REPUBLIC OF KENYA

OFFICE OF THE AUDITOR-GENERAL

REPORT

OF

THE AUDITOR-GENERAL

ON

THE FINANCIAL STATEMENTS OF COUNTY GOVERNMENT OF NANDI

FOR THE YEAR ENDED 30 JUNE 2015

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OFFICE OF THE AUDITOR-GENERAL

REPORT OF THE AUDITOR-GENERAL ON COUNTY GOVERNMENT OF NANDI FOR THE YEAR ENDED 30 JUNE 2015

REPORT ON THE FINANCIAL STATEMENTS

I have audited the accompanying financial statements of County Government of Nandi set out on pages 6 to 36, which comprise the statement of financial assets as at 30 June 2015, and the statement of receipts and payments, statement of cash flows, summary statement of appropriation for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229(4) of the Constitution of Kenya and Section 8 of the Public Audit Act 2003.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Cash Basis) and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

The management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 4 of the Public Audit Act, 2003.

Auditor-General's Responsibility

My responsibility is to express an opinion on these financial statements based on the audit and report in accordance with the provisions of Section 9 of the Public Audit Act, 2003 and submit the audit report in compliance with the provisions of Article 229(7) of the Constitution of Kenya. The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). Those standards require compliance with ethical requirements and that the audit be planned and performed to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the County Government's internal control. An audit also includes evaluating the appropriateness of accounting policies

used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the financial statements.

Because of the significance of matters described in the Basis for Disclaimer of Opinion paragraph, however, I am not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion.

Basis for Disclaimer of Opinion

1.0 Handing Over of Assets and Liabilities of the Defunct Local Authorities

The summary statement of fixed assets register at annexure 4 to the financial statements reflects fixed assets balance of Kshs.1,607,064,388.80 as at 30 June 2015. However, this balance excludes assets taken over from the defunct local authorities. Although it was explained that the delay has been due to inability by the Transitional Authority to finalise the verification and validation of the assets and liabilities taken over from the defunct local authorities, no indication has been provided as to when the process of verification and validation is expected to be completed.

Consequently, the management has not complied with Ministry of Local Government circular ref. No MLG/1333/TY/52 dated 18 February 2013 which required all local authorities to prepare a detailed listing of assets, liabilities and staff to facilitate handing over to the County Governments. In the circumstances, it has not been possible to confirm that the fixed assets balance of Kshs.1,607,064,388.80 as at 30 June 2015 is fairly stated.

2.0 Construction of Governor's Office

2.1 Award of Tender and Contract period

Included in note 18 to the financial statements in acquisition of assets balance of Kshs.2,248,964,388.45 under construction of buildings amount of Kshs.166,443,174 is an amount of Kshs.61,520,250.90 paid to a construction Company in respect of construction of the Governor's office. The payment of Kshs.61,520,250.90 made during the year under review and Kshs.33,165,036 paid in the previous year between 26 February 2014 and 27 June 2014 brought the total payments in respect of the building to Kshs.94,685,286.90 as at 30 June 2015. The original contract with the Company was signed on 17 December 2013 at a contract sum of Kshs.103,383,420 for a two storey building. The construction was to commence on 10 February 2014 and be completed in 52 weeks on 6 February 2015.

2.2 Variation of Prices (VOP)

Information available indicate that on 7 October 2014, the tender committee approved an additional floor to the building at an additional cost of Kshs.21,191,200 being 20.5% of the original contract price, based on the bills of quantities prepared by the County Works Officer. However, the application for VOP order and the tender committee adjudication minutes thereof have not been provided for audit review. Consequently, it has not been possible to confirm the justification for the variation of Kshs.21,190,200.

2.3 Abandoned Works

As at the time of audit in November 2015, the construction had stalled while the structural work had been done up to third floor excluding roofing and the total payments to the contractor amounted to Kshs.94,685,286.90 or approximately 76% of the revised contract sum of Kshs.124,574,620. No reason was however provided for non-completion of the building as the contractor had abandoned the site. It is not clear and County management have not explained if and when the stalled project will be revived and completed and when the stakeholders will get value for their resources.

3.0 Construction of Stadia

3.1 Construction of Nandi County Stadium

3.1.1 Award of Tender and Variation of Prices

As disclosed in note 18 to the financial statements the acquisition of assets balance of Kshs.2,248,964,388.45 includes a balance of Kshs.166,443,174 in respect of construction of buildings. The balance of Kshs.166,443,174 also includes an amount of Kshs.54,899,163 paid to a construction Company in respect of the construction of the Nandi county stadium for a contract sum of Kshs.95,204,976 as per contract agreement signed on 8 April 2014. According to the contract agreement, the construction was to commence on 8 April 2014 and be completed on 8 April 2015. However, on 22 September, 2014 the contract sum was revised by Kshs.23,790,036 being 25% of the original contract sum, to Kshs.118,995,012 to accommodate the cost of the fence indicated as having been omitted from the earlier Bills of Quantities.

3.1.2 Abandoned Works

As at the time of audit in November, 2015 amounts totalling Kshs.91,400,163 or approximately 76.8% of the revised contract sum of Kshs.118,995,012 had been paid to the contractor while the project had stalled and no reason was provided as to why the project was still incomplete. Further, there was no information to show the percentage of work done as at the time the project stalled.

Consequently, the County Government did not get value for money on the total expenditure of Kshs.91,400,163 already incurred on the project due to the delayed completion.

3.2 Construction of Fence, Gate, Ablution Block and Levelling of Nandi Hills Stadium

3.2.1 Award of Tender and Contract Period

Further as disclosed in note 18 to the financial statements the acquisition of assets balance of Kshs.2,248,964,388 includes construction of buildings balance of Kshs.166,443,174. The balance of Kshs.166,443,174 also includes amounts totalling Kshs.23,875,536.90 paid to a construction company between October 2014 and February 2015 in respect of the construction of the fence, gate, and ablution block and levelling of Nandi hills stadium. The original contract was for Kshs.19,100,429.52 and the construction work was to be completed on 2 October 2015 lasting 52 weeks.

3.2.2 Variation of Prices

Information available indicates that through a site meeting held on 25 February 2015, the Project Engineer proposed contract variation of Kshs.4,775,106.88 being 25% of the initial contract price of Kshs.19,100,429.52 due to additional works. However, there is no evidence to show that the variation was approved by the Tender Committee as required by Section 47 of the Public Procurement and Disposal Act, 2005 and that the variation was based on prevailing consumer price index obtained from the Central Bank of Kenya.

Further, as at the time of price variation on 25 February 2015, the certificate No.5 for Kshs.5,831,036.90 had already been prepared on 23 February 2015 being the final payment of the revised contract price an indication that the contract variation was irregularly proposed after the works had already been completed.

According to the status report of 15 October 2015, it is indicated that the ablution block was excluded in order to accommodate the resultant variation. However, no explanation or justification was provided for the exclusion of ablution block estimated to cost Kshs.2,264,750 according to the Bills of Quantities while it was part of the initial contract.

Consequently, the propriety of the expenditure of Kshs.23,875,536.90 could not be confirmed for the year ended 30 June 2015 and the County Government may not have obtained the value for money in respect of the excluded works.

4.0 Construction of Roads

4.1 Tarmacking of Roads-Nandi Hills Lot I

Included in note 18 to the financial statements in acquisition of assets balance of Kshs.2,248,964,388.45 under construction of roads balance of Kshs.829,805,369.30 is an amount of Kshs.17,536,781 paid to a road construction company in respect of the proposed tarmacking of roads within Nandi Hills Town Lot I being part of the contract sum of Kshs.40,746,028 entered into on 24 March 2014. Although the project was to be completed by November 2015, the same had already stalled as at the time of audit in November 2015. As at the time of audit in November, 2015, the excavation had been done while laying the bitumen had not been done and the contractor was not on site. However, no reason was provided as to why the project had stalled.

Consequently, the County Government could not obtain value for money in respect of Kshs.17,536,781 so far paid and may incur additional costs in form of price variations that are associated with delayed completion.

4.2 Tarmacking of Roads-Nandi Hills Lot II

Included in note 18 to the financial statements in acquisition of assets balance of Kshs.2,248,964,388.45 under construction of roads balance of Kshs.829,805,369.30 is an amount of Kshs.26,639,929 paid to a road construction company in respect of proposed tarmacking of roads within Nandi Hills Town Lot II awarded for a contract sum of Kshs.55,391,777.00 on 24 March 2014. According to the contract agreement, the project was to be completed by November 2015. However, physical verification of the project in November 2015 revealed that the project was still incomplete and no reason was provided for the delay.

Consequently, the County Government could not have obtained value for the money so far paid and it is not known when the project will be completed.

4.3 County Roads Improvement

Included in the acquisition of assets balance of Kshs.2,248,964,388.45 is construction of roads expenditure of Kshs.829,808,369.30 paid to various construction companies in respect of county roads improvement. However, information available indicates that amounts totalling Kshs.461,718,258.40 out of a total of Kshs.829,808,369.30 was paid to various construction firms for road works/projects that were either not specified or indicated as spot improvement and road maintenance or road works. In addition documents to show which roads were actually paid for and how the firms were identified to carry out the road works were not availed for audit review. Consequently, the propriety of the expenditure of Kshs.461,718,258.40 included in construction of roads cost of Kshs.829,808,369.30 for the year ended 30 June 2015 cannot be confirmed.

5.0 Scholarships and other Educational Benefits

Included in note 16 to the financial statements in other grants and other payments balance of Kshs.100,806,388 under scholarships and other educational benefits balance of Kshs.87,009,434.00 are amounts totalling Kshs.35,376,036 disbursed in form of bursaries to needy students in various learning institutions. However, the funds were disbursed before the establishment of the Nandi County Education Fund (NACEF) Act, 2014 and constitution of the county bursary committee as required by the Act.

In addition the criteria for submission of requests, vetting of applications, approval by the committee, and awarding of bursaries were not availed for audit review.
Consequently, the propriety of the scholarships and other educational benefits cost of Kshs.35, 376,036 included in scholarships and other educational benefits balance of Kshs.87,009,434 for the year ended 30 June 2015 could not be confirmed.

6.0 Pending Bills

Annexure 1 to the financial statements for the year ended 30 June 2015 reflect pending bills balance of Kshs.487,529,124 made up of construction of buildings balance of Kshs.209,887,416.47 and construction of civil works balance of Kshs.277,641,707.53. However, the details of the pending bills have not been provided under the annexure 1 to the financial statements.

Further audit review of the records relating to the pending bills revealed that the amount of Kshs.209,887,415 in respect of construction of buildings was in respect of contracts that had been awarded but no certificates of works had been issued to qualify as pending bills. The details of the contracts are as follows:

	Contractor	Contract	Contract Amount (Kshs)
1	Litcon Renovators	Drainage Works Block ABC	3,797,000.00
2	Compass Engineering&Construction	Completion of Block C (Referral Hospital)	16,627,440.00

3	Litcon Renovators	Completion of Block A(Referral Hospital)	16,793,730.00
4	Tabarin Logistics	Completion of Block B(Referral Hospital)	15,048,225.00
5	Jebess Construction Ltd	Road Tarmacking	51,006,650.00
6	Lesma Engineering-Nandi Hills Lot 1	Road Tarmacking	43,740,598.00
7	Wallukat Investment Ltd - Nandi Hills Lot 2	Road Tarmacking	62,873,772.00
	Total		**209,887,415.00**

In addition, the pending bills balance of Kshs.277,641,707.53 in respect of construction of civil works include proposed construction and renovations of dips amounting to Kshs.62,446,918.00, construction of 7 roads estimated at Kshs.20,488,375 and construction of 89 ECD centres at estimated cost of Kshs.62,300,000 all totalling to Kshs.145,235,293. However, the construction of the projects was not undertaken during the year ended 30 June 2015 and therefore could not qualify as pending bills in the year under review.

Consequently, had the pending bills of Kshs.487,529,124 been settled and charged to expenditure for the year ended 30 June 2015, the statement of receipts and payments would have reflected a deficit of Kshs.775,349,368 instead of deficit of Kshs.287,820,244 now shown. Further, the citizens of Nandi County did not benefit from the projects valued at Kshs.487,529,124 that were not implemented during the year under review.

7.0 Compensation of Employees

The statement of receipts and payments for the year ended 30 June 2015 reflects compensation of employees cost of Kshs.1,417,810,120, while the records provided for audit showed a figure of Kshs.1,418,975,250 resulting to a difference of Kshs.1,165,130 that has not been explained or reconciled. Consequently, the accuracy of the compensation of employees cost of Kshs.1,417,810,120 for the year ended 30 June 2015 could not be confirmed.

8.0 Cash and Cash Equivalents

8.1 Bank Balances

The statement of assets reflects bank balance of Kshs.417,001,216 which includes two bank account balances totalling Kshs.407,099,956 composed of county revenue CBK account balance of Kshs.405,512,982.15 and imprest account Cooperative bank balance of Kshs.1,586,974 as at 30 June 2015, for which bank reconciliation statements were not provided for audit review. Consequently, the validity, accuracy and completeness of bank balance of Kshs.417,001,216 as at 30 June 2015 could not be confirmed.

8.2 Cash Balances

The statement of assets as at 30 June 2015 reflects cash balance of Kshs.1,058,438 which was however not supported by a board of survey report as required by the Government Financial Regulations and Procedures. Consequently, the validity and accuracy of the cash balance of Kshs.1,058,438 could not be confirmed as at 30 June 2015.

9.0 Budget Performance- Local Revenue

The revenue records provided for audit review shows that an amount of Kshs.195,801,686.70 in respect of local revenue sources was collected against a budget of Kshs.861,151,646 resulting in under collection of Kshs.665,349,950.30 or approximately 77% of the budgeted revenue. No explanation was however, provided for the underperformance or the measures put in place to ensure that the revenue budgeted for is collectable.

Consequently, the citizens of Nandi failed to receive the services budgeted for due to non-collection of the budgeted revenue.

9.1 Budgetary Control

The County Government of Nandi had an approved budget of Kshs.5,190,313,940 for the financial year 2014/2015, comprising of Kshs.2,483,162,999 for development and Kshs.2,707,150,941 for recurrent expenditure. This was an increase of 49.2% compared to a budget of Kshs.3,477,901,827 for the financial year 2013/2014. Further, the budget absorption for 2014/2015 was as follows:

Item	Budget Allocation (Kshs)	Actual Expenditure 2014/2015 (Kshs)	Under Expenditure	Budget Absorption %	Weighted Absorption rate %
Recurrent	2,707,150,941	2,399,387,540	307,763,401.00	88.63	56.8
Development	2,483,162,999	2,248,964,388	234,198,611.00	90.57	43.2
Total	**5,190,313,940**	**4,648,351,928**	**541,962,012.00**		**100.00**

However, no reason was provided for the underutilisation of the budget by Kshs.541,962,012 or approximately 10.44% of the approved budget.
Consequently, the citizen of Nandi County did not benefit from the un-utilised funds and there may be need for the County Government to re-evaluate its budgeting process with a view to allocating more funds to priority areas to avoid instances of idle funds.

9.2 Under/Over-Expenditure on Development Vote

A review of the development budget together with the recorded expenditure showed that ten (10) departments incurred expenditure of Kshs.2,371,325,658 against a budget of Kshs.2,483,162,999 resulting to under expenditure of Kshs.179, 635,218 or 7.2% of the budgeted expenditure.

Further, the department of Health recorded development expenditure of Kshs.432,047,887 against a budget of Kshs.364,250,000 resulting to over-expenditure of Kshs.67,797,887 for which no documentary evidence was provided to confirm that the same was authorized as required by Section 154 of the Public Finance Management Act, 2012.

The details of the expenditures are as follows:

	Ministry	Approved budget (Kshs)	Actual Expenditure (Kshs)	Under Expenditure (Kshs)	Over-Expenditure (Kshs)
1	County Executive	186,080,000	174,177,990	11,902,009	
2	Finance, Economic and Planning	49,020,000	44,296,521	4,723,478	
3	Devolved Units	114,400,000	114,324,547	75,452	
	Health	364,250,000	432,047,887		67,797,887
4	Agriculture	95,330,000	82,480,173	12,849,826	
5	Tourism	69,020,000	67,844,821	1,175,178	
6	Youth	124,080,000	100,375,379	23,704,621	
7	Education	168,400,000	167,852,159	547,840	
8	Lands	422,562,999	406,568,274	15,994,724	
9	Roads	741,000,000	674,786320	66,213,679	
10	Trade Investments	89,020,000	79,694,966	9,325,033	
11	County Assembly	60,000,000	26,876,621	33,123,378	
	Total	**2,483,162,999**	**2,371,325,658**	**179,635,218**	**67,797,887**

Consequently, the citizens of Nandi County were denied the benefits that would have accrued from the projects that were to be implemented. Further the County Government contravened the law by overspending on Health Department without the necessary authority thus affecting implementation of the approved projects in other departments.

9.3 Development Vote-Projects

Audit review of expenditure records indicate that an amount of Kshs.836,315,577 was spent on project implementation in eight (8) departments against a budget of Kshs.835,738,000. However, the management did not maintain individual project records to show the implementation status of each of the project as at 30 June 2015 as detailed below:

	Ministry/ Department	Expenditure item	Approved budget (Kshs)	Actual Expenditure (Kshs)
1	County Executive	Construction of Governor's residence	50,000,000	37,969,318
		County Bursary Scheme HQs	28,000,000	30,700,000
		Construction of other offices	28,000,000	26,757,922
2	Finance, Economic and Planning	Valuation roll	20,000,000	19,352,368
3	Devolved Units	Purchase of trucks and Trailers	24,000,000	23,969,803
		Construction of Buildings-Co-ordination of devolved Administration levels	72,000,000	71,954,743
4	Health	Construction of Buildings - Health Services delivery administration Services	50,000,000	49,372,660
		Construction of Buildings	81,200,000	186,972,099
		Purchases of Dental& Medical Equipment	158,050,000	121,638,823
5	Agriculture	Construction of Buildings-Livestock Diseases Management and Control HQs	30,000,000	26,457,174
		Livestock Diseases management and Control	40,000,000	37,733,987
6	Education	Construction of Buildings-Youth Polytechnics	28,400,000	28,232,733
		Construction of Buildings-County Bursary Scheme	50,000,000	49,710,178
7	Roads	Construction of Buildings-Stalled and New government buildings	20,068,000	19,020,100
		Purchases of vehicles	20,000,000	17,354,000
		Purchases of graders	52,000,000	12,118,191
8	Trade Investments	Construction of Buildings-Trade development and Promotion-HQs	12,000,000	11,287,770

		Construction of Building-General Administrative& Support Services	27,020,000	24,335,928
		Other Infrastructure &Civil works-Industrial Development	45,000,000	41,377,780
	Total		**835,738,000**	**836,315,577**

Consequently, the propriety of the expenditure of Kshs.836,315,577 spent on development projects for the year ended 30 June 2015 could not be confirmed.

9.4 Recurrent Vote

A review of expenditure records showed that an amount of Kshs.2,399,387,539.25 was incurred on recurrent vote against a budget of Kshs.2,707,150,941 resulting to under expenditure of Kshs.307,763,401.75 or approximately 11.4% of the budgeted expenditure.

Non adherence to the budget is against the law and may lead to non-implementation of the planned programmes thus denying the citizens of Nandi County the services they are entitled to.

9.5 Disputed Construction Works of Sub-County Roads

Information available indicate that the county executive had during the year under review undertaken the grading of other roads within the six sub counties of the Nandi County whose implementation had been devolved to sub county levels. According to the report of the County Engineer dated 11 December 2015, the road works valued at Kshs.312,382,554.00 had been constructed by various contractors out of which works valued at Kshs.157,602,189.37 were done by various firms without proper documentation such as award letters and signed contracts leading to non-payment of the works as summarised below:

	Certified work With Proper Documentation (Kshs)	**Certified work Without Proper Documentation (Kshs)**	**Total (Kshs)**
Aldai	21,034,110.83	28,828,501.01	49,862,611.84
Chesumei	44,026,580.43	26,259,119.60	70,285,700.03
Emgwen	26,225,728.00	13,620,064.00	39,845,792.00
Mosop	29,444,676.41	31,140,171.46	60,584,847.87
Nandi Hills	32,152,285.94	23,199,444.70	55,351,730.64
Tinderet	1,896,982.80	34,554,888.60	36,451,871.40
Total	**154,780,364.41**	**157,602,189.37**	**312,382,553.78**

In addition, no records such as tender documents and the interim certificates of work done were provided for audit review in support of the works done at estimated cost of Kshs.312,382,553.80. Further, there was no evidence adduced to show that there were payments made during the year under review and therefore the amount remain a potential liability to the County Government. Also, the management has not indicated the action being taken to correct the situation where contractual works are undertaken without competitive procurement process and proper contractual arrangement. The road projects were also not included in the procurement plan contrary to Section 26(3) (a) of the Public Procurement and Disposal Act, 2005 which requires that all procurements be planned through an annual procurement plan.

Consequently, the County Government was in breach of the law and the propriety of expenditure for works estimated at a cost of Kshs.312,382,554 for the year ended 30 June 2015 could not be confirmed.

9.6 Ethnic Composition

A review of the payroll for the month of June 2015, showed that the Nandi County Executive had one thousand, three hundred and eighty nine (1,389) employees out of whom one thousand, one hundred and thirty four (1,134) or 81.6% were from one ethnic community contrary to Section 67 (1) (e) of the County Government Act, 2012 which requires that the County Public Service Board in selecting of employees to consider the need to ensure that at least thirty per cent of the vacant posts at entry level are filled by candidates for appointment who are not from the dominant ethnic candidates.

Consequently, the management is in contravention of the County Government Act, 2012 on staff establishment as a means of promoting national unity.

Disclaimer of Opinion

Because of the significance of the matters described in the Basis for Disclaimer of Opinion paragraph, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion. Accordingly, I do not express an opinion on the financial statements.

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

Nairobi

15 September 2016