 Karatina District Hospital- Undelivered items - Kshs.2, 893,640.00

During the financial period under review, the County Government procured items worth Ksh.13, 227,200.00 for Karatina district hospital. However, audit inspection revealed that although all items were fully paid for in June 2014, items worth Kshs.2, 893,640.00 were yet to be delivered. The County could therefore be unable to enforce delivery of items which were paid for before delivery.

The Officers informed the Committee that all items that had been paid for had been delivered.

The Committee was provided with a copy of the requisition and the delivery notes.

The Committee recommends that all goods procured should be delivered and inspected first before payment is effected as per the Government Procurement Procedures and Regulations.

5.3 Un-requisitioned Medical Equipment Procured by the County Government for Health Facilities - Kshs. 28,310,786.00

During the period under review, the County Government procured Non pharmaceutical goods worth Kshs.28, 310,786.00 and supplied them to Mukurwe-ini and Karatina district hospitals. These hospitals had not requested for these goods since they have no capacity to use there. They have therefore remained in the stores without being used. There was no value for money obtained from the acquisition of medical items which were not requested or required.

The Officers informed the Committee that;-

- a) The equipment that were procured for Karatina, Othaya, Mukurwe-ini Level IV Hospitals and Nyeri provincial General Hospital were requisitioned.
- b) The hospitals had the capacity to use the equipment.
- c) No machine was idle except the X-RAY Unit in Mukurwe-ini level IV Hospital and it was due to the X-RAY Department building which was condemned.
- d) There were plans for building an X-RAY Department for Mukurwe-ini Level IV Hospital.

The Committee recommends that Hospital Equipment should not be procured before a health facility has a building or a room ready for the equipment to avoid procuring equipment that remains idle.

5.4 Unaccounted for Grant to Nyeri Provincial General Hospital Kshs.185, 182,028.00

During the financial period under review, the County Government through the approved budget purposed to grant Nyeri Provincial General Hospital Kshs.382,

128,747.00. The National Treasury withheld Kshs.125, 325,736.00 out of this balance and the County Government was therefore to hand over Kshs.256, 803,039.00 to the Hospital. However, records showed that this money was not released to the hospital. Instead, the County Government made some payments totaling Kshs.71, 621,011 from this vote leaving a balance of Kshs.185, 182,028.00 unaccounted for.

The bank balances for the three accounts as at the end of the financial year showed a combined balance of Kshs.11, 418,778.00, an indication that the grant was reallocated by the County Government for other purposes.

Although there was no agreement between the Nyeri Provincial Hospital and the County Government on how the grant was to be utilized, the County Government did not have approved regulations of the grants. The money should have been used for the intended purpose of hospital development.

In the circumstances, the expenditure of Kshs.185, 182,028.00 in respect of grants to PGH Nyeri could not be confirmed.

The Officers informed the Committee that;-

- a) The expenditure for Nyeri Provincial General Hospital exceeded the conditional grant.
- b) The amount of Kshs.2.1 billion was allocated to the department of health constituting a 47% of the total budget and the grant was part of the department's allocation in 2013/2014 financial year.

The Committee observed that;-

- a. There was deliberate refusal by the Officers to furnish the Committee with support documents as agreed during the meeting.
- b. The Officers failed to account for the grant.

The Committee recommends that;-

- a. The County Executive should ensure there is a regulation for administration of the grant as required by section 139 of the Public Finance Management Act, 2012.**

- b. Since the Officers failed to account for the grant the Ethics and Anti-Corruption Commission should carry out investigation on how the grant was utilized.**

5.5 Excessive Waivers on Cost Sharing Revenue Kshs.19, 611,199

During the financial year 2013/2014, Nyeri Provincial General Hospital collected revenue totaling Kshs.137, 221,952.00. However, waivers amounting to Kshs.19, 611,199.00 were granted between 1st July 2013 and 30th June 2014. The waivers constitute 12.5% of the total revenue which would have been collected by the hospital during the year. The waivers are therefore excessive compared to the total revenue for the financial year.

The Officers informed the Committee that;-

- a) The actual waiver for the 2013/2014 financial year was amounting to kshs.1.6 million.
- b) The other amount was the exception which the system recorded as waiver and they include services given to children below 5 years, services offered to HIV and T.B patients and milk given to kids from HIV positive Mothers.
- c) A Waiver Policy and an Act was in place.

The Committee observed that the document provided in support of the waiver amounted to kshs.18, 533,398 leaving unexplained balance of kshs.1, 077,801.

The Committee recommends that the responsible Officers must account for the balance of kshs.1,077,801 and that waivers should be given in accordance with the Waiver Policy and cases of waiving of medical fees in cases where the patient can afford should be minimized.

5.6 Non Accountability of Subsidized Fertilizer (Can) - Kshs.10,216,500.00

Examination of payment vouchers revealed that during the year, the County Government procured 21,676 bags of subsidized CAN fertilizer for coffee farmers at Kshs.1,500 per bag which amounted to Kshs.32,514,000.00.

Approval was given for procurement of 14,865bags yet the County procured 21,676 bags, thereby exceeding authorized quantity by 6,811bags.

Stores records availed for audit exercise revealed that out of the 21,676 bags, the CountyGovernment accounted for only 14,865 bags leaving a balance of 6,811 bags worthKshs.10,216,500.00 uncounted for.

Further no contract agreement/clear policy was availed as to how the County and theCooperative societies sealed the deal to procure subsidized fertilizer for the coffee farmers.

Also, no documentary evidence was availed to show how the finances utilized for fertilizerwill be recovered.

The Officers informed the Committee that;-

- a) A total of 21,676 bags of CAN fertilizer were procured in 2013/2014 financial year.
- b) 14,865 bags of CAN fertilizerwere distributed to respective Co-operative Societies.
- c) The balance of 6,811 bags of CAN fertilizer was not distributed but was later converted to NPK.
- d) The difference in price was kshs.500 per bag between CAN and NPK thus the bags were reduced from kshs.6, 811 to 5,108 bags of NPK fertilizer.
- e) The kshs.10, 216,500 was completely absorbed.

The Committee was not provided with schedules on the Societies that had paid for the fertilizer.

The Committee was satisfied with the response given but nonetheless recommends that the policy on fertilizer distribution should be put in placeand the amount spent on the fertilizer should be recovered from the Co-operative Societies that had benefited.

6.0 Contributions/Donations

6.1 Irregular Contribution to Council of Governors - Kshs.6, 940,604.00

The County Government spent Kshs.6, 940,604.00 in contribution to the Council of Governors for various purposes. There were no receipts to support the payments. In addition, there was no clear policy on how the contributions were being arrived at hence the authenticity of the payments could not be confirmed.

The Officers informed the Committee that the contribution was made due to the resolution that was made by the Council of Governors and the money was from the vote of Inter-Governmental Relations.

The Committee was provided with the acknowledgment receipts and the resolution of the Council of Governors.

The Committee observed that;-

- i. No Minutes of the Executive Committee Meeting Minutes were provided on the same or information on the purpose of the funds.
- ii. There was no clear policy on how the funds were arrived at.
- iii. The contribution was irregular since no policy was in place as required by Section 139 of the Public Finance Management Act, 2012.

The Committee recommends that;-

- a) No further contributions should be made until an approved policy and regulations on the contributions were in place.**
- b) Contributions to the Council of Governors must be in the budget and must be approved by the County Assembly.**
- c) The County Assembly should ratify or reject the contributions to the Council of Governors amounting to kshs.6, 940,604.**
- d) If the Assembly do not ratify the contribution the responsible Officers should account for the funds in accordance with Article 226(5) of the Kenya Constitution.**

6.2 Unsupported grant to Othaya Dairy Co-Operative- Kshs.1, 000,000.00

During the year, the County Government made a contribution to Othaya Dairy Co-operative of Kshs.1 million being financial support to pay off outstanding liabilities.

The County Executive Committee in its meeting of 20th February, 2014, resolved to inject an amount of Kshs. 1 million into the Othaya Dairy Co-operative.

However, no County Executive Committee minutes to show how this decision was arrived at were available for audit verification. Further, no documentary evidence was available to show the financial status of the Co-operative and how the figure of 1 million was arrived at.

The Officers informed the Committee that Othaya Dairy Co-operative was undergoing financial crisis and had requested for support which was granted by the meeting of Executive Committee Members (EXCOM).

The Committee observed that;-

- i. The funds were received by Othaya Dairy Co-operative and were used in offsetting some of the debts.
- ii. The grant was irregularly given since it was not approved by the County Assembly and no regulations were in place.

The Committee recommends that in future there should be a policy to guide on the grant and that no further grant should be made until there is a policy in place.

The County Assembly should ratify or reject the grants and if the Assembly do not ratify the grant the responsible Officers should account for the funds in accordance with Article 226(5) of the Kenya Constitution.

6.3 Irregular Grant to Gachika Youth Polytechnic Kshs 500,000.00

An amount of Kshs 500,000 was paid to Gachika Youth Polytechnic vide payment voucher number 991 dated 5th November, 2013 being Governor's pledge. The pledge qualifies as a grant by the County Government under Public

Financial Management Act, 2012. The purpose and conditions of the grant was not disclosed. In addition, no regulations governing grants were availed contrary to the provisions of section 139 of Public Financial Management Act, 2012.

The Officers informed the Committee that the grant was approved by the Executive Committee Member's (EXCOM).

EXCOM Minutes was provided but support document on receipt of the funds by the Polytechnic and the requisition letter were not provided.

The Committee observed that;-

- i. No regulations on the grant had been developed.
- ii. The grant was irregularly given since no policy was in place and it was not approved by the County Assembly.

The Committee recommends that in future there should be a policy to guide on the grant and that no further grant should be made until there is a policy in place. The County Assembly should ratify or reject the grants and if the Assembly do not ratify the grant the responsible Officers should account for the funds in accordance with Article 226(5) of the Kenya Constitution.

6.4 Unsupported Donation to Graceland Girls School - Kshs.250,000.00

The County Government does not have a policy regulating donations and there is no framework for deciding how and when donations are to be given by the County.

For instance, Graceland Girl's School requested for sponsorship for a run that was taking place on 15th February 2014. The request is dated 9th January, 2014. However, the County Government honored the request on 27th June, 2014 with a donation of Kshs.250, 000 four months later.

The Officers informed the Committee that;-

- i. The Graceland Girls High School had approached the County Government requesting support for its marathon in support for the needy girl's education.

- ii. The funds were given four months later since it was when the funds were available.

The Committee observed that;-

- i. No regulations on the grant had been developed.
- ii. The grant was irregularly given since no policy was in place and it was not approved by the County Assembly.
- iii. Requisition letters were not provided.

The Committee recommends that in future there should be a policy to guide on the grant and that no further grant should be made until there is a policy in place.

The County Assembly should ratify or reject the grants and if the County Assembly do not ratify the grant the responsible Officers should account for the funds in accordance with Article 226(5) of the Kenya Constitution.

6.5 Unsupported Domestic Travel Expenditure Kshs. 3,756,275.00

Nyeri County Government paid Uniglobe Northline Travel a total of Kshs. 3,756,275.00.

It was not clear how many people travelled to Mombasa as details of the persons who travelled were not available. The purpose of the trip was not provided; also details of the individuals who changed their reservations were not available.

The Officers informed the Committee that;-

- i. The travel was for the County Assembly Members and the County Executive, who had travelled to Mombasa in June, 2014.
- ii. There were cost of cancellation of the reservation and that it should be recovered from the individuals who cancelled their reservation.

The Committee was not provided with the list of the Members who travelled a list of those who cancelled their reservations and the purpose of the meeting was not disclosed.

The Committee therefore recommends for surcharging of the Officer who authorized the payment of kshs.3, 756,275.00 pursuant to Article 226(5) of the Kenya Constitution.

7.0 Revenue

7.1 Lack of Reconciliation of Revenue Collections and Revenue Banking's

It was noted that the Nyeri County Treasury does not carry out monthly reconciliations between revenue collected and revenue banked in the County Revenue Fund.

The Officers informed the Committee that;-

- a) They usually carry out daily reconciliation but they were unable to carry out monthly reconciliation.
- b) They get weekly returns statement from the Sub Counties and they compare it with the bank statement.
- c) From the weekly returns they normally prepare consolidated statements and the ex -chequer cashbook.
- d) The Auditor should advice on how the monthly reconciliation can be done.
- e) Moving forward each Sub County will be operating its own revenue collection account so that the same can be reconciled with its corresponding LAIFOMS.

The Committee recommends that;-

- i. The Nyeri County Treasury should ensure revenue collected and revenue banked is reconciled.**
- ii. Proper records should be maintained which include a manual cashbook.**
- iii. The recommendation in the audit query 1.2.3 should apply in that the Ethics and Anti-Corruption Commission should to carry out a forensic audit on revenue collection in Nyeri County.**

7.2 Lack of Consolidated Database of Revenue Records at the County Treasury

The Nyeri County Treasury does not have a consolidated database of revenue records. It was noted that the Nyeri County Government created new sub counties within the 2013/2014 financial year. The new sub counties were not equipped with LAIFOMS system.

The revenue was therefore being collected manually. The information available on revenue collected at these new sub counties was not supported by documentary evidence i.e. receipts at the new sub counties were not available therefore the revenue collected by the Nyeri County Government during the financial year 2013/2014 could not be ascertained.

The Officers informed the Committee that;-

- a) The County had a consolidated revenue data base as generated from LAIFOMS.
- b) They had business survey record which contained all business entities in the County.
- c) The Sub County system was not interlinked with those at the County Treasury and what was required was a software system for integrating the whole County.
- d) They were discussing with the National Treasury on how to integrate the LAIFOM system with IFMIS system.
- e) The department of Public Administration, Information and Communication was mandated with the responsibility of updating the survey records in all Wards.

The Committee observed that;-

- i. The County Treasury operated a secret revenue collection at K.C.B which was not known by the Officers in charge of revenue collection.
- ii. Wahome Gikonyo Advocate acted as an agent in revenue collection and the amount that had been paid to his Account on behalf of the County Government could not be ascertained.

iii. Revenue collection department in Nyeri County was misplaced since it was under the Deputy Governor Office/Public Administration, Information and Communication Department yet it should be rightly placed under the Finance and Economic Planning Department.

The Committee recommends that;-

- i. A forensic audit to be carried out by Ethics and Anti-Corruption Commission on matters of revenue collection in Nyeri County.**
- ii. Revenue collection should be under the Finance and Economic Planning Department.**
- iii. The County Executive should explore ways of automating revenue collection.**

7.3 Unsurrendered Revenue Books – Nyeri Town Sub County

During the financial period under review, Nyeri County Government was issuing revenue collection books to collecting officers without having surrendered the ones that has been used up. The revenue collected with such books could therefore not be accounted for and could have been misappropriated.

The Officers informed the Committee that they were not aware of any revenue collection book that had not been surrendered yet it was completely filled unless clarification was done by the Auditor.

The Committee recommends that the County Treasury should seek clarification from the Kenya National Audit Office on the same to clear the query and that Revenue Collection Books should not be issued before the filled ones were surrendered.

8.0 Human Resource Records

8.1 Lack of Approved Staff Establishment, Organizational Structure, Human Resource Plan / Policies and Written Job descriptions

During the financial period under review, the County Government was operating without approved staff establishment, scheme of service for the staff, human resource policy document and integrated human resource plan.

The Officers informed the Committee that;-

- a) It was true they were working without structures in place.
- b) The County was operating on human resource policies that were borrowed from the National Government.
- c) In regard to the Staff establishment they took existing staff at their levels as a tentative level.
- d) In terms of lack of formal organogram they were finalizing on CARPs Programme and the Governor had signed the County position with regard to the Organization Structure which was submitted to the Ministry of Devolution and they were waiting for the report on the same.

The Committee recommends that there should be an approved staff establishment, organizational structure and an integrated human resource plan for the County by 31st December, 2015.

8.2 Unsupported Human Resource Consultancy Services Kshs.928, 000.00

During the year, the County Government contracted Ms. Systra International Ltd to carry out a survey on Human Resource Status and administrative structure of the County Government of Nyeri. Payment of deposit was made via voucher No.00107 dated 5/8/13 for Kshs.540, 096.00 and voucher No.485 dated 6.9.13 for Kshs.387, 904.00. However, the contract agreement and the final Status report from the consultant were not available for audit verification.

The Officers informed the Committee that;-

- i. The services were engaged by the Transition Authority.

- ii. The County Public Service Board was not involved in those consultancy services including the terms of agreement and had never received the report.
- iii. In February, 2014 the Board had done their own internal staff rationalization, payroll audit and had pointed out on some issues.

The Committee was provided with a copy of the report and the Tender Committee minutes that were held on 15th May, 2013.

The Committee observed that;-

- i. There was no value for money since the report was not submitted to the County Public Service Board for implementation.
- ii. The contract agreement was not provided.

The Committee recommends that the Officers who approved the expenditure should be held accountable for violating section 149 (1) of the Public Finance Management Act, 2015 which requires efficiency and effectiveness in use of resources.

8.3 Irregular Engagement of Casual Workers

Human Resource records revealed that a total of 777 casuals worked for the County during the year. However, only payments amounting to Kshs.1,663,172.00 for the month of June, 2014 relating to casuals were availed for audit. Given that the casuals worked throughout the year, then all expenditure details were not disclosed. In addition, expenditure amounting to Kshs.1,441,422.00 incurred vide payment vouchers 4358 and 4314 all dated 30th June, 2014 was not supported by signed schedules by the casuals despite the expenditure having been incurred in cash.

It was further noted that the casuals were employed by the defunct Local Authorities with some having served for as many as eleven (11) years. No contract letters were availed to support their engagement. In addition, a policy document / guidelines were not provided to support the subsequent engagement and payment to the casual workers by the County Government during the year under review.

The Officers informed the Committee that;-

- a) Majority of casuals were inherited from defunct Local Authorities.
- b) The Nyeri County Public Service Board invoked section 78 and 79 of the County Government Act and issued a circular stopping recruitment of casual workers without their involvement.

On the issue of unsupported expenditure amounting to kshs.1, 441,422 the Officers informed the Committee that initially the Officers in charge used to receive the imprest and were the ones who paid the casual workers but currently casuals were paid directly in their bank.

The Committee observed that;-

- a) The signed schedules that were provided amounted to kshs.1, 225,422 hence they never addressed the query.
- b) The schedules provided did not bear the stamp confirming payments hence they could not be authenticated.
- c) The payment schedules for casual workers for the period 1st July, 2013 to 30th April, 2014 was not provided hence it was not possible for the Committee to ascertain how much was paid to the casual during the 2013/2014 financial year.
- d) No policy or contract letters were availed on the engagement of the casual workers.

In the foregoing, the Committee holds that the engagement of casual workers was irregular and that the payment done to casual workers amounting to kshs.1, 441,422 was not supported hence recommends for a forensic audit to be carried out by the Ethics and Anti-Corruption Commission on these matters.

The Committee also recommends that;-

- i. The Officer who authorized the payment should be held personally liable pursuant to Article 226(5) of the Kenya Constitution.**
- ii. The County Executive should ensure that the contract letters for the casual workers are maintained.**

iii. The various departments from the County Executive should be furnishing the County Assembly with quarterly reports on the current status of casual workers.

8.4 Failure to Adhere to 30% Threshold in Recruitment of Staff

During the year, a total of 103 employees were recruited. Out of this number, only seven (7) recruits were from non-dominant community, representing 6.8% of the total number employed. This is too low compared to the 30% required by section 65(1)(e) of the County Government Act, 2012.

The Officers informed the Committee that;-

- a) Since the County Government came in the County Public Service Board had recruited 61 staff.
- b) The staffs that were recruited as Governors Advisors, Personal Staff, Sub County and Ward Administrators were required to be Officers familiar with the local terrain and acceptable to Local Residents.
- c) The issue of 30% threshold was a challenge but the Board was endeavoring to achieve the threshold through encouraging any suitable candidate from any part of the Country to apply for jobs advertised.

The Committee was provided with the list of the recruited employees.

The Committee recommends that the Nyeri County Government should strive to achieve the 30% threshold in all the recruitment as required by section 65(1) (e) of County Government Act, 2012.

8.5 Excessive Wage Bill

Compensation of employee costs for Nyeri County during the financial year 2013 / 2014 as per the statement of receipts and payments amounted to Kshs.2,572,712,032.00 against a budgeted figure of Kshs.1,847,457,599.00.

The statement of receipts and payments also reflected total payments amounting to Kshs.4,335, 896,588.00. The compensation of employee costs therefore represents 59.33% of the total expenditure. The employee costs therefore comparably accounts for a big percentage of the expenditure in

the County Recommendation .The County Government should take necessary measures to reduce its wage bill to recommended levels.

The Officers informed the Committee that;-

- a) The County Public Service Board is ensuring that there are minimal fresh recruitments unless filling the positions created by the County Government Act and those tentative to the organization structure.
- b) They are also ensuring there is no unnecessary recruitment.

The Committee observed that despite the excessive wage bill in Nyeri County, the County Public Service Board recruited 30 Ward Administrators and 8 Sub County Administrators leading to increased the wage bill and some of them their qualifications remain in question.

The Committee recommends that;-

- i. The County Government should take necessary measures to reduce its wage bill to recommended levels and recruiting new staff should be stopped unless it is very necessary.**
- ii. The County Public Service Board should ensure all the Administrators meet the required threshold and that those that do not meet should be relieved their duty and replaced with qualified staff working in the County Government. The reporting on the same to the Nyeri County Assembly should be done before 31st December,2015.**