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COUNTY GOVERNMENT OF NAIROBI CITY
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COUNTY GOVERNMENT OF NAIROBI CITY

Annex 1



Approved
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SESSIONAL PAPER NO. 1 OF 2020

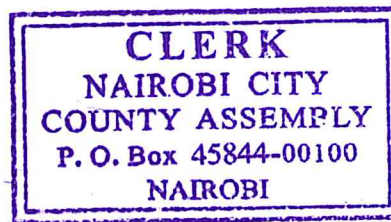
ON

**A POLICY FRAMEWORK FOR REVENUE COLLECTION AND
MANAGEMENT IN NAIROBI CITY COUNTY**

*Towards enhancing efficient, customer centred and integrated revenue collection in
Nairobi City County for better planning and administration of resources*

JULY 2020

**CLERK
NAIROBI CITY
COUNTY ASSEMBLY
P. O. Box 45844-00100
NAIROBI**



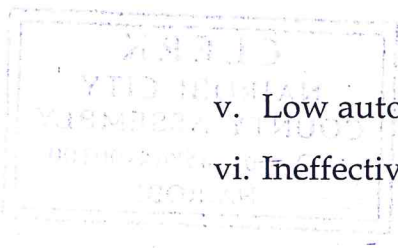
EXECUTIVE SUMMARY

An effective revenue collection system is a core function of an effective system of any government. Beyond its obvious role in generating revenue needed for provision of essential public services, it is generally agreed that a well-designed and efficiently administered revenue collection system contributes far more broadly than its contribution of revenue alone. It is on this backdrop that this policy framework for revenue collection in Nairobi City County has been developed.

Noting that effective revenue collection system is one of the foundations needed to buttress sustainable economic growth, the Nairobi City County is committed to adopting an effective, efficient, transparent and accountable system for revenue collection and utilization.

This Policy Paper is anchored in the Constitution, the County Governments Act, and the Intergovernmental Relation Act. The rationale of the policy Paper consists of the following facts:

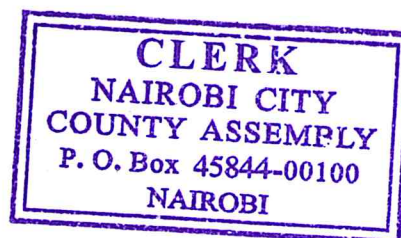
- a. Articles 209 and 210 of the Constitution grants powers to County Governments to impose, vary or waiver taxes, fees, levies and other charges.
- b. There has been gross underperformance of Nairobi City County as regards annual revenue collection *vis a vis* its annual expenditure.
- c. The underperformance is attributed to challenges in collection and administration of county revenue comprising of taxes, fees and charges.
- d. The challenges and gaps identified include the following:
 - i. Inadequate revenue collection and administration policies and legislation;
 - ii. Multiplicity of fees and charges;
 - iii. Human resource capacity deficits;
 - iv. Weakness in systems of enforcing compliance by customers;

- 
- v. Low automation and integrated revenue administration; and
 - vi. Ineffective internal controls and audit mechanisms.

The purpose of this Policy Paper, therefore, is to guide, strengthen and support the establishment of an effective, efficient, transparent and accountable system for revenue collection for Nairobi City County. The Policy Paper aims to create a system that offers optimal collection and unsurpassed utilization of revenue from the Nairobi City County.

The Policy Paper identifies the revenue collection challenges and gaps and proposes several commitments and solutions towards addressing these challenges and towards the overall development of an effective revenue collection system.

Chapter one gives a historical perspective of revenue collection and management in Nairobi City County; Chapter two provides context to revenue collection in the County, including the legal framework that empowers the County to collect revenues; Chapter three is on interventions and recommendations and provides sustainable solutions, interventions and recommendations that will ensure that the County optimally generates revenue from all its revenue streams; Chapter four is on implementation, monitoring and evaluation and Chapter five is on conclusion.



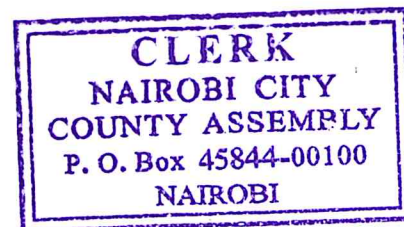
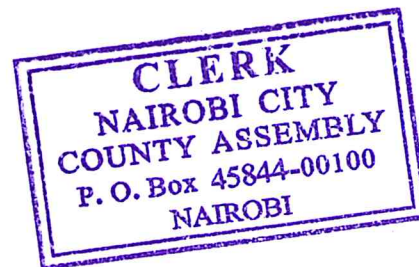
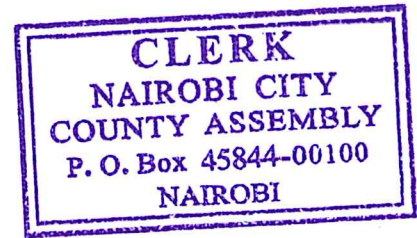


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CHAPTER ONE

INTRODUCTION

1.1 BACKGROUND

The City of Nairobi was incorporated as a township in 1900 as the Township of Nairobi. Previously, it had been a supply depot on the Kenya-Uganda railway. In 1905, Nairobi was confirmed as the capital of the Country (Nairobi Urban Study Group 1973) with seven distinct zones. In 1919, a municipal council with corporate rights was appointed thus making Nairobi a municipal council. In these early years, the growth of the town had been controlled only by economic forces, with no co-ordination of development other than by the layout of a gridiron street pattern in the CBD. In an attempt to order the situation, a town-planning consultant was appointed in 1926 to make recommendations on zoning arrangements (Nairobi Urban Study Group 1973). However, little was done to curb land speculation, and development occurred in an uncontrolled manner. In 1928, the powers and responsibilities of the Municipal Council of Nairobi (MCN) were considerably extended by a new municipal ordinance.

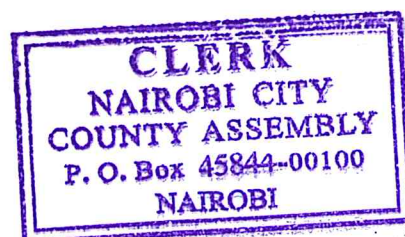
Upon independence the City became a province within the newly formed Republic. Thereafter, several urban plans were designed and implemented. These plans partitioned Nairobi based on various economic and social activities. The plans would then advise on the kind of revenue collection that would occur in the City. Through this system the City achieved a level of prosperity with service delivery being timely and efficient. Revenue collection was largely manual but was sufficient due to the population and need of the era. However, over the years, revenue collection has not kept up with the changing face of the City and has slumped.

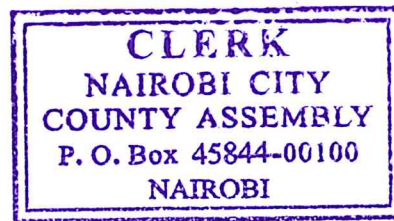
The 2010 Constitution created a two tier system of Government i.e. the National and County Governments. The City of Nairobi then under the Nairobi City Council thus became the Nairobi City County. The County is demarcated into seventeen sub-counties with eighty-five wards.

The Nairobi City County has over the years failed to meet its revenue collection targets. This has hampered the County Government in its implementation of the budget and service delivery. Part of the challenges the County has facing is lack of optimization of its revenue streams.

Since coming into force of the Nairobi City County Government (Hereinafter the County) in March 2013, the County has not been able to realize its optimum revenue potential and budget targets, mainly due to the under- performance of County internal revenues. For instance, in FY 2017-18, the County realized Kshs. 26.328billion against an original revenue target of Kshs. 33.457billion creating a budget under performance of Kshs. 7.129billion. The total internal revenues collection for the FY stood at Kshs.10.109 billion against a target of Kshs. 17.229billion. In FY 2018-19 the County Assembly approved a Budget for the Nairobi City County Government totalling Kshs. 32.31 billion out of which Kshs. 15.50 billion was to be funded from County own internal sources of revenue.

However, the County generated a total of Kshs.10.25 billion from own revenue sources in FY 2018/19. The County's approved budget for FY 2019/20 was Kshs.36.98 billion, with expected Kshs. 17.05 billion generation from own source revenue. In addition, the County Assembly subsequently passed the Nairobi City County Finance Act, 2019 which was assented to by the Governor.





The Act provides fresh measures aimed at broadening the revenue base and improving the existing revenue collection methods and measures.

The need for County Governments to have reliable sources of revenue to enable them to govern and deliver services effectively is among key principles of devolution as provided under Article 175 (b). The Constitution identifies funding sources for counties to include:

- a) Equitable share of at least 15 percent of most-recently audited revenue raised nationally (Art. 202 and 203(2))
- b) Additional conditional and unconditional grants from the National Government's share of revenue(Art. 202(2));
- c) Equalization Fund based on half of one percent of the revenue raised nationally (Art. 204);
- d) Local revenues in the form of taxes, charges and fees; and,
- e) Loans and grants.

Chapter twelve of the Constitution of Kenya lays down the principles of public finance. In particular, Article 201 highlights the specific requirements which include openness, accountability, promotion of an equitable society in sharing of the burden of taxation, burdens, and benefits of the use of resources and the use of public money in a prudent and responsible way among others.

The key role of the County Assembly is to ensure that there is prudence in the management of public funds by the County Government. In this undertaking, the County Assembly is expected to pass and follow up on the implementation of the County budget, the finance bills among other related documents.

1.2 MISSION AND VISION

Mission

To promote openness, accountability and equitable society by optimization of revenue streams to achieve shared burden of taxation for better service delivery.

Vision

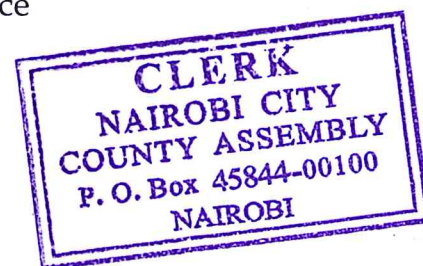
Enhancing of Revenue Collection for the City of Nairobi for Better Planning & Resourcing.

1.3 OBJECTIVES

This Policy Paper seeks to examine the County's revenue collection and management and propose solutions that will enhance its revenue collection for better planning, service provision and resourcing.

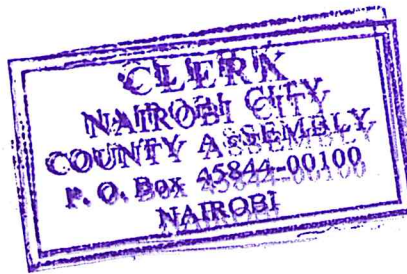
1.3.1 Specific Objectives

- To achieve a customer centric process of revenue collection
- To identify the gaps in revenue collection
- To assess the revenue streams and their performance
- To optimize revenue collection
- To enhance transparency in revenue collection
- To centralize the revenue collection systems



1.4 HISTORY OF REVENUE COLLECTION SYSTEM

The Kenya Local Government Reform Programme (KLGRP) was conceptualized by the government of Kenya in the early 1990s and became operational in 1996. The decentralization initiative under the KLGRP was launched focusing on strengthening Local Authorities (LA). The programme



had three components: rationalizing central-local financial relations, improving Local Authorities financial management, including revenue mobilization, and strengthening citizen participation in planning and ownership of programmes. The reform programme had recognized the importance of Local Authorities in enhancing economic governance, improving public service delivery, and increasing economic efficiency, accountability and transparency. The reforms had also included putting in place Fuel Levy Fund, Contribution in Lieu of Rates, user charges rationalization, single business permits and most greatly Integrated Financial Management System (IFMS). These programs aimed at restructuring the local public sector and more importantly, strengthening local level accountability mechanisms.

KLGRP focused on deepening the legal, financial management and institutional reforms in Local Government sector. KLGRP began with financial reforms aimed at enhancing inter-governmental fiscal transfers, improving financial management, debt resolution, streamlining budgeting system and service provision capacity building for Local Authorities. A key instrument in this process was the enactment of the Local Authority Transfer Fund (LATF) in 1998. The Act provided 5 percent of national income tax to Local Authorities in line with population, resource base and financial performance.

At independence, Nairobi inherited a system of Local Authorities, whose basis was the Local Government Act (Cap. 265) rather than the Constitution. Local Authorities derived their revenue raising powers from a variety of legal instruments including: the Local Government Act (Cap 265, sections 216 and 217) which empowered Local Authorities to establish and maintain a General Rate Fund; b) the Valuation for Rating Act (Cap 266) and the Rating Act (Cap

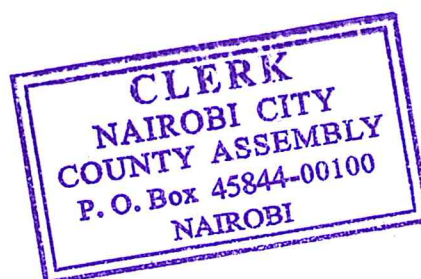
267), The Rating Act provided for imposition and collection of property rates by rating authorities while the Valuation for Rating Act (Cap 266) provided for valuation of properties for the purpose of levying rates. The latter also laid out procedures to be followed in preparing a valuation roll, which is a legal document consisting of information on all rateable properties within a specific jurisdiction, the Trade Licensing Act (Cap 497) which empowered Local Authorities to impose business license fees, the Local Government Act (section 222) which empowered Local Authorities to borrow, including through issuance of stocks or bonds, although this facility was rarely used.

At the inception of County Governments, Nairobi City County was collecting taxes manually without a proper set framework. Over the years the County contracted Web Tribe (Jambo pay) to collect revenue on its behalf through a platform known as "E-jiji pay". This contract was terminated for, among others, poor revenue collection.

In early 2018 the County then again contracted National Bank of Kenya through an entity known as "Noveta" for purposes of revenue collection. Currently the County is using a hybrid manual system as well as the "Noveta" platform.

1.5 RATIONALE FOR THE POLICY PAPER

The overall goal for Devolved Governments is to achieve effective service delivery for every Kenyan no matter their socio-economic status. Nairobi residents deserve services that are provided in a timely and efficient manner. This will be achieved through optimum revenue collection and management. This vision is guided by the understanding that quality services contributes



significantly to economic growth and overall improvement of the well-being and living standards of Nairobi residents. Service delivery and revenue collection are therefore mutually inclusive.

This Policy Paper seeks to adopt best practices in revenue collection, procedures and accountability framework. The use of modern technology will ease the process of revenue collection hence the need for automation of the revenue system and processes to ensure sustainability and accountability.

Adoption of a customer centric system of revenue collection will simplify the revenue collection process for the user. This will enhance the current revenue streams and create potential for new revenue streams. A centralized revenue collection system coupled with the customer centric focus can be used to identify gaps in the county revenue collection system. The centralized system will also ensure a realistic budget making process with realistic and verifiable revenues.



CHAPTER TWO

CONTEXTUAL ANALYSIS

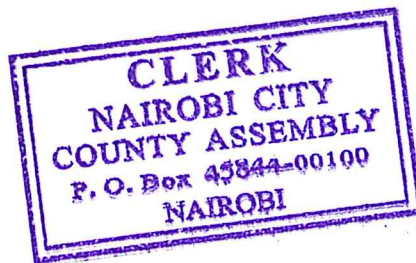
This chapter analyses the legal framework that empowers the County to collect revenue. It examines the services offered by the County, the revenue collection processes and systems and the human resources within the County and evaluates their effectiveness in revenue collection. Lastly, the chapter forecasts the optimum revenue collection potential for the County and analyses the gaps in compliance and enforcement.

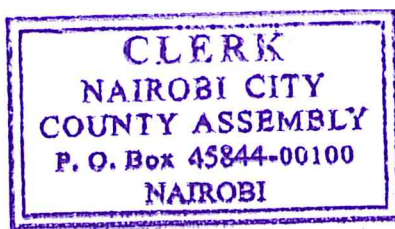
2.1 LEGAL FRAMEWORK

Prior to the promulgation of the Constitution of Kenya, 2010 and the onset of the devolved system of government, local authorities derived their revenue raising mandate from various legislation, including the Local Authorities Act which established the local governments, the Rating Act which permitted the county councils to levy rates and prescribed the forms of rating, the Valuation for Rating Act which provided for valuation and preparation of a valuation roll and the Trade Licensing Act. A majority of these legislation subsist post the promulgation, albeit with the necessary modifications in line with Part 2 of the Sixth Schedule to the Constitution.

Presently, own source revenue within the County is underpinned by the Constitution of Kenya, 2010, the Public Finance Management Act (PFMA) 2012, the County Government Act 2012 and the Urban Areas and Cities Act 2011, among other county-specific legislation.

Article 209(3) of the Constitution allows Counties to impose property tax, entertainment taxes and any other tax authorised by an Act of Parliament, with Part 2 of the Fourth Schedule of the Constitution specifying that the issuance



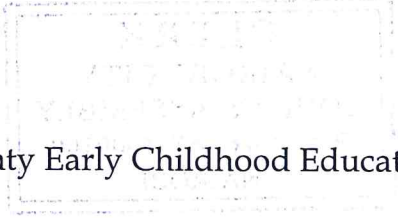


of trade licences as a responsibility of the County Government. On its part, Article 209(4) of the Constitution provides that county governments may impose charges for the service they provide. Further, Article 209(5) of the Constitution requires counties to impose taxes, levies and charges in a way that does not prejudice national economic policies, economic activities across county boundaries or the national mobility of goods, services, capital and labour.

Part IV of the PFMA provides for County Government responsibilities with respect to management and control of public finance. According to Section 120(1) of the County Governments Act, counties are required to develop a tariffs and pricing policy to guide imposition of fees and charges for public services. In addition, county governments may enact laws and regulations to facilitate implementation of tariff policies. Section 6 (2) (b) of the County Government Act empowers the County to acquire, purchase or lease any land wherefrom the County is able to collect rent.

Article 210 of the Constitution expressly states that no tax or licensing fee may be imposed, waived or varied except as provided by legislation. Consequently, counties enact specific laws such as the annual county finance acts that authorise tax collection and receipt of other revenues. Nairobi City County has enacted the following source or sector specific legislation that enable regulation of various sectors through licensing and permits, acquired at a fee, thereby facilitating revenue collection within the County –

- Nairobi City County Tax Waivers Administration Act, 2013
- Nairobi City County Revenue Act, 2015
- Nairobi City County Dog Control and Welfare Act, No. 8 of 2015

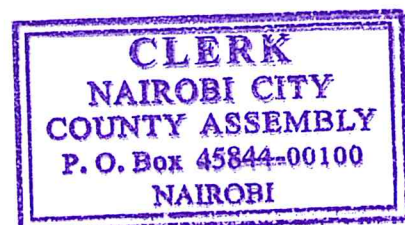
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- Nairobi City County Early Childhood Education Act, 2017
 - Nairobi City County Cultural Heritage Act, No. 9 of 2017
 - Nairobi City County Betting Lotteries and Gaming Act, 2014
 - Nairobi City County Alcoholics Drinks and Licensing Act, 2014
 - The Nairobi City County Outdoor Advertising and Signage Control and Regulation Act, 2018
 - The Nairobi City County Transport, Act, 2020

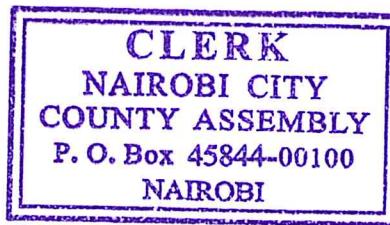
See Annex (1) for an analysis of the Nairobi County laws for charging fees, rents, rates and cess.

One of the foundational challenges faced by the County in so far as revenue collection is concerned is the fact that there is currently no comprehensive legal basis for the collection and management of revenue by the County. The County does not have a distinct, well defined revenue policy and legislative framework for the imposition of tax and fees, including waivers or variation thereto in accordance with **Article 201 (1) of the Constitution**.

A majority of the revenue related laws are time worn. Consequently, the County relies on the laws inherited from its successors, particularly, the defunct Nairobi City Council. For instance, the valuation roll that was prepared in the year 1982 pursuant to the Valuation for Rating Act has not been updated since, despite that fact that property valuation ought to be undertaken every 10 years.

Moreover, the legal framework for county revenue collection exists in separate, disjointed legislation, with each separately providing its own enforcement





mechanisms thereby creating a multiplicity of levies, legal and institutional overlaps and policy illogicality.

The County is yet to develop and operationalise a tariff and pricing policy which ought to outline an objective basis for setting fees and charges for the services provided by the County. In the absence of effective policies, county fees and charges may fluctuate, with the effect of either penalising some citizens or raising inadequate revenue, thereby constraining provision of quality services.

2.2 REVENUE COLLECTION SYSTEM

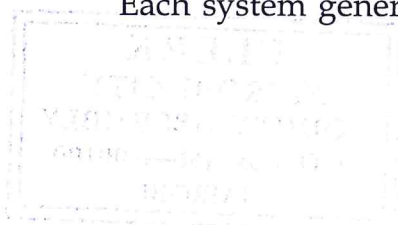
The role of automation in revenue collection cannot be over emphasized especially with regard to efficiency gains and sealing leakages. The Controller of Budget and the Commission on Revenue Allocation reports indicate that majority of counties use fragmented ICT systems in revenue collection and management.

The systems currently in use by the County for revenue collection purposes are *LAIFOMS* (the core reporting system), *RevenueSure* and *FleetFix* (Transport Management) and *eDevelopment Permit System* (Urban Planning).

Having these stand-alone systems to address the same objective poses various challenges as outlined hereunder:

- a) *Cost of Collections* – each system requires dedicated resources (software, hardware and human resources) which escalate the collection costs.
- b) *Reporting Challenges*- these are brought about by lack of standardisation.

Each system generates unique reports based on the system's design. This

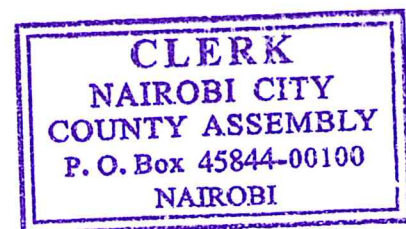


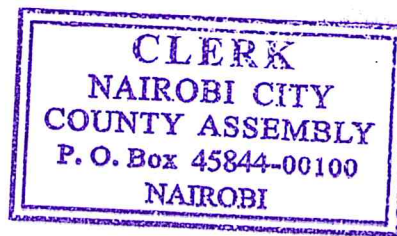
fragmentation of systems also makes it difficult for the County to have real time and/or on-demand reports.

- c) *Accountability Challenges* – the County has had numerous challenges, especially with third party owned systems, whose vendors dictate the terms of engagements thereby leaving the county at their mercy. Such contractual arrangements have made it difficult for the County to hold the vendors accountable.
- d) *Scalability challenges* – the County is currently using an aged core system. This limits the kinds and instances of enhancements that can be done on it to modernise it. This has led the County to seek for alternative systems to cover for the legacy system's weaknesses.
- e) *Ownership challenges* – use of third-party systems limits the County on the use and modification of the systems to maximize their use. It also exposes crucial data to the third parties. Further, the County has no line of sight on real-time collections.
- f) *Security* – the core County system, due to its aged nature, cannot withstand modern day system attacks and breaches. For third party-owned systems, data and infrastructure security is left to the vendor, with minimal control.
- g) *Stability* – City Hall is prone to many power outages that result in system downtimes. This has a direct impact on revenue collection and customer satisfaction.

2.3 REVENUE COLLECTION PROCESSES

Process walkthroughs conducted by the Kenya Revenue Authority (the principal revenue collection agent for the County, presently) on current revenue generating processes show that:





- a) Most processes are manual or semi-manual. Only Daily Parking and Single Business Permit stand out as services that are automated.
- b) Duplication and replication of roles which results in inefficient workflows and poor service delivery.
- c) Processes are not predictable. This is because there are no existing internal Service Level Agreements (SLAs) to guide processing of customer applications and requests.
- d) Most processes are not documented. This creates room for abuse and manipulation. Auditing the processes is also difficult due to lack of proper reference documents.
- e) Processes are not full proof and are prone to influence and interference by both staff and customers
- f) Limited customer touchpoints and payment options. Most processes require the applicant to visit an office to make an application. Payments can only be validated at the cash office.
- g) Processes are generally long and tedious. Most processes involve actors whose workflows are not interlinked in a system.

2.4 PERSONNEL IN REVENUE COLLECTION

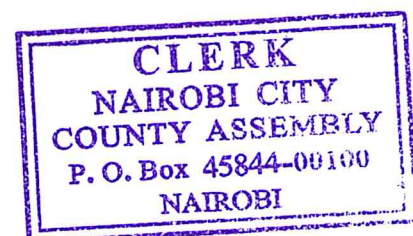
The County is constrained in terms of numbers and capacity of personnel to cover all revenue streams in revenue collection and administration. These constraints have led to low revenue collection as the County is forced to deploy more revenue enforcers who do not have the requisite skills in areas such as revenue potential assessment, forecasting, cost of collection assessment and revenue management and administration. The staff are also not equipped with the necessary tools and resources to enable them perform their work effectively.

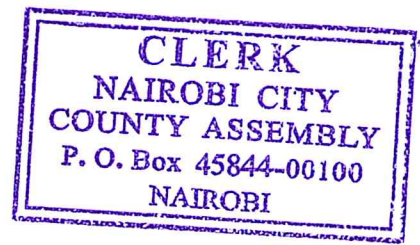
Institutional arrangements and role overlaps at the County have contributed to the challenges in revenue collection and management. Given that revenue collection is decentralized to a department for instance, collection of user fees from Health Department who might not report to the CEC Member responsible for Finance has been abused leading to spending revenue at source, contrary to the Public Finance and Management Act, 2012 and the Regulations thereto.

Another factor adversely affecting revenue collection is low morale (demotivation) especially by revenue collectors working for the County. They decry earning disproportionately lower salaries compared to their counterparts inherited from the defunct local authorities. This has led to the County being unable to attract and retain requisite personnel needed to maximize on their revenue potential. Revenue pilferage through staff has also been identified as a major setback to the County achieving its targeted revenue. The manual systems exacerbated by corrupt individuals within the County has led to loss of colossal revenues amounting to billions of shillings.

2.5 REVENUE POTENTIAL

Since the onset of devolution, the County has had its fair share of challenges on attempt to realize the full potential of revenue required to fund the key components of the budget. Data on record indicate that as a proportion of the total projected revenues, the County has consistently faced a gap of between 20-25%. The Institute of Economic Affairs on its review of the County's revenue potential found out that the County is operating below 50% of its revenue capacity.





This dismal performance in revenue collection has been occasioned by the inherent challenges within the County which include lack of appropriate data on the revenue payers across the revenue streams, weak and opaque revenue collection systems, the County focusing on automation of the various streams without commensurate investment on innovation techniques and non-optimal integrity levels of revenue personnel.

It is imperative to note that the underpinning provisions of Article 209 of the Constitution has laid emphasis on the taxes, fees and charges that can be imposed by the County Governments with emphasis being on the nexus between service delivery and revenue collection. It is apparent that the relationship between revenue collection and service delivery is symbiotic where below par performance on one end affecting the other.

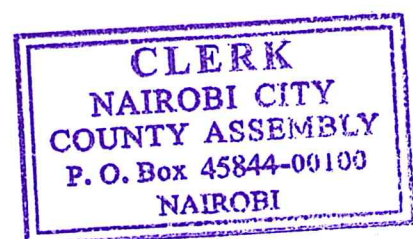
The County has tried to make considerable progress in the process of estimating the revenue potential due to the County but the same has not been accurate or near accurate due to limited data on the parameters that inform the revenue figures. The report on the Gross County Product by KNBS indicates that Nairobi's share of GDP remains large at 21.7% but the County is growing way below the national average GDP growth rate of 5.6%. The study revealed the ground potential for Nairobi County but the same has not been utilized in the County budget process as a basis for determining the revenue potential of the various revenue streams.

The Nairobi City County Assembly conducted an inquiry into the revenue performance for the various revenue streams and it was evident that data gaps continue to be a major challenge with regard to revenue forecasting and projections. There exists no published study on the potential of the Nairobi

County Own Source Revenue potential which would otherwise be instrumental for planning and budgeting. However, a study conducted by the Commission on Revenue Allocation in partnership with the European Union direct to the fact that there are substantial rate arrears not captured in county revenue information. With considerable data not captured in GIS the report indicates that Kshs. 75,631,804,690.00 is uncollected in the whole of Nairobi with another Kshs. 112,687,232,305 not mapped in GIS bringing total rate arrears to Kshs. 188,319,036,995.00.

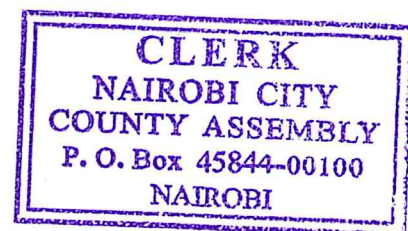
The Assembly's study pointed to the fact that there are inherent sectoral challenges that continue to limit the County's ability to realize optimal revenue outturns including: -

- The issuance of fire inspection certificates was done without any commensurate services thereby providing little incentives for citizens to voluntarily apply for fire certificates
- Most of the sectors were unaware of the existing revenue laws and hence levied fees and charges that were not in consonance with existing legislation
- Lack of data on number of parking slots and matatus operating within the Nairobi metropolis
- Overreliance on automation with no effort to innovate the contemporary technologies to match the sectoral requirement for optimal revenue realization
- Downtime in the parking payment which leads to lapses in accountability for the revenues collected
- Lack of legal updated framework to guide in determination of rates payable



- Inadequate personnel to ensure enforcement and compliance on the rates approved
- Delayed reconciliation of rents payable by staff and failure to effect salary deductions in time
- Failure to link some revenue payment systems to LAIFOMS making it difficult to verify payments
- Lack of data on number and revenue potential from markets
- Failure by the County Treasury to consult Sectors before assignment of revenue targets
- Lack of adequate investment in ICT and insufficient training of staff on use of ICT equipment
- Failure or slow enforcement on illegal business and tax defaulters
- Technical mismatch of the revenue enforcement officers

To address the existing gap on realization of optimal revenue performance there is need to determine what constitutes the maximum revenue that the County can collect. This should be achieved by determining the drivers that inform the various revenue through a comprehensive census to compile data necessary for forecasting and decision making.



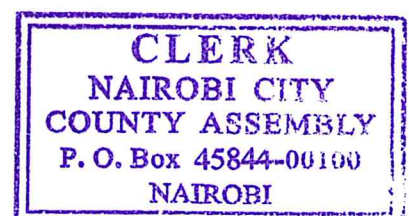
CHAPTER THREE

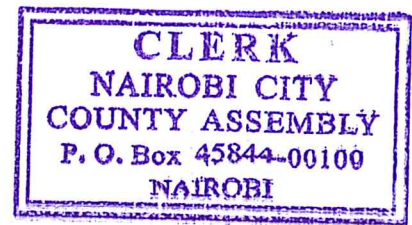
INTERVENTIONS AND RECOMMENDATIONS

Chapter two identified the challenges that have greatly contributed to dismal revenue collection and management within the County. This chapter seeks to provide sustainable solutions, interventions and recommendations that will ensure that the County optimally generates revenue from all its revenue streams, it proposes the legal and policy interventions that should be undertaken to ensure that the technology adopted by the County is firmly anchored in law. It proposes institutional changes that need to be undertaken to enhance revenue collection by utilizing qualified, motivated and accountable human resource. The chapter further proposes the minimum requirements for the technology to be employed for County revenue collection which should ensure transparent, customer centric, efficient and centralized revenue collection.

3.1 LEGAL AND POLICY RECOMMENDATIONS

The recommendations set out hereinafter are anchored in **Article 201 of the Constitution** which sets out the principles that guide all aspects of public finance in the Republic. The County is enjoined by the Constitution to ensure openness and accountability in public finance, to facilitate prudent and responsible utilisation of public money and to facilitate responsible financial management and clear fiscal reporting. A harmonised legal framework for Revenue administration is the principal foundational precept for the development of an efficient and effective revenue collection system. It is what underpins the local revenue structure and design for the county government to ensure compliance with the principles of public finance enshrined in **Article 201 of the Constitution**.





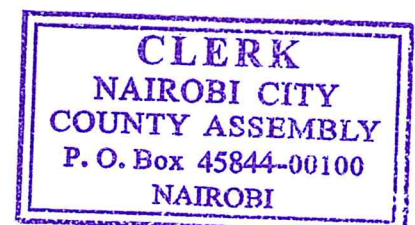
The following recommendations are made in this respect –

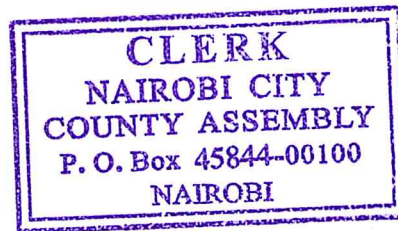
1. Enactment of legislation to provide a framework for the general administration of revenue raising laws. The Act should provide for the following, *inter alia* –
 - The creation of a semi-autonomous body which shall be responsible for the administration of revenue collected by the County, with clearly defined functions, powers, roles and responsibilities.
 - Clearly defined systems that ensure accountability, monitoring and analysis of revenue collected by the County to, *inter alia*, inform county revenue forecasting.
 - An effective and efficient dispute resolution mechanism to ensure that aggrieved customers have a mechanism for resolving disputes arising from revenue administration in an efficient and timely manner. The dispute resolution process should be fair, independent and accessible to customers.
 - Mechanisms for voluntary tax payment and coercing payment by non-complying customers by providing for appropriate penalty structures.
 - Mechanisms for waiver or variation of taxes, rates, fees, charges and other revenue collected by the County.
 - The creation of an accurate and reliable customer database with mechanisms for regular updates and proactive customer engagement.
 - Mechanisms for receiving public feedback and providing information on preparation of revenue raising measures to facilitate active and effective public participation.
 - Effective risk management procedures that address the identification, assessment, ranking, and quantification of compliance risks.
2. Enactment of key legislation such as property rating, valuation and cess collection laws to replace the outmoded laws used by the County's

predecessors. The legislation should prescribe property discovery and tax base coverage, valuation and assessment, provide for up to date valuation and recording of property in new valuation rolls and establishment of appropriate tax rates.

3. Development and operationalisation of a tariff and pricing policy to guide imposition of fees and charges. To this end, the County should take into account the guiding principles set out in Section 120 of the County Governments Act, that is, -

- (a) users of county services should be treated equitably in the application of tariffs, fees, levies or charges;
- (b) the amount individual users pay for services should generally be in proportion to their use of that service;
- (c) poor households shall have access to at least basic services through –
 - i. tariffs that cover only operating and maintenance costs;
 - ii. special tariffs or life line tariffs for low levels of use or consumption of services or for basic levels of service; or
 - iii. any other direct or indirect method of subsidies of tariffs for poor households;
- (d) tariffs shall reflect the costs reasonably associated with rendering the service, including capital, operating, maintenance, administration and replacement costs, and interest charges;





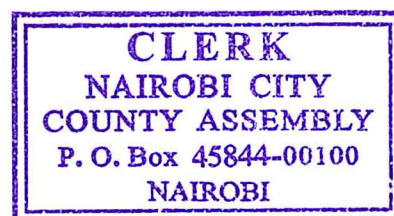
- (e) tariffs shall be set at levels that facilitate the financial sustainability of the service, taking into account subsidy from sources other than the service concerned;
 - (f) provision may be made in appropriate circumstances for a surcharge on the tariff for a service;
 - (g) provision may be made for the promotion of local economic development through special tariffs for categories of commercial and industrial users;
 - (h) promotion of the economic, efficient, effective and sustainable use of resources, the recycling of waste and other appropriate environmental objectives; and
 - (i) full disclosure of the subsidies on tariffs for poor households and other categories of users.
4. Entrenching in law measures that map tax compliance with the provision of public services. For instance, tying issuance of the Single Business Permit to production by a business entity of a valid Tax Compliance Certificate, and awarding procurement tenders only to tax-compliant firms.
5. The Commission on Revenue Allocation (CRA) in conjunction with the Kenya Law Reform Commission (KLRC) and the Council of Governors (CoG) have developed a County Model Revenue Legislation Handbook containing model laws on property rates, trade licenses, revenue administration and finance law. The County should consider adopting these model laws, with the necessary modifications.

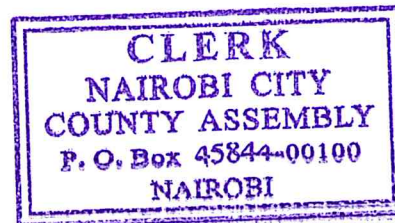
3.2 INSTITUTIONAL FRAMEWORK

The existing framework for revenue collection in the County has evolved gradually and has involved multi-sectoral diverse strategies, approaches, institutional arrangements and system evolution. This has, over time, cumulatively resulted in systems with identified inadequacies and subject to legal, infrastructural, security and ethical challenges. Consequently, the foregoing has resulted in inefficiencies in service delivery and a domino effect on revenue collection. Electronic or manual initiatives that have been adopted to redress these challenges have faced bottlenecks including; technology, legislative, human resource, institutional, behavioural among others both from within the County and from customers. The existing legal framework has rather compounded the undesirable experiences and processes by instituting ineffective coordination of responsibilities.

To address this and to ensure effective and coordinated arrangements, it is proposed that administrative and institutional reforms need to be put in place to ensure effectiveness and efficiency in revenue collection and management. The administrative and institutional changes should ensure that the following objectives are achieved: -

1. The need to ensure intuitional units with a central command devoid of ambiguities and overlap of responsibilities and role playing;
2. The need to facilitate bringing on board third parties under legitimate and pre-agreed arrangements to enhance both revenue potential and collection;
3. The need to provide adequate, supervised, accountable and auditable platforms of human resources to facilitate access to convenient and accessible services related to the various revenue streams;





4. The need to decentralize revenue collection responsibilities and infrastructure to the constitutionally recognized decentralized units to buttress and enhance compliance and enforcement strategies;
5. The need to link quality of service delivery to revenue collection and human resource attitude to influence client attitude and behavior towards their obligations in the social contract.

The institutional framework should take into consideration the factors that have hindered convenient and effective and more robust revenue collection system in the County. The success of implementation will therefore largely depend on strong commitment to turn around institutional and administrative arrangements within the County to ensure that they work towards achieving the desired results in revenue collection.

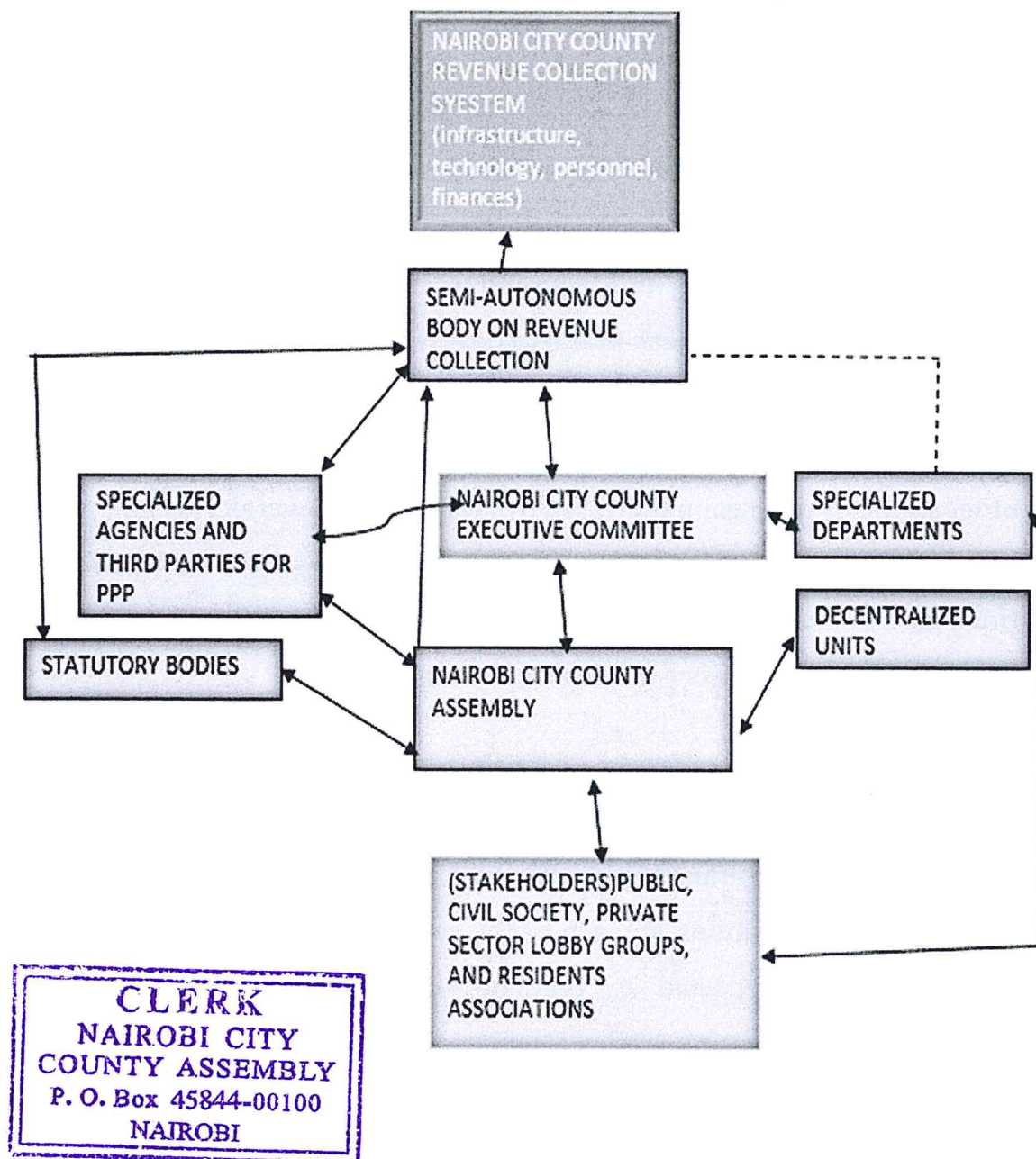
In view of the above, Nairobi City County Government needs to provide strategic leadership and direction by setting the vision, strategies and targets as well as oversee, synchronize and centralise all revenue collection. This proposed institutional framework provides for both top-down and bottom-up approach to ensure proper implementation of the policy, and for an all-inclusive approach. The County Executive Committee will be expected to:

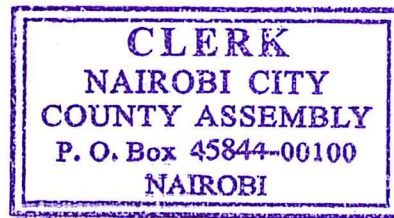
- 1) Generate policy innovations that will enhance convenient revenue collection;
- 2) Identify and spearhead strategic revenue models to pursue in light of the dynamics and diversity in revenue collection;
- 3) Through the relevant specialized agencies and departments, direct studies on thematic issues affecting revenue collection and propose appropriate interventions;

- 4) Receive, synthesize and evaluate policy proposals and legislative instruments from various specialized agencies and departments and approve and pass appropriate recommendations geared towards improvement in revenue collection and service delivery in the county.

Figure 1 below provides the new institutional framework.

Figure 4.1 Nairobi City County Revenue Collection: The new Institutional Framework





3.3 REVENUE ADMINISTRATION

The place of revenue administration is as important as revenue collection in a government as it provides mechanisms through which tax bases are assessed, rates of fees and charges determined, how the customers are billed, how payment is made, receipted, enforcement on fees applicable, accountability, auditing, reporting and oversight.

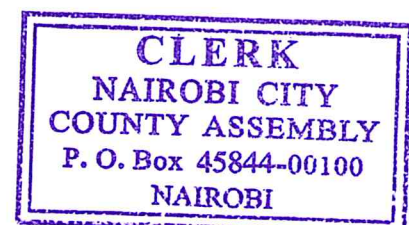
Revenue administration is organized within the various Sectors headed by the respective County Executive Committee Member. The Sectors are charged with the responsibility of implementing targets assigned through approved revenue laws and hence funding the aspirations contained in the annual budget. Whereas attempts have been made to devolve most of these revenue streams, most collections have still remained at City Hall where persons queue. The County Treasury has a department for revenue collection but its link to the other sectors is not clear making it a bystander in the overall revenue collection process. This is occasioned by the fact that each of the revenue streams domiciled in Sectors are headed by Directors who are at the same level as the Director of Revenue hence no clear reporting structure.

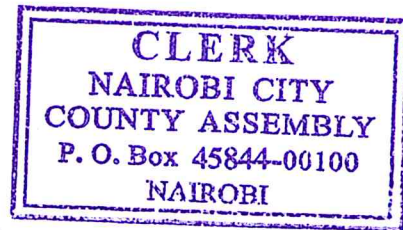
The fees payable are anchored on finance legislations passed by the County Assembly on annual basis. Currently, and in line with the advisory from the Commission on Revenue Allocation, the County has commenced the passing of individual legislations on each of the revenue streams. Towards this end, laws have been enacted to regulate transport, education, solid waste management, advertising, trade licensing, disaster management among others. This legislation should ideally provide the first point of reference on the amount of fees payable hence informing the assessment by the revenue collectors.

The various payment methods available to the customers include payment at cash office, banking halls, e-payment platforms, Point of Sale methods among others. The risks associated with manual payment methods are enormous hence there has been great effort to move the County towards e-payment methods. In the intervening period, the County has deployed *jambo pay* platform and *noveta* as alternative solutions to the manual payment mechanisms, but they have all had their myriad of shortcomings ranging from system opaqueness to data discrepancies. Previous engagement with third parties to collect revenues have left the County powerless in its revenue collection function as it could not receive accurate and verifiable data on amounts collected. This presents an accountability gaps on revenue collection and auditing the revenue collected through any such platform.

The County Treasury in this regard only reports on the information received from the various Sectors and administrators of the revenue platform without ability to verify the accuracy so reported. The following are proposed to cure the anomalies: -

1. **Revenue Administration Structure:** To correct the fragmented revenue collection structure, there is need develop an autonomous revenue collection entity with clear reporting structure. This clarity ensures that reporting and accounting on revenue collected is not compromised and the same are done in real time. Further, the engagement of a specific line dealing with revenue has the benefit of reducing staff dealing with revenue collection, lowering revenue administration costs and reducing duplication of efforts. The import of the Nairobi City County Revenue Administration Bill was to cure this reporting dilemma by providing an entity in charge of revenue collection that has determinate terms of





reference. The Bill borrows heavily from the experiences through the Kenya Revenue Authority which solved the multiplicity of layers in tax administration and ambiguity in revenue reporting.

2. **Assessment of revenues payable:** The need for system integration of revenue payable would guarantee consistency and efficiency in revenue administration thereby reducing the risks associated with either under or overcharging. Once enacted, there is need to publicize the laws on fees and charges so that the general public are aware of the amounts payable. It is a dual responsibility of both the Government and the public to assist in implementation of enacted legislation and the case should be even more important on matters of fees and charges. Towards this end a proper and up to date record on the revenue payers together with GIS mapping of their locations are essential ingredients towards effective revenue administration
3. **E-Payment Methods:** Whereas there is still debate on whether e-payment leads to increase in real revenue collection, there is consensus on what a good e-payment platform should encompass. Summarily a good platform should provide the County with ability to understand its security aspects including information on any attacks on it and losses incurred in that regard; access rights to the County staff as the developers of the system; it should have offline capabilities when system is down or has malfunctioned; it should have data back up and storage facilities for the entire system; power supply back-up during electricity power supply failure or elongated power cuts; a mechanism of IT system processing, verifying and auditing payments made per day; and reconciliation mechanisms.

3.4 REVENUE COLLECTION TECHNOLOGY

The County should adopt technology that is able to incorporate all its revenue streams, provide real time information and be easy to use.

3.4.1 PROCESSES

With regard to the processes at the County Government, the following measures are recommended: -

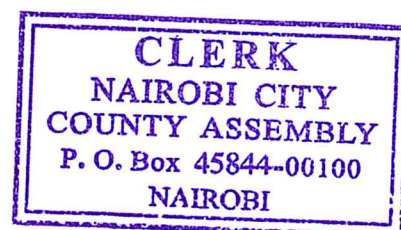
- a. A comprehensive audit of the County processes be conducted to identify gaps, bottle-necks and inefficiencies in current processes that result in revenue loss and poor customer experience.
- b. Business Process Re-engineering (BPR) be undertaken continually to redesign the various processes with the aim of simplifying them; and to keep up with the ever changing technology world.
- c. A status report of BPR initiatives carried out be presented to the County Assembly periodically, or on request, by the authority in charge of service delivery

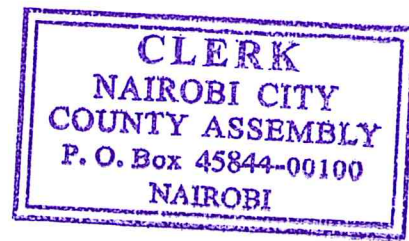
3.4.2 SYSTEMS

This Policy proposes that the current existing systems be retired and, in their place, a modern and more robust system be introduced to address the system challenges addressed in Chapter two.

Whether the County elects to build or outsource such systems, the technology delivered/acquired should AT ALL TIMES be capable of: -

- a) Integrating various facets in the revenue management process (revenue assessment, payments, compliance and enforcement and reporting) into a single system.





- b) Providing both customers and County staff with simple easy to use interfaces and a variety of channels to choose from depending on their technology awareness levels.
- c) Scalability at minimal costs to accommodate changes in the operating environment, technology, legislative and policy changes.
- d) Integrating and leveraging on existing authoritative data sources (e.g IPRS, Telcos, KRA, Ministry of Lands, BRS, KNBS) to ensure that data quality is achieved.
- e) Leveraging on geo-technology such as Global Positioning System (GPS) and Geographical Information System (GIS) to enhance revenue mapping, projections and collections.
- f) Delivering a stable and secure revenue management system
- g) Providing clear audit history of changes, system logs and transactions for accountability and reporting purposes.
- h) Provide a comprehensive Support and Maintenance Framework for deployed solutions.

3.4.3 SERVICE DELIVERY

This Paper proposes the development of a comprehensive Customer Support Framework that establishes the following:

- a. Nairobi County Service Charter
- b. Nairobi Customer Relationship Management (CRM) System entailing:
 - i. Complaints/Service Request Management
 - ii. Contact Center
 - iii. Customer Reward/Loyalty Program



3.5 COMPLIANCE AND ENFORCEMENT

Compliance and enforcement of revenue collection in Nairobi City County has faced numerous challenges; in particular, the process of revenue collection, assessment of taxes, fees and charges, payment and receipting, enforcement, auditing, reporting and oversight. There has also been resistance and hostility from customers who insist that service provision is not commensurate to the taxes they pay.

It has been observed that the discrepancy in revenue collections has been as a result of lack of requisite skills and/or capacity of the personnel to provide realistic projections and strengthen the enforcement efforts. In view of the foregoing a raft of measures can be taken into consideration in order to address this persistent problem and improve on revenue collection as follows:

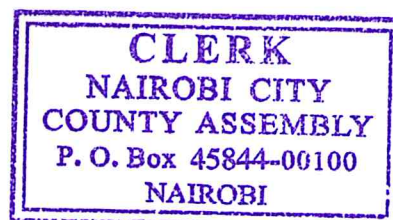
3.5.1 Independent Revenue collection body

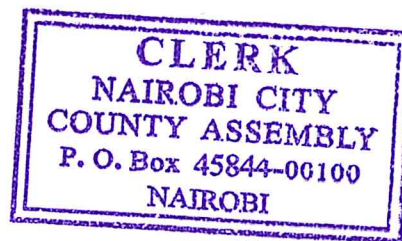
Establishment of a centralized office which shall be the designated and authorized office to enforce revenue collections. This office should be anchored in law and its processes and general operations oversights by the County Assembly.

3.5.2 Power of the Revenue collection body

The independent revenue collection body shall have authorized revenue collection officers who shall have the power to enter and inspect at any time any premises that is believed to have failed to pay revenues. The revenue collection officers shall properly identify themselves before entering and/or inspecting to avoid instances of impersonation.

The Authorized revenue collection officers shall account for all the revenue collected.





3.5.3 Access and inspections of premises, equipment, goods, computers and data

The independent revenue collection body may make own assessments of revenue owed by revenue payers or on request by the payers. The assessments (which shall not alter the due date of payment) shall be served on the customers and state the amount payable and the time period within which the customer is expected to pay.

3.5.4 Power to evict, repos properties and revenue refund

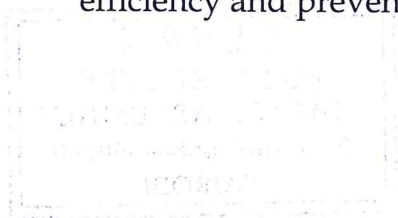
Due process must be followed before any action is taken to evict or repos any property. This process should be anchored in law to prevent abuse and arbitrary use of force. A customer who has paid in excess must be refunded and/or the payments carried forward.

3.5.5 Penalties and offences

A customer who gives false and misleading information on revenue payments or failing to pay revenue within the stipulated period or makes an incorrect or false statement which affects their liability to pay revenue or claiming refund or relief or obstructs County revenue officers from carrying out their tasks commits an offence that is punishable by law.

3.5.6 Personnel

Only staff with requisite skills should be designated as revenue collection and enforcement officers. They should be redeployment periodically to enhance efficiency and prevent corruption.



CHAPTER FOUR

IMPLEMENTATION, MONITORING AND EVALUATION

4.1 IMPLEMENTATION

The implementation of this Policy should be undertaken and monitored through consultative forums with the relevant stakeholders.

4.1.1 Role of the Nairobi City County Government (NCCG)

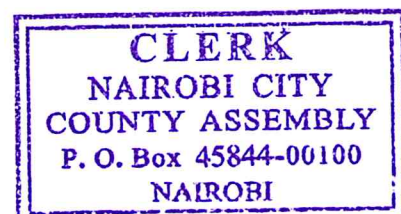
The role of Nairobi City County Government will be to provide the policy direction, support and monitor the implementation of the revenue collection framework. Policy implementation will include the facilitation of a conducive business environment for customers as the County Government strives towards self-sustaining in terms of own-source revenue.

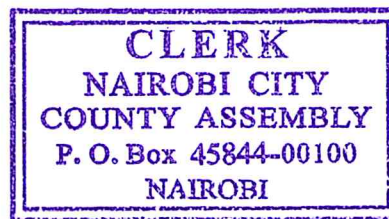
NCCG will provide feedback mechanisms which shall include regular collection of views from customers to gauge their satisfaction levels. The feedback mechanisms will include online platforms and suggestion boxes in markets, public transport termini, and malls. The NCCG shall also conduct public education and awareness on revenue structure and design, amount of fees required, procedure, and how to make payments by the customers.

NCCG's overall responsibility will therefore be to provide an enabling policy environment to facilitate businesses thus increasing the own source revenue streams.

4.1.2 Role of the Revenue Collection Agent

The revenue collection agency identified by the Nairobi City County Government will play a key role in providing a centralised revenue collection system. The system shall be transparent to avoid fraud, evasion and under-





collection. It shall also be able to provide daily reconciliations, automatically remind the collection officer when payments are due and monitor the level of fraudulent payments presented by the collection officer, and alerting supervisors of possible problems. The system shall require minimal training for both the revenue collectors and customers.

4.1.3 Role of customers

The customers' role shall be to comply in payment of taxes when they are due and cooperate with the revenue collection agent. Equally, organized groups and associations of customers which have a structured framework for engagement shall serve as useful agents and information dissemination platforms.

4.1.4 Human and financial resources

Effective revenue collection requires competent revenue collectors, enhanced revenue sources and customer awareness. To achieve all this, adequate funding is required. In this regard, through the budgeting framework, adequate funds shall be set-aside to finance the maintenance of the revenue collection system, training of revenue officers, continuous mapping of revenue streams and conducting public awareness on revenue obligations.

In addition, Nairobi City County Government shall engage strategic partners to provide both technical and financial support to the revenue collection system.



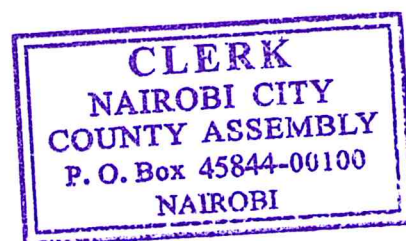
4.2 MONITORING AND EVALUATION

The Nairobi City County Government shall ensure that an effective Monitoring and Evaluation (M&E) system is developed for successful implementation of these policy recommendations. A comprehensive monitoring and evaluation system facilitates identification of deviations from set targets and ensures that corrective measures are taken.

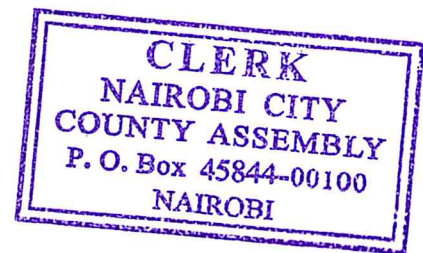
In this Policy, M&E should take place at two levels with clear definition of roles and expected outputs. At the government level, the Nairobi City County Government shall develop a comprehensive logical framework that sets the implementation process of this Policy. The logical framework will spell out the broad policy objectives, strategic interventions and expected outputs. In addition, it will contain performance indicators, means of verification and the time frame.

At the agency and customers' level, the agent shall develop M&E tools for each of the identified interventions and facilitate the development and institutionalization of an inbuilt mechanism within the systems of other relevant stakeholders. The agent and the customers' association shall be the source of information required for the M&E system. They will be critical in identifying process constraints and suggesting appropriate mitigation measures.

Joint monitoring and evaluation will be undertaken by Nairobi City County Government, revenue collection agent representatives of customers and other relevant stakeholders. Quarterly and annual progress reports on implementation will be developed at this level and shared amongst all the County Assembly and other stakeholders.



Capacity building will also be undertaken to equip the staff with relevant skills to collect and process timely and reliable data that is necessary for effective M&E exercise. The M&E report will in turn be utilized within Nairobi City County Government and other stakeholders in order to improve on the revenue collection system and the overall optimise revenue collection.



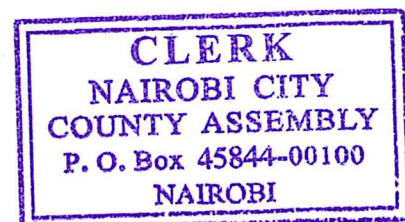
CHAPTER FIVE

CONCLUSION

The County has morphed from a Council to a Commission to a Council again and then to Nairobi City County and has had no shortage of attempts to increase its revenue potential and collection through various manual and technology-based systems. Over the years, the City has faced a myriad of challenges and gaps in revenue collection, hampering service delivery to the people of Nairobi. It is not in doubt that the City has fallen short of human resource and administrative ethics; technological integrity; compliance and enforcement and integrity of third parties engaged in revenue collection at various stages of the history of revenue collection. Lack of or feeble feedback and reporting mechanisms and M&E methods in internal system documentation or in external agreements open room for system manipulation.

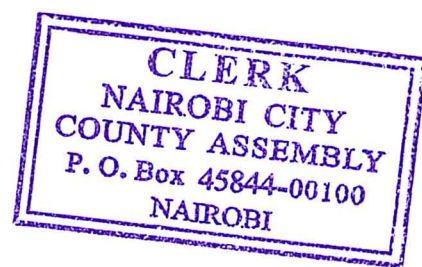
It is these cumulative failures in achieving an improved and infallible revenue collection system for the City that has occasioned the development of this Policy Paper with realistic, workable and futuristic proposals. The Policy Paper identifies the gaps and challenges that Nairobi City has over the years encountered in revenue collection and proposes the introduction of an easy, convenient, secure, auditable and accountable technology-based, integrated (revenue collection, GIS-based, Address system-based, E-enforcement) system that encompasses all Sectoral revenue streams for the County.

The policy further proposes prescriptive feedback and report mechanisms with realistic and useful M&E methods. In addition, this Paper proposes administrative and personnel interventions with an emphasis on preserving system integrity and ethical conduct in the course of system implementation. The Paper also outlines the



institutional framework where the County Assembly is to mandated to enabling and aligned legislations to support the implementation of this policy.

The County Assembly is requested to consider and approve this Policy Paper to become the blueprint Revenue Collection Policy Framework for Nairobi City County.



MINUTES OF THE JOINT SITTING OF THE SECTORAL COMMITTEE ON ENERGY AND ICT & THE SELECT COMMITTEE ON FINANCE, BUDGET AND APPROPRIATIONS HELD ON TUESDAY 14TH JULY, 2020 AT 9.00 A.M AT WINDSOR GOLF HOTEL, KIAMBU COUNTY

COMMITTEE ON ENERGY AND ICT

Annex II

PRESENT

1. Hon. Geoffrey Majiwa, MCA - Chairperson
2. Hon. Anthony Ngaruiya, MCA - Vice Chairperson
3. Hon. Silas Matara, MCA
4. Hon. Mwangi Njihia, MCA
5. Hon. Solomon Magembe, MCA
6. Hon. Osman Adow, MCA
7. Hon. Alvin Olando Palapala, MCA
8. Hon. Clarence Munga, MCA
9. Hon. Catherine Apiyo, MCA
10. Hon. James Mwangi, MCA
11. Hon. Doris Kanario, MCA
12. Hon. Kariuki Wanjiru, MCA
13. Hon. Jackline Apondi, MCA
14. Hon. Emapet Kemunto, MCA
15. Hon. Emily Oduor, MCA
16. Hon. Patricia Musyimi, MCA
17. Hon. Jane Muasya, MCA

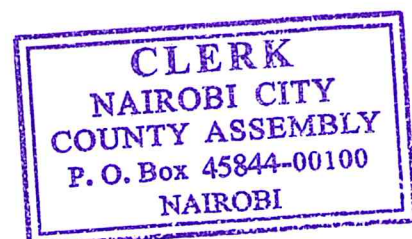
ABSENT

1. Hon. Waithera Chege, MCA
2. Hon. Fredrick Okeyo, MCA
3. Hon. Melab Atemah, MCA
4. Hon. Joseph Mwangi Komu, MCA

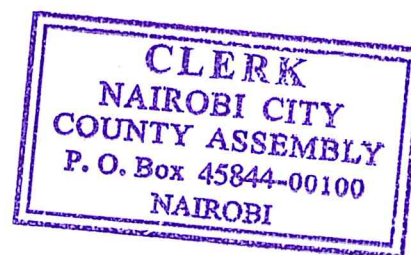
COMMITTEE ON FINANCE, BUDGET AND APPROPRIATIONS

PRESENT

- | | |
|-------------------------------|-------------------|
| 1. Hon. Chege Mwaura, MCA | Chairperson |
| 2. Hon. Michael Ogada, MCA | Vice- Chairperson |
| 3. Hon. Mary Arivitsa, MCA | |
| 4. Hon. Samora Mwaura, MCA | |
| 5. Hon. Margaret Mbote, MCA | |
| 6. Hon. Muchene Kabiru, MCA | |
| 7. Hon. Millicent Mugadi, MCA | |
| 8. Hon. Paul Ndung'u, MCA | |
| 9. Hon. Millicent Jagero, MCA | |



10. Hon. Catherine Okoth, MCA
11. Hon. Emily Oduor, MCA
12. Hon. Paul Shilaho, MCA
13. Hon. John Mukiri, MCA
14. Hon. Cecilia Ayot, MCA
15. Hon. Herman Azangu, MCA
16. Hon. Emapet Kemunto, MCA
17. Hon. Patrick Karani, MCA



ABSENT

1. Hon. Robert Mbatia, MCA
2. Hon. Mellab Atemah, MCA
3. Hon. Fredrick Okeyo, MCA
4. Hon. Kennedy Oyugi, MCA
5. Hon. Susan Makungu, MCA
6. Hon. Elijah Mputhia, MCA

IN-ATTENDANCE

1. Mr. Justus Kathenge
2. Mr. Newton Munene

COUNTY EXECUTIVE

- Ag. County Secretary
- CECM, ICT & E- government

SECRETARIAT

1. Mr. Sammy Kiptoo
2. Mr. Shadrack Makokha
3. Mr. Erick Otieno
4. Ms. Hellen Mutie
5. Mr. Titus Muiruri
6. Mr. Alphonse Ouma

COUNTY ASSEMBLY

- Director Legislative Services
- Principal Committee Services
- Principal Fiscal Analyst
- Senior Clerk Assistant
- Senior Clerk Assistant
- Senior Fiscal Analyst

Min. No.001/July/2020: Preliminaries

- The Chairperson for the Finance, Budget and Appropriations Committee (FBAC) called the meeting to order at 11.00 a.m. and he said the opening prayer. He took the Committee through the agenda as follows:-

Agenda

1. Preliminaries (prayers & adoption of the Agenda)
2. Meeting with the Ag. County Secretary, CECM Finance and CECM ICT to deliberate on the sessional paper no. 1 of 2020 on a policy framework for revenue collection and management in Nairobi City County
3. Deliberation on the stakeholder's submissions on the Sessional Paper
4. Adoption of the joint Committee Report on the sessional paper no. 1 of 2020 on a policy framework for revenue collection and management in Nairobi City County
5. Any Other Business
6. Adjournment

- The agenda of the meeting was thereafter proposed by Hon. Catherine Okoth and seconded by Hon. Clarence Munga

Min. No.002/July/2020: Meeting with the Ag. County Secretary, CECM Finance and CECM ICT to deliberate on the sessional paper no. 1 of 2020 on a policy framework for revenue collection and management in Nairobi City County

- The Chairperson FBAC invited the Ag. County Secretary and CECM for ICT who informed the Members that there was need for the policy to provide clear operational structure that allows coordination of staff supervision between KRA, NMS and the Executive on operations and revenue collection.
- The County Executive also recognized that there was entire need to post enough technical officers to efficiently enforce on all revenue streams and more staffs be deployed. Further, there was need to clarify on the currently running contracts between the County Government and other third party agents.

Min. No.003/July/2020: Deliberation on the key stakeholder's submissions on the Sessional Paper

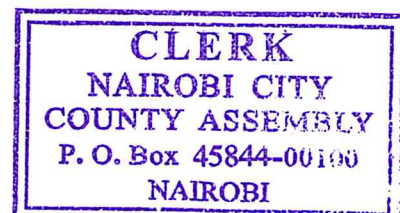
- The FBAC Chairperson informed the Committees that in accordance with the Article 196 of the Constitution, Section 115 and Section 87 of the County Government Act, 2012, the County Assembly wrote to stakeholders with a view to invite submissions of the written memoranda on the policy framework for revenue collection and management in Nairobi City County on Thursday, 9th July, 2019 and be forwarded to the Office of the Clerk by Tuesday 14th July, 2019. He further stated that the Committees received written memoranda from the following stakeholders amongst others; -

- i. The Institute for Social Accountability (TISA);
- ii. Kenya Revenue Authority (KRA);
- iii. Nairobi Metropolitan Services (NMS);
- iv. County Secretary and CEC ICT; and
- v. National Bank of Kenya (NBK)

- From the submissions the Committees noted that;

- a) The Institute for Social Accountability (TISA)

TISA Submitted Memoranda containing comments, areas of concern and remarks with proposed recommendations. TISA observations centered on eminent factors affecting NCC revenue collection and recommendations to promote optimum revenue collection system which can stimulate and guide the economic and social development of the County.



b) Kenya Revenue Authority (KRA)

KRA Submitted memoranda containing comments, in regards to challenges they have faced during the three months period and the proposed recommendations in various revenue streams. They proposed a standardization of collection processes.

c) Nairobi Metropolitan Services (NMS)

NMS memorandum highlights on the following: -

- Need for compliance and enforcement of revenue collection,
- End stagnation of revenue collection staff by promotion, confirming all those in acting capacities and promote staff across board,
- The need for use of technology to carry out census and automation of the Sub-county offices.
- Need for a system that allows integration with other payment platforms for real time reports.
- The need for development of regulations to enable full implementation of various Acts and a drafted and gazette policy document to guide operations and decisions is crucial. Fast tracking the acquisition of the ICRMS is essential.
- There is need for incorporating views, comments and observations by NMS to improve on the quality of specific areas of the proposed policy.

d) National Bank of Kenya (NBK)

- That they require clarity on the status of their running contract agreement with the County Government regarding revenue collection in view of the proposed policy; and
- That they support the Kenya Revenue Authority and the Nairobi Metropolitan Services in executing their mandate to enhance revenue collection in the County.

The committees resolved to have the submissions of stakeholders be included and that the report be tabled on Thursday 16th July, 2020.

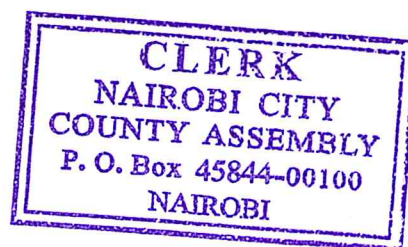
Min. No.004/July/2020: Adoption of the joint Committee Report

The secretariat tabled the draft report before the joint committee on consideration of sessional paper no. 1 of 2020 on a policy Framework for Revenue Collection and Management in Nairobi County.

The joint Committees unanimously adopted the said report.

Min. No.004/July/2020: Any Other Business

There were no items under this agenda



Min. No.005/July/2020: Adjournment and date of next meeting

The meeting adjourned at 4.30 pm. The next meeting would be held on Wednesday 15th July, 2020 at 10.00 a.m. at Windsor Golf Hotel, Kiambu County.

SIGNATURE
(CHAIRPERSON)

DATE 16/7/2020

SIGNATURE
(CHAIRPERSON)

DATE 16th July 2020

CLERK
NAIROBI CITY
COUNTY ASSEMBLY
P. O. Box 45844-00100
NAIROBI

CLERK
NAIROBI CITY
COUNTY ASSEMBLY
P. O. Box 45844-00100
NAIROBI





13th July 2020

To: Chairperson,
Finance and Budget Appropriation Committee,
Nairobi City County Assembly,
P. O. Box 45844 – 00100,
Nairobi.

CC: Pauline Akuku,
Ag, Clerk, Nairobi City County Assembly
Clerks Chambers, County Assembly,
City Hall Buildings,
P. O. Box 45844 – 00100,
Nairobi.

1. DLS
Kindly deal
47.1.1.1
14/7/2020

RE: SUBMISSIONS ON THE CONSIDERATION OF THE PROPOSED NAIROBI CITY COUNTY REVENUE COLLECTION SYSTEM

Greetings from The Institute for Social Accountability (TISA).

The Institute for Social Accountability (TISA) is a civil society initiative committed towards the achievement of sound policy and good governance in local development in Kenya, to uplift livelihoods of, especially, the poor and marginalized. TISA has been operational since March 2008 and is a locally registered trust committed to the promotion of effective local governance in Kenya.

Introduction

On 25th February 2020, by way of Deed of Transfer executed between the Governor of Nairobi County and the Minister for Devolution, County Health Services, County Transport Services, County Planning and Development Services, and County Public Works, Utilities and Ancillary Services were transferred from the Nairobi County Government to the National Government. The same was communicated vide Gazette Notice 1609 of 2020. Vide Gazette Notice 1967 of 6th March, 2020, and in accordance with section 160 of the Public Finance Management Act, 2012, the county assembly through the select committee on Finance, budget and appropriation presented before the house policy proposal for establishing Nairobi Revenue System under the management of Kenya Revenue Authority **Sessional paper No. 1 of 2020** on 8th July 2020. The policy framework proposes a raft of measures to streamline revenue collection to cure the perennial shortfall in attaining Own source Revenue targets as required under the law.

Prior to signing of the agreement, the Auditor-General had flagged a number of counties, including Nairobi, for failing revenue collection with some missing their targets by up to Sh7 billion. In the 2017/2018 financial year report, the Auditor-General warned that the continued decline in budgeted local revenue and its collection may hamper or compromise service delivery.

According to the report, the Nairobi County target was to collect Sh17.22 billion in the 2017/18 financial year, but it ended up collecting Sh10.15 billion, which was an under collection of Sh7.07 billion, 41 per off the mark.

III PFA/CA Budget/ICP

Kindly brief the
Committee

PCA(C) 14/7/2020

Mr. PCA(C)

Kindly raise with the Budget
Office and ensure that the issues
raised herein are captured.

SP. Attorneys

DLS

14/7/2020

In fact, according to the report, the total amount collected as own source revenue in the 2017/18 was lower than what the county collected the previous year which was Sh10.93 billion, a reduction of Sh775 million.

Unfortunately, all this is happening against the backdrop of recommendations by Commission on Revenue Allocation (CRA) on how to improve administration and collection of revenue in the city county- which remain unimplemented Through a report entitled the *NAIROBI CITY COUNTY (NCC) REVENUE ENHANCEMENT RECOMMENDATIONS BASED ON FIELD VISIT FINDINGS (25TH APRIL TO 15TH MAY 2016)*, the CRA outlined key priorities to strengthen revenue collection in Nairobi Unfortunately, this report was never adopted.

Generally, revenue collection in the counties proves to be an uphill task. A 2019 study by National Treasury established that Own-Source Revenue (OSR) collections by counties are four times below the minimum potential. The OSR potential and tax gap study revealed that the 47 county governments can raise a minimum Sh124.7 billion annually. In the financial year 2017/18, county governments aimed at raising Sh49.2 billion in OSR but only managed Sh32.5 billion, similar to collections in 2016/17, a massive Sh92.2 billion below the potential. These figures were also confirmed in the Own Source Revenue Potential and Tax Gap Study by The World Bank.

Therefore, As Nairobi City County assembly prepares to formulate a policy on Nairobi county Revenue Management system, we wish to bring forth some of the eminent factors affecting NCC revenue collection;

1. **THAT** NCC lacks as a foundation, a comprehensive policy and legislation underpinning its revenue regime. Policy and legal framework is a paramount and foundational aspect of successful revenue collection system. It is what underpins the local revenue structure and design for any sub-national government.
2. **THAT** NCC lacks up to date database of tax bases thus making it difficult to undertake revenue forecasting and monitoring for the county
3. **THAT** NCC has failed to ensure Public awareness on revenue collection frameworks, the few available are not clear and that county government has not cascaded it down to the taxpayers.
4. **THAT** NCC has failed to promote Public participation; Forum for public engagement and participation is an important platform for information sharing and opportunity for citizen to exercise their voice and demand accountability from duty bearers.
5. **THAT** NCC has failed to recognize the contribution of the small-scale business e.g. hawkers, street vendors in the growth of county economy. There is need to regularize their operations through registration and subsequent allocation of trading spaces
6. **THAT** NCC has failed to undertake a revenue potential analysis and forecasting; Nairobi needs to undertake a study to assess and analyse its revenue potential. Such a study is critical to informing the County on how to broaden tax base and strengthen efficiency and effectiveness in revenue mobilization.
7. **THAT** NCC has failed to provide quality services to the taxpayers hence low tax compliance; service delivery is not commensurate to fees and charges paid, largely attributed to unwillingness to pay taxes and fees. lack of taxpayers' education campaigns and other participatory initiatives by the county.
8. **THAT** County lacks requisite personnel capacity in revenue collection and administration compounded by weak enforcement mechanism and fragmented revenue system.
9. **THAT** NCC has failed to put measures to eliminate cartels at the city hall who continue to promote corrupt vices especially during allocation of trading spaces

10. **THAT** NCC has failed to consider all the recommendations by CRA on revenue collection and administration to improve its target on OSR

Whereas;

11. The proposed revenue collection policy framework is meant to improve general revenue administration in Nairobi City County, TISA wishes to make the following observations on the framework;

❖ The Nairobi Metropolitan Service as currently constituted is unconstitutional

The NMS was created by Executive fiat rather than a deliberative process that would grant audience to the residents of Nairobi. In both letter and spirit, the NMS violates the Constitution. This was acknowledged by Wasilwa J in *Petition 52 of 2020*,¹ who stated that “In as far as this Deed of Transfer of functions of Nairobi County Government was done between the County Governor without involvement of the County Assembly, the Constitution was breached and the transfer was done without involvement of the entire County Government as envisaged by the Constitution.”² In her wisdom, the Honourable Judge granted forbearance to the NMS by suspending the declaration of the body’s illegality from taking effect for a period of 90 days beginning 18th June 2020, in which period the NMS should be established by law and the instrument of its establishment made.

Until such time as the NMS is constitutionally established, every policy it purports to implement, including Sessional Paper No. 1 of 2020, will not only be in violation of existing court orders, but will also lack the democratic mandate that Article 187 as read with Article 176 envisages. One of the objects of devolution of government as stipulated under Article 174 of the Constitution is to give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting them.³ Therefore, the NMS should take steps to remedy this situation, and take advantage of Wasilwa J’s forbearance by embarking on public participation to fulfill its establishment.

❖ Provision for intergovernmental relations

Without prejudice to the unconstitutionality of the NMS as expressed above, TISA submits that Sessional Paper No. 1 of 2020 does not commit to amiable intergovernmental relations between the county government and the national government. Section 25 of the Intergovernmental Relations Act, enacted pursuant to Article 189 of the Constitution, establishes principles of transfer or delegation of powers, functions and competencies. Pertinently, a government transferring or delegating a power, function or competency, in this case the Nairobi County Government, is mandated to “ensure a transfer or delegation under this section does not transfer constitutional responsibility assigned to that level of government.”⁴ TISA expresses concern that by rendering revenue collection and management within the exclusive jurisdiction of the KRA, not only usurps Constitutionally assigned functions of the county government, but also compromises intergovernmental relations. By way of remedy, TISA proposes a demarcation of revenue collection and management in such a way as to be in compliance with the Fourth Schedule of the Constitution. Section 7 of the Fourth Schedule assigns trade development and regulation to the county government, which function is principally constituted by revenue collection and management. To this end, and in lieu of the imperial task assigned to the KRA, the NRS ought to be retained by the NCC, with the KRA providing supporting and ancillary roles.

¹ *Okija Omtata Okoiti & 3 others v The Nairobi Metropolitan Service and others* [2020] eKLR

² *Okija Omtata Okoiti & 3 others v The Nairobi Metropolitan Service and others* [2020] eKLR, para 81.

³ Article 174(c), *Constitution of Kenya*, (2010).

⁴ Intergovernmental Relations Act, section 25(d)

Furthermore, considering the context in which the Nairobi revenue framework is being developed, there is need to ensure mutual respect to the devolved units. Articles 6 and 189. Article 6(2) defines the governments at national and county levels as distinct and interdependent. The two levels of government are required to conduct their mutual relations based on consultation and cooperation. WHILE Article 189 (a) requires the two levels of government to perform their functions and exercise powers in a manner that respects the functional and institutional integrity of the government and the other level.

Therefore, the proposed revenue framework should provide a clear provision on conflict of interest; county assembly, national assembly, and the executive. The framework should seek to promote the best interest of Nairobi residents and progress of Nairobi county government.

❖ Framework for accountability and oversight- Role of the county assembly

Being a county function, the framework needs to recognise the critical role the county assembly play in the oversight. The county assembly exercise oversight over County government and therefore they play an important role in enhancing accountability in revenue generation. Accountability is an important cornerstone for good governance and continued deterioration causes decline in economy growth and provision of quality services to Citizens. The County assembly are tasked with receiving and approval of county policies and plans. Before approval of plans and project they need to ensure that all relevant information's are available. The need to uphold merit when it comes to vetting and approval of County public offices to ensure that the selected individuals have competent skills required to perform certain functions therefore accountable. The county assembly are responsible for approval of county revenue collection system and they need to ensure that the system allows transparency and accountability.

❖ Public participation

The constitution establishes citizen engagement as a key pillar for a democratic system, article 1,10,35, 69, 118, 174, 184, 196, 201, and 232. For a revenue system to perform as expected, the citizen must be engaged in the development process. Under article 201, the constitution establishes the principle of openness and accountability- The principle believes that good performance of revenue can only be reported if the community participate and response to policies regarding revenue generation. The constitution of Kenya 2010 includes provisions on expenditure controls and enhanced transparency. The government of Kenya has employed fundamental factors to foster openness.

The transfer of function process was started on a wrong footing since Nairobi residents were not engaged despite highly impacting on their lives. Therefore, the policy framework should propose a more proactive engagement with taxpayers in all county revenue matters, including legislations through better communication and publicity of all important documents in advance of meetings. Lastly, the policy should propose a process of simplifying tax legislations and requirement and enhance overall revenue transparency as this is important in creating awareness and credibility amongst taxpayers.

❖ Transparency in Revenue administration

It should be noted, Transparency in revenue administration at the county is followed up by county government as they have a responsibility of providing clear fiscal reports on usage and management of revenue and they maintain public reports for any waiver and reason for granting waiver which is reported to the Attorney General. Transparency is a key drive for development of confidence as it creates a conducive atmosphere of willingness of individuals and company to pay tax which is a revenue generation source.

❖ Consultation with County Budget Economic Forum

Inline with section 137(3)(b) PFMA, The CBEF is an integral part of public participation. It is meant to ensure inclusion, transparency, and accountability in public finances. According to CRA, The County Budget and Economic Forum (CBEF) was set-up to coordinate and collect views from the public during the budgeting process and function as a think-tank for the County government in terms of financial and economic management. The CBEF assists the county to analyze and identify its priorities as they budget for programs, improve coordination between the citizens and government and improve harmonization of project implementation and funding. Therefore, CBEF should be a key stakeholder in the ongoing discussions on formulating Nairobi revenue Policy framework. The framework should provide a clear link and the role of CBEF in the whole process.

Whereas;

12. In order to promote an optimal revenue collection system which can stimulate and guide the economic and social development of Nairobi county, TISA wishes to make the following recommendations

Recommendations

Issue	Problem Statement	Recommendation
Trading spaces for informal traders	<p>The constitution provides for equal rights in land use; including trading spaces. Additionally, Nairobi lacks up to a database of tax bases thus making it difficult to undertake revenue forecasting and monitoring.</p> <p>Trade activities play an integral part of revenue source in NCC; however administration of the department has been left at the mercy of few individuals who control space allocations.</p>	<ul style="list-style-type: none"> • There is need to have a biometric form of data registration for all businesses, and available resources to allow planning and monitor revenue collection in Nairobi, this should include the small scale enterprises; hawkers, street vendors. This biometric system ought to be numerically serialized for traders occupying those spaces to help track and monitor adherence to revenue collection. The integrity of this system needs to be guaranteed and amenable to independent audit, ensuring that traders' data is: • processed in accordance with the right to privacy of the data subject • processed lawfully, fairly and in a transparent manner in relation to any data subject; • collected for explicit, specified and legitimate purposes and not further processed in a manner incompatible with those purposes; • adequate, relevant, limited to what is necessary in relation to the purposes for which it is processed; • collected only where a valid explanation is provided whenever information relating to family or private affairs is required; • accurate and, where necessary, kept up to date, with every reasonable step being taken to ensure that any inaccurate personal data is erased or rectified without delay; • kept in a form which identifies the data subjects for no longer than is necessary for the purposes which it was collected; and • Furthermore, designation of trading spaces needs to be in line with the Physical Planning Act and there ought to be a participatory and inclusive role for all necessary stakeholders.

		<ul style="list-style-type: none"> • There should be a clear and humane process of revenue collection devoid of harassment, destruction of property and seizure. • The policy should provide measures to repossess grabbed public land to ensure provision of right to trade. • Designation of special microenterprise areas: We call for a stop to all evictions of small traders pending the provision or a requisite framework through zoning by-laws to make provision for micro-enterprise designated areas through local land use plans with a strong emphasis on informal traders.
Enforcement	<p>The fines and charges imposed on defaulters are relatively high for small scale traders and ought to be re-considered in line with what the traders would feel the punishment of pay but not be driven out of business.</p> <p>Inefficiency: Current compliance costs to business and administration for the county government should be minimised as far as possible.</p> <p>Uncertainty and inconsistency; revenue rules and policies are not only uncertain, but also change with the whim of the governor. Regulatory charges and multiple approvals often result in increased cost of doing business, disproportionately affecting the poor.</p>	<ul style="list-style-type: none"> • NCC should develop harmonized list of offences with reasonable fines for defaulters; this will deter defaulters but also promote compliance. • The penal sanctions ought to be made known to the traders and should not be so punitive as to deter enrollment and compliance. • Enforcement should be based on the respect for and protection of the rights of traders. The NRS should ensure consistency in its execution of the county's fiscal policy. <p>The policy should be enforced through robust regulations which ensure:</p> <ul style="list-style-type: none"> • A clear designation of licensing and enforcement officers and their station • A robust code of conduct which protects the rights of traders • The code of conduct should require officers to identify themselves formally every time they interact with traders, and issue a formal complaint for all disciplinary matters.

		<ul style="list-style-type: none"> • There is need for clear penalties and procedures that respect traders' rights. • There should be non-judicial avenues to challenge county decisions by trader • Miranda Rights - Officers should be required to explain procedures during routine interaction and especially during enforcement exchanges. • There is needed for gender sensitivity training of county officers to protect female traders. (hotlines, use gender desks) • Outlaw all direct payments to licensing officers to prevent extortion.
Comprehensive policy	Nairobi lacks as a foundation, a comprehensive policy and legislation underpinning its revenue regime.	<ul style="list-style-type: none"> • The proposed policy should provide a comprehensive framework and should respond to the recommendations made in the CRA report. • There is need to have harmonized revenue collection system e.g. the likes of NTSA system where all services are automated to ease the cost of operation and reduce long process of approvals • There is need to articulate the role of all stakeholders and ensure public participation, accountability, and transparency in revenue management. • There is need to ensure effective oversight and integrate revenue management effectively in the county budget process.
Property rates	Land and Property is a critical source of revenue for Nairobi county, yet property rates (land rates) in Kenya are still underpinned by the National Rating Act (Cap 267) and Valuation for Rating Act (Cap 266) of the defunct local authorities.	To allow revision of rates and levies imposed on land and properties the NCC should enact appropriate county laws. e.g. revisit the enactment of the Nairobi City County Valuation and Rating Bill, 2015.

	As provided for in National Rating Act (CAP 267), property rates in Kenya and for that matter Nairobi are levied on the value of land unlike in most African countries where these rates are based on the value of property.	
Compliance	Lack of transparency and accountability in service delivery; service delivery is not commensurate to fees and charges paid, attributed to unwillingness to pay taxes and fees.	<ul style="list-style-type: none"> • There is need for more accountable and transparent process where the taxpayers receive services commensurate to the amount remitted to the NCC. • NCC should invest more in creating awareness to the taxpayers on the need to comply
Revenue Personnel	County lacks requisite personnel capacity in revenue collection and administration compounded by weak enforcement mechanism and fragmented revenue system.	Harmonized and automated system will reduce over-reliance to manpower, this will also improve in monitoring and follow up with the customers in case of any pending bills inform of taxes
Trade Licenses/Single Business Permit	Trade licenses are levied on businesses and trade including professionals as a means of regulating conduct of business or trade. However, a huge number of small businesspeople have been left out	There is need to increase the tax base by including the small business owners through registration to ensure more revenue collection inform of licenses and permits
User charges and fees	User charges are a revenue source linked to specific services and vary based on the amount of service consumed, for example, water bill, parking fees e.tc. Most of the fees and charges including parking fees, market fees and others were inherited from the former local authorities hence do not reflect the current economic times	<p>Marginal decrease or lack in revenue collection from user charges and fees like parking fees is majorly undermined largely by collusion from revenue collectors and overall leakages.</p> <p>There is need to have a standardized rate for the user charges and fees to close the gap of revenue collectors taking advantage of the businesspeople</p>

Accountability Framework	<p>The policy needs to provide a robust accountability framework to curb cartels.</p>	<p>The policy should provide a self-regulating and accountability framework which can be realised through the creation of ward level revenue accountability fora. Such fora would serve to monitor local revenue collection and oversight the local revenue collection and reporting process. They would bring together county revenue officers, administrators, and traders for purposes of disclosure on revenue performance and corrective action. To enable transparency the county would;</p> <ul style="list-style-type: none"> • Share the database of all registered traders and their revenue contributions in the area; • Hold regular reporting meetings on the status of revenue collection to review the revenue collection report • Designation of revenue officers to a particular area to be transparent to avoid collusion • Make revenue information transparent at all levels to enable tracking of the same. • Publish performance weekly revenue information in county administrative offices and website.
Licensing	<p>The revenue policy is underpinned by the licensing regime. All licensing should be based on principles of tax justice and the ability of targeted groups to pay.</p>	<p>Licensing should:</p>

		<ul style="list-style-type: none"> • It should be underpinned by classification of traders based on ability to pay. This classification criteria should be made publicly available • It's should be payable in 3 instalments for smaller traders • It should be underpinned by sustained sensitization and education • It should be linked to the services provided by the county • It should have a gender component to meet the needs of the smallest informal traders especially women informal traders
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For further information, please contact us at
P.O. Box 48353 -00100 Nairobi
Tel: +254 20 4443676
www.tisa.or.ke





KENYA REVENUE
AUTHORITY
ISO 9001:2015 CERTIFIED

Ref: KRA/5/1002/6(86)

13th July, 2020

Office of the Clerk
Nairobi County Assembly
City Hall Buildings
P.O.Box 45844 - 00100
NAIROBI

Dear Madam,

**PUBLIC PARTICIPATION ON THE CONSIDERATION OF THE POLICY
FRAMEWORK FOR NAIROBI REVENUE SYSTEM BY NAIROBI
METROPOLITAN SERVICES.**

Nairobi County appointed KRA as the Principal Agent for overall Revenue collection for all County Revenue in Mid March 2020. Since then the Authority has collected a total of Kshs1.865B.

During the three months of overseeing County revenue collection, KRA has identified the following challenges and recommendations to address the challenges and would like to submit the same for consideration by the County Assembly.

1. Introduce structure collection methods to unstructured revenue streams such as markets by identifying the key/regular/trusted customers and establish a registration process.
2. Understand market dynamics and implement a solution that will not cause disruption to traders and business operations in the Market.
3. Introduce a weighbridge at Markets and provide visibility to supervisors/managers. This will ensure there is transparency, equality and objectivity in application of charges for customers' goods.
4. Introduce a queue management (virtual) and implementation of 24 hr market operations.
5. Standardize the collection process across similar businesses such as Markets, parking, etc. and develop a procedure manual to guide operations.

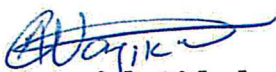
III P.F.A / Sh. C.B. Budget / ICT.
Kindly brief the
Committee
① PCA(C)
14/7/2020

① PCA(C)
Kindly brief with
the PFA Budget and
expedite the process
①
D/Ls
14/7/2020

D/Ls
Kindly dear
Ag. Clerk
14/7/2020

6. Display all applicable charges at all service points (markets, parking areas, website, etc) for all customers/traders to have visibility – Consider having a digital billboard at strategic sites.
7. Automate revenue collection process, add controls and enforce staff accountability and consequences for revenue leakage and non-performance.
8. Allow for multiple payment options to cater for different customer preferences and conveniences.
9. Implement a system with a robust reporting capability and in real time. Allow for generation of reports viewed from different perspectives such as categorised by sectors, by revenue streams, by zones, by Sub County, by Ward, as well as customised reports.
10. Maintain a register of all land rate payers which is updated in real time. Enable rate payers to obtain and pay their bills online and have their accounts updated in the NCCG System.
11. Ensure the systems has capability to update current land ownership status. Further real time updates resulting from subdivision of plots and sale of property.
12. Establish integration between Lands Office and valuation department.
13. Automate application, processing and issuance of health certificates, permits and licences.
14. Review of enforcement laws to ensure the County does not lose large amounts of revenue through defaulters. Explore use of Demand Notices and Agency Notices. Establish a Platform that allows for sharing of information with other key Authorities such as Banks, MOL, KRA, IFMIS, etc.
15. Expedite the passing of the new valuation roll.

Submitted for consideration



Annastaciah Githuba, HSC.
PROJECT LEAD NCCG/KRA PROJECT

July 13th, 2020

Our Ref:
DAILY NATION NEWSPAPER
ADVERTISEMENT OF JULY 10, 2020.

CLERK OF THE NAIROBI CITY COUNTY ASSEMBLY
P.O. BOX 45844-00100, NAIROBI.
CITY HALL BUILDING
2ND FLOOR, ROOM 279, NAIROBI
Email: clerk@nairobiassembly.go.ke



Dear Sir,

RE: WRITTEN SUBMISSION FEEDBACK ON SESSIONAL PAPER NO.1 OF 2020- A POLICY FRAMEWORK FOR NAIROBI REVENUE SYSTEM

We take cognisance of the Daily Nation Newspaper Advertisement dated July 10th, 2020 through which you announced to the General Public that Sessional paper No.1 of 2020 titled 'A Policy Framework for Nairobi Revenue System' was tabled in the Nairobi City County Assembly on July 8th, 2020 and thereafter committed to Finance, Budget and Appropriation Committee and the Sectoral Committee on Energy, Information and Technology for Reviewing and Reporting.

On account of the above and in line with Article 196(1) (b) of the Constitution of Kenya and Standing Order 121 (3) of the Nairobi City County Assembly, the views of National Bank of Kenya Ltd (N.B.K) with regard to Sessional paper No.1 of 2020 are hereby provided as below for incorporation by the Finance, Budget and Appropriation Committee and the Sectoral Committee on Energy, Information and Technology of the Nairobi County Assembly.

NBK has a valid running 5-year contract with the Nairobi City County Government (N.C.C.G) for the provision of Automated Revenue Collection and Value Added Financial for Nairobi City County (Contract Number: NCC/FIN & ECO/G-G/208-2019) which commenced on June 10th, 2019. During the period from June 10th, 2019 to date, NBK has provided the following:

1. N.B.K has provided Automated Revenue Collection Service through Mobile Application, U.S.S.D Code, Web Portal Application, and N.B.K Cashier/Payment Counter services accessible in all NBK Branches.
2. N.B.K has implemented Revenue Collection Reporting, Monitoring Systems and Dashboards which have been accessible to Nairobi City County Executive Leadership from June 2019 and to Kenya Revenue Authority (K.R.A) leadership since March 2020 when K.R.A commenced its revenue collection activities.

3. N.B.K has implemented a Revenue Enforcement Application for enhanced Parking Fee Collections. This application has been available for use by designated N.C.C.G officers and K.R.A officers since March 2020 when K.R.A commenced its revenue collection activities.
4. N.B.K has conducted training for all N.C.C.G Sub-County Finance Officers on enforcement and revenue mobilization through the use of NBK Revenue Collection Systems and Reports.
5. N.B.K has provided NBK Revenue Collection Systems, Reports, Technical Support and Financial/Banking Services to KRA from March 2020 to date.
6. N.B.K has digitized and enhanced application and issuance of food handlers' certificates for Nairobi County.
7. N.B.K has conducted roadshows and other publicity initiatives in various locations and sub counties in Nairobi City County to mobilize revenue collection and raise awareness in Nairobi County.

National Bank of Kenya Ltd takes cognisance of its role in the provision of Automated Revenue Collection services to Nairobi City County in support of the Kenya Revenue Authority and Nairobi Metropolitan Services in tandem with N.B.K contractual obligations as per the 5-year running contract between N.C.C.G and N.B.K.

National Bank of Kenya Ltd requests for clarification from the Clerk of the Nairobi City County Assembly as to how the running 5-year contract to provide Automated Revenue Collection and Value Added Financial for Nairobi City County by National Bank of Kenya shall be handled within the proposed policy framework.

The National Bank of Kenya Ltd pledges its support to Nairobi City County Government, Nairobi City County Assembly, Kenya Revenue Authority and Nairobi Metropolitan Services in executing their mandates to enhance revenue collection and customer service in Nairobi City County for the for the good of the citizens of Nairobi County, the General Public and all Stakeholders concerned.

National Bank of Kenya Ltd requests that the above views and considerations be taken into consideration as part of the review of Sessional Paper No.1 of 2020 titled 'A Policy Framework for Nairobi Revenue System'

Yours Sincerely,



KELVIN JUMBA
HEAD, TRANSACTION BANKING



FREDERICK KIOKO
CHANGE MANAGEMENT & INTEGRATION

Cc:

County Secretary, Nairobi City County Government
County Attorney, Nairobi City County Government
Commissioner General, Kenya Revenue Authority
Director General, Nairobi Metropolitan Services
The Cabinet Secretary, The National Treasury

CRITICAL ISSUES, STATUS AND RECOMMENDATIONS ON POLICY FRAMEWORK FOR REVENUE COLLECTION IN NAIROBI CITY COUNTY BY NAIROBI METROPOLITAN SERVICES.

REVENUE STREAM	ISSUE (POINT OF CONCERN)	STATUS (NCCG ERA)	STATUS (CURRENT POSITION)	GAPS (CHALLENGES)	RECOMMENDATION (STRATEGIES)	ACTION BY
DEBT COLLECTI ON UNIT (DCU)	Legal & Regulatory	Court injunctions on KAA, TAXI, Oil Transporters	County Attorney and Legal team making follow up	Inability to collect or enforce on defaulters	The cases should be determined immediately	County Attorney
	Operation & Enforcement	Depends on sectors to forward defaulters list	Wait for defaulters lists from sectors	Enforce only on the forwarded list of defaulters	Have access to all revenue stream data and extract defaulters list for enforcement independently	CECM-Fin, CCO-ICT CCO-Finance
	Organization structure	All officer report to the Head of DCU unit	All staff are under KRA and Head of DCU Unit plays no role	Inability to monitor performance to ensure optimum collection	All staff should report to the Head of DCU for efficient operations	CS NMS KRA
	System (Automation)	NBK system and LAIFOMS	NBK system and LAIFOMS	Payers accounts are not updated as the systems are not integrated	Ensure that the systems are integrated and fast track the acquisition of the ICRMS	CCO-ICT CCO-Finance NBK
	Infrastructure & facilitation	Depend on lists from sectors with few vehicles	Depends on list but under KRA	Lack of inspection gadgets to verify and inadequate vehicles	Provide inspection gadgets and transportation to cover the entire county	CCO-Finance CCO-ICT SCM

Human Resource	There were 72 officers posted to cover specific revenue streams	Under KRA	Inability to all the revenue streams	Post enough technical officers to efficiently enforce on all revenue streams	DHRM ALL CCO HOCR

REVENUE STREAM	ISSUE OF CONCERN	STATUS (NCCG ERA)	CURRENT STATUS	CHALLENGES	RECOMMENDATION	ACTION BY
Rates	Huge arrears		Huge arrears	Low Revenue	Gazettement of rates defaulters in newspapers	<ul style="list-style-type: none"> ▪ NMS ▪ NCCG
	Unreliable customer database		Wrong Customer Data	Inaccurate accounting for rates due from our customers	Immediate data clean-up	<ul style="list-style-type: none"> ▪ Chief Valuer ▪ ICT Dpt.
	Low customer database for new rate payers			Limited number of rate payers	Seek information sharing with KPLC, Water & Sewerage, Lands Office, KRA	<ul style="list-style-type: none"> ▪ Chief Valuer ▪ Director – Rates ▪ ICT Dept.
	Limited/Tedious payment process		Limited options for customer payment methods	Low compliance levels	Acquisition of playbill to ease payments	<ul style="list-style-type: none"> ▪ CECM ▪ Finance ▪ CFO
	Limited customer contacts/update on their		No customer update for	Low levels of customer	Facilitate use of bulky SMS, E-mail reminders	<ul style="list-style-type: none"> ▪ Chief Valuer ▪ Director –

	outstanding balances		their outstanding balances (Unpaid)	compliance in making payments	of customer balances	<ul style="list-style-type: none"> Rates Director – ICT Public Relations
	Low numbers of voluntary update of new		Low customer database	Low revenues	Facilitate Wards, Sub-County Rates Camp to enhance New Account opening	<ul style="list-style-type: none"> Director – Rates CFO Chief Valuer
	Generation of High of High volumes of demand notices		Obsolete tally printer	Outdated and slow tally printer	Acquisition of new tally printer machine	<ul style="list-style-type: none"> Director – ICT NMS CFO Supply Chain Dpt.
	Slow Enforcement		No dedicated team for Rates Field Officers	Huge arrears standing in the rates books/data	Urgent deployment of Rates specific team	<ul style="list-style-type: none"> NMS KRA
	Hindered mobility		Slowed movement for enforcement teams	Growing Rates arrears not paid	Urgent acquisition of 2no. single cab pick-up (Body)	<ul style="list-style-type: none"> NMS CFO
	Customer reluctance to pay		Low Revenue as customers adopt a wait and see on a possible waiver	Growing rates arrears and penalties	Consider granting of rates waiver to boost collection	<ul style="list-style-type: none"> CECM Finance and Economic Planning Governor NMS
	Accumulated rates under CILOR contribution in lieu of rates by Government Ministries/Dpts/Agencies		Failure by Ministries to pay their CILOR every successive	Growing rates arrears for government departments	Fast-track and sustain engagement to collect the huge billions unpaid	<ul style="list-style-type: none"> NMS Respective CS

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REVENUE STREAM	ISSUE (POINT OF CONCERN)	STATUS (NCCG ERA)	CURRENT POSITION	GAP/CHALLENGES	RECOMMENDATION/STRATEGY	ACTION BY
	STRUCTURE ISSUES					
SINGLE BUSINESS PERMIT	Staff	Deployed to KRA and reshuffled, some transferred to and from other departments		Lack of clarity on: a) Technical skills to evaluate amounts payable and other legal requirements used in evaluation and advise to the Client b) Risk of legal tussles due to payment for SBP for of illegal businesses and /or businesses in unfeasible areas according to law c) De-linking of staff from the respective departments for	Control, Monitoring and other staffing matters should be handled at NMS office in the respective directorates. -Directorate can only be able to budget for and be in charge of staff answerable to the department.	NMS

				appropriate guidance/ monitoring and control		
	Human Resources (Skills & Capacity, motivation, terms & working conditions, number)					
	Promotion stagnation	Promotion has not been done for the last years with a number of officers working in Acting capacity despite concerted efforts in academic progression		Demotivated staff	Confirm those in Acting capacity and promote staff across board	County Public service board and Nairobi Metropolitan services
	Acknowledgement and reward for overtime	Enforcement team work over lunch hour and report to work early and leave late especially during peak period ie September to 31 st , March		Staff have been demotivated due to lack of appreciation of their efforts	Acknowledge and reward extra time efforts by staff	NMS and NCCG
	GOVERNANCE AND INTERAGENCY RELATIONSHIP					

GOVERNANCE AND INTER-AGENCY RELATIONSHIP						
	Reporting	Staff deployed to KRA have instructions not to report to the Directorate		This has led to creation of two directorates with issues of insubordination -This has budget implication issues as the directorate may not be able to plan for the staff and general operations which may hinder/affect revenue collection	NMS as the mother body to the deed should have deployed staff report to the directorates for purposes of planning, monitoring and evaluation, including performance target and evaluation -KRA Should be answerable to NMS as a Principle revenue collection agent	NMS
	SYSTEMATIC ISSUES					
	Accurate Database	SBP Data base is inaccurate due to multiple applications in the system		Inaccuracy in data leads to incorrect decisions and unfruitful enforcement efforts.	-Identify staff in the directorate to confirm status and cleanse data -Use technology to carry out census (This will involve procurement of gadgets and Provision of ICT storage tool for updated, clean data	Directorate in conjunction with ICT Department
	Automation of Sub-County Offices	Only 2 Sub-Counties are able to issue invoices to clients ie Makadara, Dandora		-Loss of revenue due to distance from the Headquarters	-Automation of the Sub-county offices where the Sub-county and Ward Licensing officers are able to serve customers under the directorship of NMS Is Key for enhanced compliancy	NMS & ICT
	OPERATIONAL ISSUES					

	Revenue Reporting	Currently rely on both LAIFOMS and NBK Platforms to get revenue reports		Manually prepared reports are prone to mistakes -Enforcement of already paid up accounts, which is a waste of resources -Inability to attach performance to the respective office -Inability to flag out the defaulters and those accounts are due for payment	System that allows integration with other payment platforms for real time reports is key.	NMS & NCCG
	Self-declaration Challenges	There are many Unused accounts/ loss of revenue due to undercharges and duplication of Licenses		Loss of revenue as well as inappropriate decision making. Loss of time on already paid up accounts	Staff are needed to do inspections and report on the same for correction/ adjustments to be done	NMS & the Directorate
	OPERATIONS AND ENFORCEMENT					
	Enforcement Tools	The department lacks vehicles and gadgets for enforcement		Ineffective enforcement	Procurement of 2NO. minibuses and 17NO. double cabin pick ups -Procurement of 162 inspection and enforcement gadgets which will double up as data collection tools	NMS
	INFRASTRUCTURE AND FACILITIES					

	<p>Lack of offices</p>	<p>Out of the 102 officers: -27NO. are sharing unfurnished offices with Administrators; -6 Have stalled container offices; -100NO. offices not connected to LAIFOMS; -23 Places have land available either for construction or expansion; -Those sharing are housed in Social halls or National Housing corporation; 42 Places do not have land for construction of offices</p>		<p>Officers operate from makeshifts or containers on road reserves which is poor working condition that do not pull citizens to get their attention for service delivery.</p> <ul style="list-style-type: none"> - Monitoring of officers in such conditions become a challenge - Demotivated staff 	<p>-Buy land for 42 No wards -Construct offices -Connect the offices with LAIFOMS and internet -Rent 31NO. Offices and connect them accordingly -Furnish the offices with Computers and furniture</p>	<p>NMS and the NCCG</p>
<p>Sub- county connectivity</p>	<p>LAIFOMS Connectivity is required in 15NO. Sub-</p>			<p>Majority of customers have to travel from distant places to the headquarter for services</p>	<p>System connectivity of all sub-counties and provision of efficient online application is key to compliance</p>	<p>NMS & ICT</p>

		countries to start with. -17NO. Desk tops and printers are required		-Discouraging long journey and queues at the bank and city hall lead to high rate of non-compliance		
	LEGAL FRAMEWORK and POLICY					
	Legal Framework	Initiation of Development of Zero draft Regulations had just began		Inability to make decision on a) Zoning of Nairobi for purposes of differential fees and charges b) Licensing of Hawkers c) Issue of penalties on non-compliance	The respective stakeholders to immediately engage to develop the regulations to enable FULL Implementation of The Nairobi Trade Licensing Act, 2019 which was assented to on 23 rd , May, 2020	NMS and the respective directorate, including related departments ie Planning, Environment, Health, Legal Department
	Policy	The department does not have written Policy document to guide operations		Subjective decisions which lead to non-uniformity	There needs to be drafted and gazette Policy document to guide operations and decisions	NMS and the SBP Department, in consultation with the Legal department and other stakeholders

REVENUE STREAM	ISSUE (POINT OF CONCERN)	STATUS (NCCG ERA)	STATUS (CURRENT POSITION)	GAPS (CHALLENGES)	RECOMMENDATION (STRATEGIES)	ACTION BY
URBAN DESIGN & OUTDOOR ADVERTISING	1. Legal & Regulatory (Governance)	Court injunctions/Orders obtained by Advertisers against the County	1. County Attorney and Legal team making follow up	Restraining orders against enforcement on particular sites/companies	The cases should be determined immediately	County Attorney
		Court orders/injunctions obtained against KURA & KENHA and the County	Director of Legal has a list of pending cases in Court touching on advertising.	Restraining orders touching on revenue	Establish the County Urban Planning Liaison Committee for arbitration & conflict resolution.	
		Undue political interference in development and control of advertising structures	Politicians collude with advertiser to put up unapproved structures	Mushrooming of illegal structures	The department should work independently without any political influence/interference	
		Competition between other revenue function and urban planning function.	Some departments within the County take part in revenue collections for outdoor advertising departments	Much of advertising revenue are unaccounted for	Establish a system of accounting for every revenue collected within a specified department	
	2. Organization structure/Personnel (coordination of	Majority (12no.) of revenue mobilization/enforcement officers report to KRA	No direct supervision/coordination revenue	Inability to monitor performance to ensure optimum	There should be clear structure that allows for coordination of staff	NMS KRA

	functions	offices for assignments	generation with the Head of the Section based at City Hall.	collection Slowed down the process of revenue mobilization. Complains from advertisers regarding accurate information forwarded on technical issues.	supervision between KRA & NMS on operations and revenue collection. Technical aspects of advertising should be left to be handled by Urban Planning technical staff based at City Hall. Advertising data collection being technical in nature should remain a function to be handled by UDD in collaboration with NMS.	
	Technology/ System (Automation)	The revenue generation tracking process is semi-automated. NBK system and LAIFOMS	NBK system and LAIFOMS	Payers accounts are not updated as the systems are not integrated There lacks regular revenue reports forwarded to UDD for reference in order to inform further mobilization activities.	Ensure that the systems are integrated and fast track the acquisition of the ICRMS	CCO-ICT CCO- Finance NBK

	Logistics	<p>Depend on lists from sectors with few vehicles</p> <p>The department has only one plant and the plant has no operator from the County instead is outsourced.</p> <p>Lack of enforcement gears & transport for surveillance purposes.</p> <p>Monitoring depends on regular surveillance activities by few officers in the department</p>	<p>Depends on list but under KRA</p> <p>There is insufficient facilitation in terms of transport, equipment & machinery necessary for undertaking of enforcement.</p> <p>There is no monitoring system for outdoor advertising</p>	<p>Lack of inspection gadgets</p> <p>inadequate enforcement machinery/vehicles</p> <p>Lack of proper monitoring of outdoor advertising activities</p>	<p>Provide inspection gadgets</p> <p>Provide transportation to cover the entire county</p> <p>Provide GIS System to help in monitoring of advertising activities.</p>	CCO-Finance CCO-ICT SCM
	Human Resource	<p>There were 72 officers posted to cover specific revenue streams</p> <p>The department has only 36 personnel which 12 have been transferred to KRA</p>	<p>Under KRA</p> <p>Under staffed</p>	<p>Inability to all the revenue streams</p> <p>Inability to cover all the office work and enforcement work</p>	<p>Post enough technical officers to efficiently enforce on all revenue streams</p> <p>More staffs to be deployed.</p>	DHRM ALL CCO HOCR
	Administration	<p>Office has worn out furniture and fittings</p>	<p>Office has worn out furniture and fittings, With no stationeries.</p>	<p>The working environment is very bad</p>	<p>The office should be renovated</p>	ADM