COUNTY GOVERNMENT OF NAIROBI CITY

Approved
18/7/2020

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

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.

TABLE OF CONTENTS

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 of 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

- 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 (de-motivation) 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 let 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 with 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 needs 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.

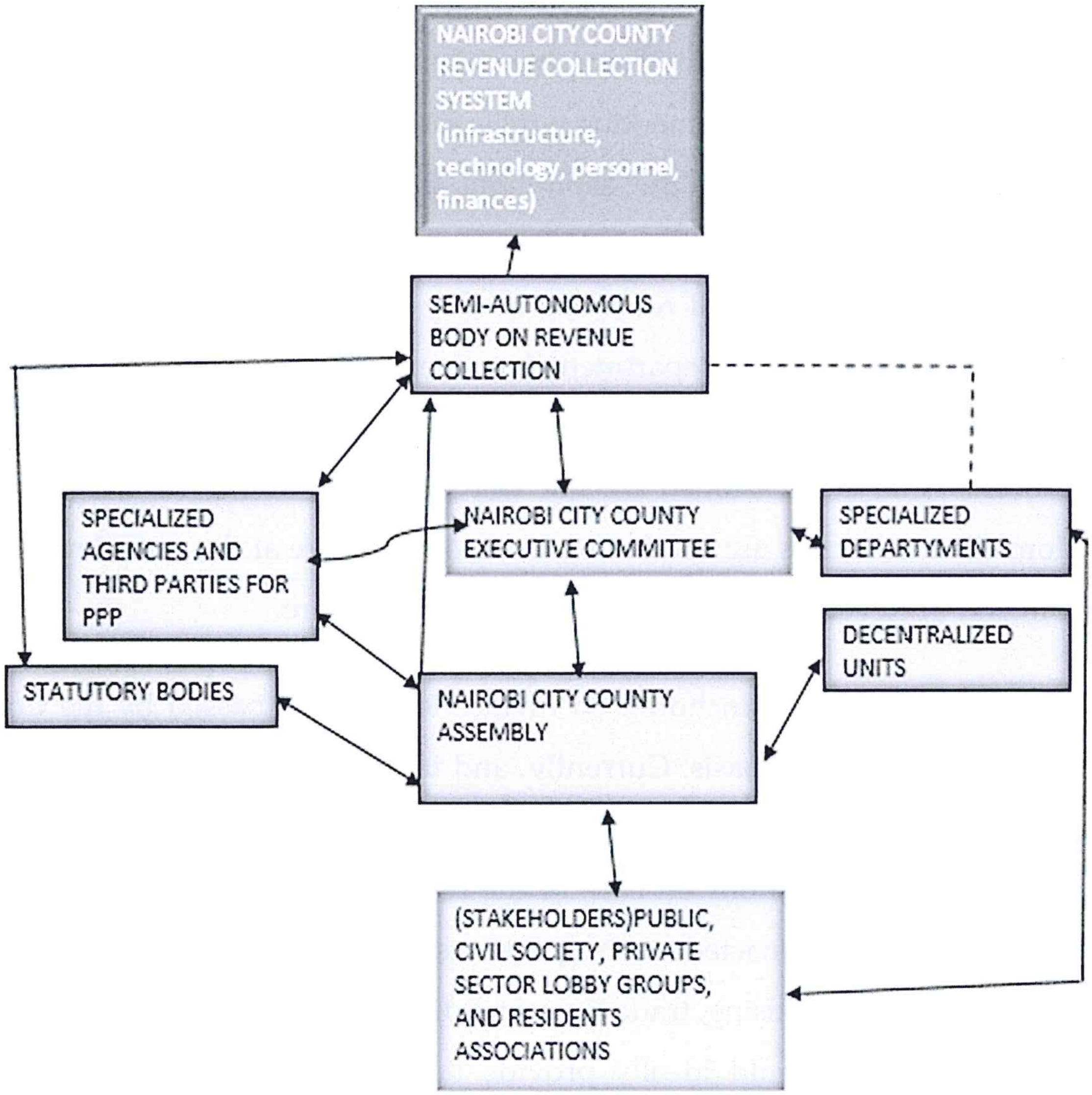
In view of the above, Nairobi City County Government needs to provide strategic leadership and direction by setting the vision, strategies and targets as well as oversee, synchronize and centralise all revenue collection. This proposed institutional framework provides for both top-down and bottom-up 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 logins 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 oversighted 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 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, reposes properties and revenue refund

Due process must be followed before any action is taken to evict or reposes 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.