

GOVERNMENT OF NAIROBI CITY COUNTY

Paper Laid
By Leader Majority
30/April/2024
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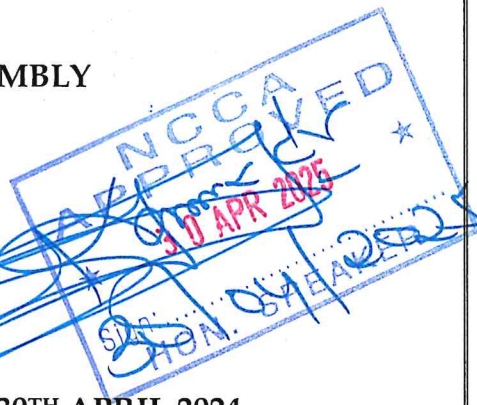


THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

THIRD ASSEMBLY

(FOURTH SESSION)



NCCA/TJ/PL/2023(43)

30TH APRIL 2024

PAPER LAID

SUBJECT: REPORT OF A COMMITTEE

Pursuant to Article 229 (8) of the Constitution of Kenya, 2010 and Standing Order 196, I beg to lay the following Papers on the Table of this Assembly, today Wednesday 30th April 2024:

- **THE REPORT OF SELECT COMMITTEE ON PUBLIC ACCOUNTS ON CONSIDERATION OF THE REPORT OF AUDITOR GENERAL ON RECEIVER OF REVENUE FOR COUNTY GOVERNMENT OF NAIROBI FOR THE YEAR ENDED 30TH JUNE 2022.**

(The Chairperson, Select Committee on Public Accounts)

Copies to:
The Speaker
The Clerk
Hansard Editor
Hansard Reporters
The Press

NCCA/TJ/NTC/2025

GOVERNMENT OF NAIROBI CITY COUNTY



THE NAIROBI CITY COUNTY ASSEMBLY

THIRD ASSEMBLY

(FOURTH SESSION)

30th April 2025

NOTICE OF MOTION

Subject: Adoption of report of a Committee

Hon. Speaker, I beg to give notice of the following motion:-

THAT, this Assembly adopts **THE REPORT OF SELECT COMMITTEE ON PUBLIC ACCOUNTS ON CONSIDERATION OF THE REPORT OF AUDITOR GENERAL ON RECEIVER OF REVENUE FOR COUNTY GOVERNMENT OF NAIROBI FOR THE YEAR ENDED 30TH JUNE 2022** laid on the Table of the Assembly on 30th April 2025.

(Chairperson, Select Committee on Public Accounts)

Notice Given
By Majority Leader
30/April/2025
[Signature]

Paper laid.
By Leader Majority
30/April/2025

#

Nairobi City County Government



Nairobi City County Assembly

Third Assembly – Fourth Session

The Report of the Select Committee on Public Accounts

on

The Consideration of the Report of the Auditor General on Receiver of Revenue for County Government of Nairobi for the Year Ended 30th June 2022.

Clerks Chambers

Nairobi City County Assembly

City Hall Buildings

NAIROBI

APRIL, 2025

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1.0. PREFACE

Hon. Speaker,

On behalf of the Public Accounts Committee (PAC) and pursuant to the provision of Standing Order 196(6), it is my pleasant privilege and honor to present to this Assembly this report of the Public Accounts Committee on the consideration of the *“Report of the Auditor-General on Receiver of Revenue for County Government of Nairobi for the year ended 30th June, 2022”*.

1.1. Mandate of the Public Accounts Committee

The Public Accounts Committee derives its mandate from Standing Order 203 (2) of the Nairobi City County Assembly, which provides that: -

“The Public Accounts Committee shall be responsible for the examination of the accounts showing the appropriations of the sum voted by the County Assembly to meet the public expenditure and of such other accounts laid before the County Assembly as the Committee may think fit”.

The primary mandate of the Committee is therefore to oversight the expenditure of public funds by Nairobi City County entities, to ensure value for money and adherence to government financial regulations and procedures. The Committee further aims at ensuring that Nairobi City County public funds are prudently and efficiently utilized. The Committee executes its mandate on the basis of annual and audit reports prepared by the Office of the Auditor General (OAG).

Article 229 (8) of the Constitution provides that within three months after receiving the report of the Auditor General, Parliament or the **County Assembly** shall debate and consider the report and take appropriate action. It is on this basis that this report has been produced by the Committee for consideration and adoption by the County Assembly.

1.2. Guiding principles

In the execution of its mandate, the Committee is guided by core constitutional and statutory principles on public finance management, as well as established customs, traditions, practices and usages. These principles include the following: -

(a) Constitutional Principles on Public Finance

Article 201 enacts fundamental principles aimed at guiding all aspects of public finance in the Republic. It states that the principles are, *inter alia*, *openness and accountability, including public participation in financial matters; public money shall be used in a prudent and responsible way; and*

financial management shall be responsible, and fiscal reporting shall be clear. The Committee places high regard on these principles, among others, and has been guided by them in the entire process that has led to this report.

(b) Direct Personal Liability

Article 226(5) of the Constitution is unequivocal that: - *“If the holder of a public office, including a political office, directs or approves the use of public funds contrary to law or instructions, the person is liable for any loss arising from that use and shall make good the loss, whether the person remains the holder of the office or not”*. Consequently Section 203(1) of the PFM Act, 2012 enacts that: - *“A public Officer is personally liable for any loss sustained by a county government that is attributable to-*

(a) the fraudulent or corrupt conduct, or negligence, of the officer; or

(b) the officer’s having done any act prohibited by sections 196, 197 and 198”

The Committee considers this Constitutional and legal provisions as the basis for holding Accounting Officers and other Public Officers directly and personally liable for any loss of public funds that may occur under their watch.

1.3. Obligations of the Accounting Officer

Article 226(2) of the Constitution provides, inter alia, that: *“the Accounting Officer of a national public entity is accountable to the National Assembly for its financial management, and the Accounting Officer of a county public entity is accountable to the County Assembly for its financial management”*. Subsequently, Section 149(1) of the Public Finance Management (PFM) Act, 2012 provides that: *“An accounting officer is accountable to the County Assembly for ensuring that the resources of the entity for which the officer is designated are used in a way that is—*

(a) lawful and authorized; and

(b) Effective, efficient, economical and transparent.”

These provisions obligate the County Executive Committee Member for Finance and Economic Affairs who is the Accounting Officer to appear before the Public Accounts Committee to respond to audit queries raised by the Auditor-General.

1.4. Committee Membership

The Committee comprises of the following Members: -

- | | |
|--|--------------------|
| 1. Hon. Chege Mwaura, MCA | - Chairperson |
| 2. Hon. Abel Osumba Atito, MCA | - Vice-Chairperson |
| 3. Hon. Benter Juma Obiero, MCA | |
| 4. Hon. Patrick Karani Said, MCA | |
| 5. Hon. John Rex Omolleh, MCA | |
| 6. Hon. Stazo Omung'ala Ang'ila, MCA | |
| 7. Hon. Richardo Nyantika Billy, MCA | |
| 8. Hon. John Ndile Musila, MCA | |
| 9. Hon. Cyrus Mugo Mubea, MCA | |
| 10. Hon. Jane Musangi Muthembwa, MCA | |
| 11. Hon. Emmy Khatemeshi Isalambo, MCA | |
| 12. Hon. Fuad Hussein Mohamed, MCA | |
| 13. Hon. Fatuma Abduwahid Abey, MCA | |
| 14. Hon. Eutychus Mukiri Muriuki, MCA | |
| 15. Hon. Fredrick Njoroge Njogu, MCA | |
| 16. Hon. Rachel Wanjiru Maina, MCA | |
| 17. Hon. Aaron Kangara Wangare, MCA | |
| 18. Hon. Carrington Gichunji Heho, MCA | |
| 19. Hon. Mark Thiga Ruyi, MCA | |
| 20. Hon. Simon Maina Mugo, MCA | |
| 21. Hon. Paul Wachira Kariuki, MCA | |
| 22. Hon. Martin Mbugua Mwangi, MCA | |
| 23. Hon. Mary Wanjiru Kariuki, MCA | |

The Committee comprises of the following Secretariat;

- | | |
|--------------------------|--------------------------|
| 1. Mr. Kevin Wasike | - Senior Clerk Assistant |
| 2. Mr. Benedict Ochieng | - Second Clerk Assistant |
| 3. Mr. Klinsman Munase | - Legal Counsel |
| 4. Mr. Anthony Nyandiere | - Hansard Editor |
| 5. Mr. Melvin Wachira | - Research Officer |

Allow me **Hon. Speaker** to thank the entire membership of this Committee for its hard work and commitment which made the taking of evidence and production of this Report a success.

1.5. Background

The receiver of revenue is under the sub sector of revenue administration which falls in finance and economic planning sector. At the County Executive Committee level, the receiver of revenue is represented by the County Executive committee member for Finance and Economic Planning, who is responsible for the general policy and strategic direction of the receiver of revenue. The receiver of revenue is designated as a receiver by the County Executive Committee member for Finance, in accordance with section 157 of the PFM Act.

1.6. Auditor-General's Responsibility

The Auditor General's responsibility was to obtain reasonable assurance about whether the financial statements as a whole were free from material misstatement, whether due to fraud or error, and to express an opinion on the financial statements in accordance with Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). Those standards require compliance with ethical requirements and that the audit be planned and performed to obtain reasonable assurance about whether the financial statements are free from material misstatement. The matters mentioned in the audit report were identified through tests considered necessary for the purpose of the audit and it is possible that there might be other matters and/or weaknesses that were not identified.

Section 165 (1) of the Public Finance Management Act, 2012 requires that, at the end of each financial year, a receiver of revenue for a county government shall prepare an account in respect of the revenue collected, received and recovered by the receiver during that financial year.

The Receiver of Revenue is responsible for the preparation and presentation of the receiver of revenue account, which gives a true and fair view of the state of affairs of the receiver of revenue for and as at the end of the financial year (period) ended on June 30, 2022. This responsibility includes: (i) maintaining adequate financial management arrangements and ensuring that these continue to be effective throughout the reporting period, (ii) maintaining proper accounting records, which disclose with reasonable accuracy at any time the statement of assets and liabilities of County Government of Nairobi, (iii) designing, implementing and maintaining internal controls relevant to the preparation

and fair presentation of the financial statements, and ensuring that they are free from material misstatements, whether due to error or fraud, (iv) safeguarding the assets of the entity, (v) selecting and applying appropriate accounting policies, and (vi) making accounting estimates that are reasonable in the circumstances.

The Receiver of Revenue in charge accepts responsibility for the entity's receiver of revenue accounts, which have been prepared on the Cash Basis method of financial reporting, using appropriate accounting policies in accordance with International Public Sector Accounting Standards (IPSAS) and relevant legal framework of the Government of Kenya. The Receiver of Revenue is of the opinion that the entity's receiver of revenue account gives a true and fair view of the state of County Government of Nairobi receiver of revenue transactions during the financial year ended June 30, 2023, and of the County Government of Nairobi statement of assets and liabilities as at that date. The Receiver of Revenue further confirms the completeness of the accounting records maintained, which have been relied upon in the preparation of the receiver of revenue account as well as the adequacy of the systems of internal financial control.

The Receiver of Revenue confirms that the County Government of Nairobi has complied fully with applicable Government Regulations and the terms of external financing covenants (where applicable). The Receiver of Revenue confirms that the revenue statements have been prepared in a form that complies with relevant accounting standards as prescribed by the Public Sector Accounting Standards Board of Kenya.

1.7. Evidence taken

The Committee held sittings of which it interrogated the County Executive Committee Member for Finance and Economic Planning, Chief Officer Revenue Administration, Director Revenue Administration, Deputy Director Revenue Administration and Head of Revenue Reporting on key findings raised by the Auditor General. Similarly, the Committee received written responses to the special audit findings.

While taking evidence, the Committee was guided by the existing procedures and modalities of operations of the Nairobi City County Assembly derived from the Constitution of the Republic of Kenya, Acts of National Parliament, Acts of Nairobi City County Assembly and Nairobi City County

Assembly Standing Orders, conventions, usages, practices and rulings and directives of the Chairperson.

1.8. Appreciation

Hon. Speaker,

The Committee would like to thank the County Executive Committee for Finance and Economic Affairs for appearing before it and subsequently submitting written responses which provided valuable insights into the issues raised by the Auditor General.

Hon. Speaker,

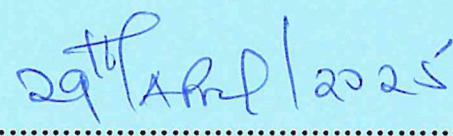
The Committee also wishes to sincerely thank the Offices of the Speaker and the Clerk for the services extended to the Committee while considering this matter. The Committee further wishes to appreciate the Officers from the Office of the Auditor General and the Committee secretariat for their exemplary advisory services that enabled Members effectively execute their mandate.

Hon. Speaker,

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


SIGNED

HON. CHEGE MWAURA (CHAIRPERSON)


DATE

2.0 CONSIDERATION OF THE AUDIT REPORT OF THE AUDITOR GENERAL ON RECEIVER OF REVENUE

2.1.1 Inaccurate Statement of Receipts and Disbursements

The statement of receipts and disbursements reflects total own generated revenue amount of Kshs.8,958,551,072. Records provided by the revenue department revealed that the County collected own generated revenue amount of Kshs.8,972,609,800, resulting to an unreconciled variance of Kshs.14,058,728. Although the Management has explained this as returned County Revenue Fund Issues to the bank account from the previous financial year, this amount has not been disclosed as balance brought forward.

In addition, the Kenya Revenue Authority (KRA) financial statements reflects revenue collections of Kshs.8,967,423,181 while the statement of receipts and disbursements reflect own generated revenue amount of Kshs.8,958,551,072 resulting to an unexplained and unreconciled variance of Kshs.8,872,109.

In the circumstances, the accuracy and completeness of the total own generated revenue of Kshs.8,958,551,072 in the statement of receipts and disbursement could not be confirmed.

Management Responses:

The County Executive Management response to the Inaccurate Statement of Receipts and Disbursements was as follows;

- That the statement of receipts and payments is prepared using IPSAS cash basis meaning that revenue is realized after it is transferred to CRF account in CBK. The county has agreements with commercial banks to be sweeping all its revenues on daily basis, however in cases of uncleared effects the same is not swept until it clears.
- That the said variance of Kshs. 14,058,730 was as a result of a difference between the closing bank balances as at 30th June 2021 of Kshs 12,861,267 and the balances as at 30th June 2022 of Kshs 26,919,997 as shown below

Reconciliation of Kshs. 14,058,730

	Kshs
Closing Bank Balances as at 30th June 2022	26,919,997
Less: Closing Bank Balances as at 30th June 2021	(12,861,267)
Balance (Reported as variance)	14,058,730

- That the variance of Kshs. 8,872,109 which is said to be a difference between KRA financial statement and the statement of receipts and disbursement was not identifiable.
- That the County could not verify Kshs. 8,967,423,181 said to be KRA financial statement hence were unable to reconcile.

Appendix 1.1(a) Schedule of closing balances of Kshs 26,919,997 as at 30th June 2022

Appendix 1.1(b) Schedule of closing balances of Kshs 12,861,267 as at 30th June 2021

Appendix 1.1(c) Bank statements supporting a and b above.

Committee Observation(s)

The Committee while interrogating the management response made the following observations: -

- That the management provided analysis and bank statements supporting the two closing balances deemed to cause the observed variance;
- That the listing of uncleared effects totaling to Kshs. 14,058,730 as at 30th June 2022 were not attached; and
- That the Committee also observed that the variance between KRA and the financial report figures was not explained.
- Accrual basis

Committee Recommendation(s)

- **The Committee reprimands the County Executive Committee Member for Finance and Economic Planning for failure to adhere to the IPSAS as provided for in regulation 117(2) of the Public Finance Management (County Governments) Regulations of 2015; and**
- **The County Executive Committee Member for Finance and Economic Planning to strictly adherence to the provisions of regulation 117(2) of the Public Finance Management (County Governments) Regulations of 2015.**

2.1.2 Unsupported Miscellaneous Receipts

The statement of receipts and disbursement reflects miscellaneous receipts of Kshs. 820,956,054 while the statement of arrears of revenue reflects that revenue arrears received amounted to Kshs. 394,142,434 resulting to an unsupported and unexplained variance of Kshs. 426,813,620.

In the circumstances, the accuracy and completeness of miscellaneous receipts Kshs. 820,956.054 could not be confirmed.

Management response:

The County Executive Management response to the Unsupported Miscellaneous Receipts was as follows;

- That the Nairobi City County wishes to clarify that the Miscellaneous item under the Statement of receipts and Disbursements of Kshs 820,956,054 relates to receipts from other revenue items that are referred to as miscellaneous revenues-meaning this is part of revenue collected in the current year and not arrears as indicated in note 16. The miscellaneous receipts have no relationship with note 16 which shows revenue arrears.
- That the Kshs 394,142,434 is the amount collected as arrears during the Financial year but already accounted for in the total figure of revenue. Therefore, the issue of a variance of Kshs 426,813,620 does not arise.
- That the County does not report account receivables separately and any amount owed to the County and received during the year is treated as revenue.

Committee Observation(s)

The Committee while interrogating the management response made the following observations: -

- That the financial statements showed that miscellaneous income relates to note 16 revenues in arrears balances reported after adjusting for what was received during the year, the Committee noted that this issue was not addressed

Committee Recommendation(s)

- **The Committee recommends that the accounting officer undertakes administrative action against the officers who failed to provide the documents to the Auditors in accordance with section 156(1) of the Public Finance Management Act, 2012 and provide a status report to the County Assembly within sixty (60) days after the adoption of this report;**
- **The Committee reprimands the County Executive Committee Member for Finance and Economic Planning for failure to provide relevant documents as provided for in Section 62 of the Public Audit Act, 2015; and**

- The Committee further recommends for a further investigation by the Ethics and Anti-Corruption Commission on the variance of Ksh 420,000,000 and submit a report to the County Assembly within ninety (90) days after adoption of this report.

2.1.3 Failure to Disburse to the County Revenue Fund

The statement of receipts and disbursements reflects total revenue of Kshs. 8,958,551,072 while the same statement indicates that Nil amount was disbursed to the County Revenue Fund. Management under Note 17 to] the financial statement has disclosed that the receiver of revenue had arrangement to transfer funds from local banks and Kshs, 8,891,129,037 was transferred during the year under review, resulting to unexplained variance of Kshs. 67,422,034 as funds not transferred to the County Revenue Fund.

In addition, the statement of financial assets reflects unspent bank balance of Kshs. 897,688,736 as at 30 June, 2021, current year collections of Kshs. 8,958,551,072 and disbursements of Kshs.8,891,129,037, resulting to unremitted balance of Kshs. 965,110,771 while the bank balances reflect Kshs. 1,489,166,265 resulting to unexplained and unreconciled variance of Kshs.524,055,494.

In the Circumstances, the accuracy and validity of Nil amount disbursed to County Revenue Fund could not be confirmed.

Management response:

The County Executive Management response to failure to disburse to the County Revenue Fund in the financial statements was as follows;

- That the statement of receipts and disbursements in the ROR FY 2021/2022 reflects total revenue of Kshs. 8,958,551,072 while the same statement indicates that Nil amount was disbursed to the County Revenue Fund. This was an oversight during the preparation of the document however this has been noted and going forward the County Shall Reflect the amount in the appropriate place in the ROR.
- That the bank balance of Kshs. 897,688,736 as at 30 June, 2021 was a consolidated closing balance for all bank accounts as per the financial statements, as opposed to revenue closing balances and so are bank balances for FY 2021/2022 Kshs. 1,489,166,265.
- That the error has been noted and a prior adjustment has been passed in the subsequent year as per appendix.

Appendix 1.1.2(a) Prior year adjustment Receiver of Revenue FY 2022/2023

Appendix 1.1.3(a) extract of financial statement of kshs 1,462,246,268 and Kshs.897,688,736

Committee Observation(s)

The Committee while interrogating the management response made the following observations: -

- That the Committee noted that the management was in agreement with the audit observation. However, the errors were still outstanding.
- That the Committee also observed that the management did not attach a signed copy of the financial statements for the year 2022/2023 (subsequent year).

Committee Recommendation(s)

- The Committee recommends that the accounting officer undertakes administrative action against the officers who failed to provide the documents to the Auditors in accordance with Section 62 of the Public Audit Act, 2015 and provides a status report to the County Assembly within sixty (60) days after the adoption of this report.

2.1.4 Unsupported and Unreconciled Cash and Bank Balances

The statement of financial assets and liabilities reflects cash balances Kshs. 1,489,166,265 while Note 18 reflects Kshs. 26,919,997 resulting to unsupported, unexplained and unreconciled bank balances of Kshs. 1,462,246,268. In addition, bank statements, bank certificates, bank reconciliation statements, and cash books in support of the cash and cash equivalents balance were not provided for audit.

In the circumstances, the accuracy, completeness and validity of bank balances Kshs.1,489,166,265 could not be confirmed.

Management response:

The County Executive Management response to the query of Unsupported and Unreconciled Cash and Bank Balances was as follows;

- That in preparation of ROR FY 2021/2022 for County, the figure in the statement of financial assets and liabilities of Kshs 1,489,166,265 was a consolidated closing balance for County

bank accounts as per the financial statement instead of revenue bank account balances of Kshs 26,919,997.

- That this was noted and in preparation of ROR for FY2022/2023 a prior adjustment has been passed as per attachment.

Appendix 1.1.3(a) extract of financial statement of kshs 1,462,246,268

Appendix 1.1.2(a) Prior year adjustment ROR 22/23

Appendix 1.1(a) Schedule of closing balances of Kshs 26,919,997 as at 30th June 2022

Appendix 1.1(c) Bank statements supporting closing balances as at 30th June 2022.

Committee Observation(s)

The Committee while interrogating the management response made the following observation: -

- The Committee noted that the management was in agreement with the audit observation. The subsequent year's financial statements were yet to be certified for confirmation of the prior year adjustments

Committee Recommendation(s)

- The Committee recommends that the accounting officer undertakes administrative action against the officers who failed to provide the documents to the Auditors in accordance with Section 62 of the Public Audit Act, 2015 and provides a status report to the County Assembly within sixty (60) days after the adoption of this report; and
- The Committee further recommends that the Office of the Auditor-General to verify the certification of prior year adjustments and submit a report to the County Assembly sixty (60) days after the adoption of this report.

2.1.5 Undeclared and Unremitted Revenue

The statement of receipts and payments reflects County own generated revenue amount of Kshs.8,958,551,072. However, the revenue excludes an amount of Kshs. 265,864,886 (2021-Kshs.501,849,629) collected by the Nairobi City County Alcoholic Drinks and Licensing Board. According to Regulation 80 of Public Finance Management (County Governments) Regulations,2015 the receipts comprise of revenue for the County Government and ought to have been remitted to the County Revenue Fund (CRF) and disclosed in the financial statements.

In the circumstances, County own generated revenue of Kshs. 8,958,551,072 could not be confirmed.

Management response:

The County Executive Management response to the query of Undeclared and Unremitted Revenue was as follows;

- That the figure of Kshs. 265,864,886 was excluded from statement of receipts and payments simply because the said amount was never received by the County.
- That Nairobi city County Alcoholic Drinks and Licensing Board is established pursuant to the provision of Nairobi City County Alcoholic Drinks and Licensing Act, 2014. The Act establishes a fund to which all funds appropriated and collected by the board are to be retained. The Provisions of PFM Act section 109 (2) (a) provide that funds can be excluded from payment into the CRF because of a provision of the PFM Act or another Act of parliament, and is payable into another county public fund established for a specific purpose.

Committee Observation(s)

The Committee while interrogating the management response made the following observation: -

- That the Committee observed that the PFM Act does not provide for retention of such monies, the Fund's enabling Act does not provide for use of revenue at source. The management failed to explain what measures they have taken to ensure that they do it within the law.

Committee Recommendation(s)

- **The Committee recommends that the County Executive Committee for Business and Hustler Opportunities to submit the proposed Bill to the Assembly within sixty (60) days after the adoption of this report.**

2.1.6 Underdeclared Revenue

According to a letter dated 19 May, 2022 from a local bank revealed that Nairobi City County Executive owed the bank an amount of Kshs. 566,278,045. Included in this amount is Kshs.205,916,618 in respect of general collections for five (5) months between 1 September, 2021 and 31 January, 2022. In addition, the amount excludes the main revenue stream in respect of land rates, parking and single business permits collected by the Kenya Revenue Authority (KRA) -Nairobi Revenue Sure (NRS) system.

The commission charged by the bank for the two transactions totaling to Kshs. 205,916,618, for funds collected at a rate of 4.25%, relates to completed revenue transactions of approximately Kshs.4,845,096,894($100 \times 205,916,618 / 4.25$) for five (5) months. Review of records provided by the County Management revealed that an amount of Kshs. 1,463,972,793 was reported to have been collected by the two (2) institutions (NBK Revenue Sure and LAIFORMS) for the same period between 1 September, 2021 and 31 January, 2022, resulting to an under declaration of Kshs.3,381,124,101 for the five (5) months.

In the absence of a reconciliation between the two sets of records, it was not possible to confirm the accuracy and completeness of the revenue declared and reported in the financial statements.

Management Response

The County Executive Management response to the query of Under declared Revenue was as follows;

- That the said letter dated 19th May, 2022 from a local bank that revealed that Nairobi City County Executive owed the bank an amount of Kshs. 566,278,045 should not be taken as a basis of establishing transaction for the period under review. This was a claim by the bank and could not reflect a true position of revenues collected by the said institution.
- That the County had disputed the claim as per letters referenced NCC/FEP/REV/CFO/HW/085/21 dated 10th may 2021 from CFO finance to the Bank manager NBK which indicated the commission charged was way above total collection by the county in that particular month. Here the commission claimed was kshs 827,573,118 while the county had collected kshs 565,025,616 and letter referenced NCC/FEP/REV/CFO/HW/096/21 dated 24th may 2021.
- That by the time of Audit, the County was not able to do a reconciliation because revenue sure system was closed and the data was not accessible. Effort to request for the same was unfruitful as the owners demanded full settlement before releasing any data.

Appendix 1.3(a) correspondences between NCCG and NBK

Appendix 1.3(b) Termination Notice NCC/CA/LK/131/E/22 dated 3rd Feb 2022

Appendix 1.3 (c) Termination of Contract NCC/FIN& ECO/G-G/2018-2019 dated 31st Jan 2022

Appendix 1.3(d) Termination of Contract NCC/FIN& ECO/G-G/2018-2019 dated 7th October 2022.

Committee Observation(s) Recommendation(s)

- The Committee noted that the matter has since been addressed. The Committee recommends that the matter be marked as resolved.

2.1.7 Under declared Market Entry Fees

The statement of receipts and disbursement reflects market fees amount of Kshs. 344,101,060, and as disclosed in Note 6 to the financial statements. However, detailed Mpesa transactions provided in respect of the markets entry fee revealed that the amount collected amounted to Kshs. 1,632,101,453, resulting to an unexplained and unreconciled variance of Kshs.1,288,000,393.

In addition, the receiver for revenue collection contract between Kenya Revenue Authority and Nairobi Metropolitan services was not provided for audit and therefore it was not possible to determine the compliance with terms and conditions of the contract.

In the circumstances, the accuracy and completeness of market fees of Kshs. 344,101,060 could not be confirmed.

Management response

The County Executive Management response to the query of Under declared Market Entry Fees was as follows;

- That the said Mpesa amount of Kshs. 1,632,101,453 include other revenues that are not related to markets of kshs 1,175,079,627.00 as follows:

561624 BUILDING MATERIALS	23,442,613.00
561625 COUNTY HEALTH	43,680,820.00
561644 MMF	1,063,411,230.00
561644 Utility MAIN	8,659,077.00
BD MATERIALS	4,853,097.00
COUNTY HEALTH	31,032,790.00

Committee Observation(s)

The Committee while interrogating the management response made the following observations: -

- That the Management explained, however, no evidence was attached to show that indeed the amounts collected and described as markets entry fees does not relate to that specific revenue line.
- That evidence of contract between Kenya Revenue Authority and Nairobi Metropolitan Services were not provided for audit review.
- That the Committee also observed that the management failed to explain how the Mpesa detailed transaction showed that the amounts received relate to market entry fees.

Committee Recommendation(s)

- **The Committee recommends that the accounting officer undertakes administrative action against the officers who failed to provide the documents to the Auditors in accordance with Section 62 of the Public Audit Act 2015 and submit a report to the County Assembly within sixty (60) days after the adoption of this report; and**
- **The Committee recommends that matter be investigated further by the Ethics and Anti-Corruption Committee and submit a report to the County Assembly within ninety (90) days after the adoption of this report.**

2.1.8 Unsupported and Un remitted Revenue from Nairobi Metropolitan Services

Review of records provided revealed that a Kenya Revenue Authority (KRA) local bank account was used to collect revenue in line with the deed of transfer of functions from the County Government of Nairobi to the Nairobi Metropolitan Services (NMS). At the closure of the eleventh (11) month, revenue totaling Kshs.973,686,101 had been collected through this bank account, but only Kshs.963,128,313 was remitted to the CRF account, resulting to an unremitted amount of Kshs.10,557,788. In-addition, an unquantified amount of collection for the month of June, 2022 was not remitted to the account. No explanation was provided for failure to make remittances for June,2022.

Further, records and details of the total revenue collected and remitted by KRA in line with the deed of transfer of functions, including records in respect of the number of businesses registered in the year, the amount charged and collected, were not submitted to the County Government by the collecting entity and were also not provided for audit.

In the circumstances, the accuracy and completeness of the amount totaling to Kshs.973,686,101, reported to have been collected and declared for a period of eleven (11) months in the financial records could not be confirmed.

Management response:

The County Executive Management response to the query of Unsupported and Un remitted Revenue from Nairobi Metropolitan Services was as follows;

- In the year under review the closing balance of Equity Bank was Kshs. 10,108,565 as at 30th June 2022. This was later transferred to CRF account during the current FY 23/24 as per CRF statement. Equity Bank continues to collect for the County and sweep to CRF daily.

Appendix 1.5(a) correspondence in connection to equity account

Appendix 1.5(b) bank statement showing closing balances

Appendix 1.5(c) CRF statement

Committee Observation(s)

The Committee while interrogating the management response made the following observations: -

- That the management did not respond to the issue to address the variance of Kshs. 10,557,788 and the total collections for the month of June.
- That the Committee also noted that the Contract document were not attached.
- That the Committee also observed that the management failed to disclose how much was collected in the month of June and how much was remitted to CRF by 30th June

Committee Recommendation(s)

- **The Committee recommends that the accounting officer undertakes administrative action against the officers who failed to provide the documents to the Auditors in accordance with Section 62 of the Public Audit Act 2015 and submit a report to the County Assembly within sixty (60) days after the adoption of this report;**
- **The Committee recommends that matter be investigated further by the Ethics and Anti-Corruption Committee and submit a report to the County Assembly within ninety (90) days after the adoption of this report; and**

- The Committee instruct the Kenya Revenue Authority to remit Kshs. 10,000,000 and the amount collected in the month of June, 2022 to the County Revenue Fund for period under review and a report be submitted to the County Assembly within ninety (90) days after the adoption of this Report.

2.1.9 Under Collection of Betting Lotteries and Gaming Activities Revenue

The statement of receipts and disbursements reflects total revenue receipts of Kshs.8,959,551,072 for the year under review. Included in this amount is Kshs.9,356,250 collected under betting, lotteries and gaming activities. However, the Management did not optimize collection of revenue from the betting, lotteries and gaming activities since 2013 financial year, when the betting activities were devolved to the County Government, resulting to low revenue collection. In addition, the Management did not account for any revenue from the pool tables whose quantity was not disclosed.

Request for records in respect to gaming, betting and lotteries were not provided for audit. In the absence of such records, it was not possible to establish the number and location of pool tables, fun fair, casinos and betting premises, and therefore it was not possible to quantify the potential revenue collection and actual revenue collected, during the year under review.

In addition, the Department did not have in place, a documented standard operating procedure in relation to issuance, inspection and enforcement of the terms of the betting licenses and in the absence of such standard procedures, it was therefore not possible to confirm control of such activities and collection of revenue collectable from them.

Further, comparison of the Nairobi City County Betting, Lottery and Gaming Act, 2021(NCCBLG) and Nairobi City County Finance Act, 2020 (NCCF) revealed discrepancies in the fees charged for various categories of activities, as detailed below:

Inconsistency Between the NCCBLG Act and NCCE Finance Act			
Item	Category	NCCBLG Act, 2021(Kshs.)	NCCF Act, 2020(Kshs.)
Betting Premises Licenses	Annual Fee Per	300,000	30,000
	Premise		
	Transfer/Location fee	100,000	10,000

Gaming (Casino)Premises License	Grant Fee	1,500,000	100,000
	Annual Fee	500,000	300,000
Totalizer Premise License	Grant Fee	500,000	200,000
	Annual Fee	200,000	100,000
Poll Table License	Application Fee	500	250
	Annual Fee	10,000	5,000
Amusement Machine	Application Fee	500	250
	Annual Fee	10,000	500

In the circumstances, the accuracy and completeness of the revenue collected from the betting, lottery and gaming revenue of Kshs.9,356,250 could not be confirmed.

Management Response

The County Executive Management response to the query of Under Collection of Betting Lotteries and Gaming Activities Revenue was as follows;

- That Collection of Betting Lotteries and Gaming revenues has had been a challenge for a while due to various reasons:
- That Collection of revenue was hindered by Petition no. 295 challenging the NCCBLG Act 2014, on the judgement the judge ordered that all functions on gaming and betting should be shared by both National Government and County Government as per the Gazette notice 8753 of 2017.
- That this prompted the County to draft a new law NCCBLG2021 and on enactment there was discrepancies with Finance act 2020 which was based on what was in place then. But this was rectified by Finance Act 2022.
- That Currently there is a court case that nullified the current Act petition number E277 of 2021 quoting inadequate public participation.
- That the County is drafting another bill 2023 to try and overcome the set back.

Appendix 1.6(a)Gazette notice 8753 of 2017

Appendix 1.6(b)Petition number E277 of 2021

Appendix 1.6(C) judgment of Petition number E277 of 2021

Committee Observation(s)

The Committee while interrogating the management response made the following observation: -

- The Management explained the challenges faced in implementing the Act. It is true that the Court nullified the Betting, Lotteries and Gaming Act, 2021 vide Petition E277 of 2021

Committee Recommendation(s)

- The Committee noted that the matter has since been addressed. The Committee recommends that the matter be marked as resolved.

2.1.10 Loss of Revenue Arising from Failure to Adhere to the Finance Act, 2013

Review of revenue records revealed that the Management collected a total amount of Kshs.82,800 in respect of conveyance fee for the year under review. Records provided for audit revealed that one hundred and eight-nine (189) applications for lease renewal had been approved by the technical committee for extension. The expected total revenue realized at a rate of Kshs.30,000 per renewal is therefore Kshs.5,670,000, which differs with the Kshs.82,800 declared in the revenue records, resulting to a revenue loss of Kshs.5,587,200.

Further, trend analysis of information held in the Department revealed that the Department's revenue had declined over the last four (4) years, as detailed in the table below;

Financial Year	Amount (Kshs)
2018/2019	5,761,566
2019/2020	4,710,061
2020/2021	1,530,108
2021/2022	623,484

It is not clear, and Management did not explain the circumstances under which the revenue collections continued to decline in the four (4) financial years between 2018/2019 and 2021/2022. In addition, no explanation was provided for the understatement of the revenue collected.

In the circumstances, the accuracy, completeness and validity of Kshs.82,800 collected as conveyance fees during the year could not be confirmed.

Management Response

The County Executive Management response to the query of Loss of Revenue Arising from Failure to Adhere to the Finance Act, 2013 was as follows;

- The Collection of Conveyance Fees in FY 2021/2022 was managed by the Nairobi metropolitan Services (NMS) as per the Deed of Transfer between the National Government and Nairobi County. During the period the then president had a titling program where title deed was issued and with instruction giving a waiver of Titling fees.
- This resulted to dropped revenues in this area, NMS as a function was directly under the President's Office, its Officers applied the directive on County Conveyance Fees.

Committee Observation(s)

The Committee while interrogating the management response made the following observation: -

- The Management explained the circumstances under which revenue was not collected.

Committee Recommendation(s)

- The Committee noted that the matter has since been addressed. The Committee recommends that the matter be marked as resolved.

2.1.11 Variance Between the Statement of Receipts and Disbursements and Revenue Statement

The statement of receipts and disbursements and the revenue statement reflected variances under various items, as detailed in the table below;

Description	Statement of Receipts and Disbursements (Kshs.)	Revenue Statement Kshs.	Variance Kshs.
Land Rate	2,566,184,705	2,481,592,978	84,591,727
Single Business Permits	1,617,207,201	1,367,598,024	249,609,177
Parking Fees	1,386,204,434	1,877,868,787	(491,664,353)
Market Fee	344,101,060	381,581,650	(37,480,590)

Advertising	854,697,705	931,012,932	(76,315,227)
Hospital Fee	34,944,946	-	34,944,946
Physical Planning and Developments	601,522,281	592,874,934	8,647,347

No explanation or reconciliation was provided for the variances between the two sets of records. In the circumstances, the accuracy, completeness of the statement of receipts and disbursement could not be confirmed.

Management response:

The County Executive Management response to the query of Variance Between the Statement of Receipts and Disbursements and Revenue Statement s was as follows;

- That the statement of receipts and disbursement indicated amount as per collection system while revenue statement indicates revenue as per CRF account. Which excludes hospital fees and un cleared effects. This was caused by the fact that revenue statement is prepared in cash basis capturing revenue already swept to CRF.

Committee Observation(s) and Recommendation(s)

- The Committee noted that the matter has since been addressed. The Committee recommends that the matter be marked as resolved.

2.1.12 Failure to Maintain a Ledger and a Trial Balance

The statement of receipts and disbursements for the year under review reflects that the County Management collected revenue in form of fees, fines, penalties and other levies amounting to Kshs. 8,958,551,072. However, no trial balance and a ledger were maintained in support of these transactions.

In the circumstances, the accuracy, completeness and validity of the financial records could not be confirmed.

Management response:

The County Executive Management response to the query of Failure to Maintain a Ledger and a Trial Balance was as follows;

- The Revenue Department has not been maintaining a trial balance since the same have been maintained in the finance sector. However, in the Current Financial Year the same is going to be maintained.

Committee Observation(s) and Recommendation(s)

- **The Committee noted that the matter has since been addressed. The Committee recommends that the matter be marked as resolved.**

2.1.13 Uncollected Revenue

The statement of arrears of revenue reflects Kshs. 1,485,392,828,075 whose supporting analysis, details of the aging were not provided for audit review. Further, the amount stated in a summary of the ageing analysis under Note 20 reflects a balance of Kshs. 1,484,172,669,924, resulting to an unexplained and unreconciled variance of Kshs. 1,220,158,151.

The uncollected revenue referred above is significant, and Management has not indicated the measures they have taken to ensure that the all revenue due to the County is collected.

In the circumstances, the accuracy and completeness of arrears of revenue Kshs.1,485,392,828,075 could not be confirmed.

Management response:

The County Executive Management response to the query of Uncollected Revenue was as follows;

- That all the entries for the statement of arrears and those for ageing analysis are the same and so are the correct totals at kshs1,485,392,828,075 and therefore the totals should be the same. This was arithmetical error and therefore there is no variance.
- That the figure of kshs 1,485,392,828,075 was extracted from Laifoms system whose data analysis was not available by the time of audit since it had been shut down. The ageing analysis was also not possible.
- That it's important to note that Laifoms data was unclean and basically a big percentage of it was uncollectable this include rates for government properties, exempt properties like churches and mosques.
- That the County has already embarked on data cleansing where by Nairobi pay registration started a fresh. Data collection and cleaning exercise has already taken off.

Committee Observation(s)

The Committee while interrogating the management response made the following observation: -

- The Management was in agreement that the error exists, and further explained steps being taken.

Committee Recommendation(s)

- **The Committee noted that the matter has since been addressed. The Committee recommends that the matter be marked as resolved.**

2.1.14 Possible Loss of Funds Due to Premature Termination of Contract

Nairobi City County Government (NCCG) entered into a contract with a local bank for provision of automated revenue collection and value-added financial services through contract No.

NCC/FIN&ECO/G-G/1/2018-2019 on 10 June, 2019 for a period of five (5) years. The contract was for provision of Government revenue collection and management solutions, including automated revenue collection services to manage service delivery, monitor and track revenue assets, monitor and track revenue collection activities, seal revenue leakages and enforce payment for services delivered.

According to the deed of transfer of functions between the National Government and the Nairobi City County Government, as per the gazette notice No.1609 of 25 February, 2020, the National Government was bestowed the responsibility of collecting and remitting all revenue accruing from the transferred functions. The Kenya Revenue Authority (KRA) was appointed as the principal agent for overall revenue collection.

Nairobi Metropolitan Services (NMS) engaged Kenya Revenue Authority (KRA) as an agent for the collection of the NCCG revenue through a different platform. However, the City County Government did not provide the contract between the two (2) institutions, therefore, it was not possible to confirm the cost of the revenue collection services provided by the KRA to the NMS. The existing contract between the City County and the local bank was cancelled as per clause 16 of the letter Ref. NCC/CA/LK/131/E/22 dated 3 February, 2022

In their response to the City County of 24 February, 2022, the local bank indicated that they had invested heavily in the revenue collection system, including investment in various channels which were still active such as the mobile App, mobile short code service #235 and service web portal. In addition, the Bank stated that they had supplied over five hundred (500) gadgets to various revenue staff members. However, the NCCG did not pay the bank a significant debt of Kshs.566,278,045, contrary to clause 16.4 of the agreement. The bank demanded immediate payment of the debt together with damages for breach of contract in relation to wrongful termination.

In the circumstances, the County Executive maybe exposed to loss of funds in case the affected parties consider to apply for litigation for immature termination of the contract.

Management response:

The County Executive Management response to the query of Possible Loss of Funds Due to Premature Termination of Contract was as follows;

- That the termination letter is herewith attached. (appendix 1.3 b, & d)
- That the county has now been able to adopt a single collection system called the Nairobi Pay and all other systems have been shut down.

Committee Observation(s)

The Committee while interrogating the management response made the following observation: -

- The Management explained and the Committee was well satisfied with the response

Committee Recommendation(s)

- The Committee noted that the matter has since been addressed. The Committee recommends that the matter be marked as resolved.

2.1.15 Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflect final receipts budget and actual on comparable basis totaling to Kshs. 19,360,744,671 and Kshs. 8,958,551,072 respectively, resulting to an under collection of Kshs. 10,402,193,599 or 54% of the budget.

The under collection affected the funding of planned projects and activities, which impacted negatively on service delivery to the public

Management response:

The County Executive Management response to the query of Budgetary Control and Performance was as follows;

- That the County was unable to meet its target due to various reasons which are not limited to the general election that show Nairobi County loss substantial amount.
- That the County has put in place revenue raising measure to overcome the deficit, this include: implementation of Nairobi revenue Administration act 2019.
- That appointment of Revenue Board, Cascading of revenue targets to the ward levels among others.

Committee Observation(s)

The Committee while interrogating the management response made the following observation: -

- The Management explained and the Committee was well satisfied with the response

Committee Recommendation(s)

- **The Committee noted that the matter has since been addressed. The Committee recommends that the matter be marked as resolved.**

2.1.16 Non-Compliance with Law on Submission of Financial Statements

The Management submitted financial statements for the year 2021/2022 on 3rd November, 2022 contrary to Section 47(1) of the Public Audit Act, 2015 which states that the financial statements required under the Constitution, the Public Finance Management Act, 2012 and any other legislation, shall be submitted to the Auditor-General within three months after the end of the fiscal year to which the accounts relate.

In the circumstances, Management is in breach of the law.

In the circumstances, the financial statements are not prepared in accordance with the template prescribed by the Public Sector Accounting Standards Board (PSASB).

Management response:

The County Executive Management response to the query of Non-Compliance with Law on Submission of Financial Statements was as follows;

- The delay was caused by change management from one Administration to another. However, in the current FY the County was able to abide to the timelines.

Committee Observation(s)

The Committee while interrogating the management response made the following observation: -

- The Management explained and observed that year 2022/2023 were submitted on time.

Committee Recommendation(s)

- **The Committee reprimands the Accounting Officer for failure to provide information as required by the Public Audit Act, 2015; and**
- **The County Accounting Officers to strictly adherence to the provisions of Public Audit Act, 2015.**

2.1.17 Gaps in Revenue Collection Platforms

According to the deed of transfer of functions between the National Government and the Nairobi City County Government, as per the gazette notice No.1609 of 25 February, 2020, the National Government was bestowed the responsibility of collecting and remitting all revenue accruing from the transferred functions. The Kenya Revenue Authority (KRA) was appointed as the principal agent for overall revenue collection, which was collected through the Authority's local bank account, in line with the deed of transfer of functions.

However, the Nairobi City County Executive has three (3) platforms which remit the collections from three (3) banks as highlighted below;

- Local Authorities Integrated Financial Operations Management System (LAIFORMS) developed by Nairobi City Council and linked to Cooperative Bank and mostly utilized on cash payments to the banks in the Nairobi City County offices.
- Revenue Sure Platform developed by National Bank of Kenya. This platform uses *235#, a link to the National Bank of Kenya Account.
- Nairobi Revenue Sure (NRS) developed by the Kenya Revenue Authority which was an agent of NMS for collection of revenue from Nairobi County residents, following the transfer of functions deed. Its payment platform was *647#, linked to Equity Bank. However, the following observations were made;
 - o Although the three (3) platforms channel their collections to County Revenue Fund, they were not integrated to run parallel. Two platforms, RSP and LAIFORMS are controlled by the Nairobi City County Executive while NRS is controlled by Nairobi Metropolitan Services. No reconciliation was carried out for the revenue which was remitted by the Management to the CRF account against what was actually collected. In addition, the Management did not have a legal framework to guide the collection of revenue.
 - o Nairobi City County Executive entered into a contract with a local bank for provision of automated revenue collection and value-added financial services as per contract No. NCC/FIN&ECO/G-G/1/2018-2019 on 10 June, 2019 for five (5) years. However, following the signing of the deed of transfer of functions, NMS engaged KRA as an agent for collection of the NCCE revenue through a different platform, the Nairobi Revenue System (NRS). This prompted a pre-mature termination of the existing contract with the local bank, as per letter Ref. NCC/CA/LK/131/E/22 of 3 February, 2022. Management indicated that the local bank revenue collection platform of

Revenue Sure (*235#) was closed and not in operation. However, a test of the system indicated that the platform was still in operation. This poses a risk that the system was still collecting revenue which is not being remitted to the County. Further, there was no evidence that the public were informed of the closure of the platform, resulting in possibility of continued use of the platform to date. Further, the contract between the County and the bank was signed by an external lawyer. However, no details of how the external lawyer was engaged was provided for audit. The circumstances under which the County Attorney was not involved in witnessing the execution of the document was also not explained.

In the circumstances, it was not possible to confirm whether the contract between the County and the local bank was actually terminated, thus leaving no loopholes for revenue leakage.

- The County engaged three (3) service providers LAIFORM, NRS and KRA Sure, for revenue collection. However, Management did not provide documents in support of the procurement process of the service providers. These documents include; requisition from the user, specifications, tender documents, tender opening minutes, evaluation reports, opinion from the head of procurement, advertisement, procurement method used, letter of award, letter of acceptance, and letters of regret to those unsuccessful, for audit.

In addition, contract documents for LAIFORMS and NRS platforms were not provided for audit. Further, the County continued to use an outdated LAIFORMS revenue collection system which had not been updated since it was developed, to meet the needs of the changing environment and County Government functions. This may have resulted in inefficient services to the public, resulting to loss of revenue collected.

- The Management did not provide records detailing the fees paid or owed to the system vendors, as an indication of the cost of the system.

In view of the inefficiencies, it was not possible to confirm the terms of revenue collection agreed on between the three (3) institutions described above. Similarly, in the absence of procurement documents describe above, it was also not possible to confirm whether the three (3) service providers were procured in accordance with prescribed procurement procedures.

- The County Management paid Kshs.6,750,000 to a consulting company for consultancy services for creation of the database for Nairobi City County Government

Markets, vide payment voucher No.38918 as per contract No. NCC/CTC/MKTS/VOL.11/1/2021 of 9March, 2021. However, Management did not provide revenue collection documents maintained by its ICT Department in relation to revenue collected through the NRS, LAIFORM and National Bank of Kenya, for audit. In the absence of the revenue records, value for money on the expenditure amount of Kshs.6,750,000 could not be confirmed.

- One of the City County's goals was to enhance revenue collection through implementation of an E-payment solution. However, this has not been achieved but on the contrary, revenue collected has declined during the six (6) financial years between 2016/2017 and 2021/2022, as summarized in the table below;

S/No.	Financial Year	Amount (Kshs.)
1.	2016/2017	10,929,830,353
2.	2017/2018	10,053,363,864
3.	2018/2019	10,147,236,077
4.	2019/2020	8,523,449,021
5.	2020/2021	9,711,076,181
6.	2021/2022	8,958,551,070

From the above analysis, revenue collection has continued to decline significantly after full adoption of electronic cash collection platforms. The ICT department did not provide details of sources of revenue generating streams, which raises the question of whether the Department was involved in the system development.

In addition, the department did not have the capacity to design, develop, install and test software, which resulted to high reliance on third parties to perform the functions. The lack of capacity described above not only resulted in additional costs to the County but also resulted to lack of administrative control on the systems' operations and data management. The lack of inhouse capacity resulted in high reliance on Nairobi Revenue System and Revenue Sure developed by KRA and the bank, respectively.

In the circumstances, the validity, efficiency, legality, accuracy and completeness of the revenue of Kshs.8,958,551,070, collected from the one hundred and forty-one (141) revenue streams of the County could not be confirmed.

Management Response

The County Executive Management response to the query of Gaps in Revenue Collection Platforms was as follows;

- That by the time of audit the county had shut down two of the systems LAIFOMS and NBK revenue sure adopting one collection system the Nairobi Pay, this has hindered reconciliation process.
- That the collection of revenue in Nairobi County is guided by the Finance Act 2013, 2015 and currently 2023 together with the PFM Act 2012

Appendix 5.0 (i)(a) Finance Act 2015, 2023

Appendix 5.0 (i)(b) PFM Act 2012

- That the contract between Nairobi City County and NBK may have been affected by the Deed of Transfer since collection role was been undertaken by two players. However, the terms of termination are as per attached appendices: -

Appendix 1.3(b) Termination Notice NCC/CA/LK/131/E/22 dated 3rd Feb 2022

Appendix 1.3(c) Termination of Contract NCC/FIN& ECO/G-G/2018-2019 dated 31st Jan 2022

Appendix 1.3(d) Termination of Contract NCC/FIN& ECO/G-G/2018-2019 dated 7th October 2022.

- That Laifoms was acquired through framework contract by the defunct Nairobi City Council under the ministry of Local Government via National treasury. This system was not procured but developed by National Government for use by all Local Authorities.
- That Pursuant to the Deed of transfer NMS developed Nairobi revenue Services (NRS) that is still collecting revenue as Nairobi Pay.

Committee Observation(s)

The Committee while interrogating the management response made the following observation: -

- The Management explained steps taken and the current status of the systems used to collect revenue

Committee Recommendation(s)

- The Committee noted that the matter has since been addressed. The Committee recommends that the matter be marked as resolved.

2.1.19 Inadequate Maintenance of Records by Enforcement Department

The Compliance and Enforcement Department of the County Executive issues enforcement notices and undertakes any other enforcement action in relation to physical development. However, review of the Department's records revealed that the registers were old and mutilated and lacked backup copies. The records include; reports on arrests, court cases, notices, demolitions and complaints. Therefore, the information contained in the registers, though critical to the operations of the Department, was not maintained in a secure way, with ease of retrieval. Section Failure to maintain proper and up to date records by Management contravened 149(2)(c) of the Public Finance Management Act, 2012 which requires Accounting Officers to protect and back-up all financial and accounting records in their respective entities. In the circumstances, Management was in breach of the Law.

Management response:

The County Executive Management response to the query of Inadequate Maintenance of Records by Enforcement Department was as follows;

- The Revenue Department work closely with enforcement Department, however each Department maintain their own records and the enforcement Department have all necessary records if required. The physical planning sector has a module under development that integrates physical development approval processes with notices, arrests, court case details, demolitions, complaints and other narrations.

Committee Observation(s)

The Committee while interrogating the management response made the following observations: -

- The Management explained the steps being taken to remedy the situation.

Committee Recommendation(s)

- The Committee noted that the matter has since been addressed. The Committee recommends that the matter be marked as resolved.

2.1.20 Inadequate Internal Controls

Records provided for audit revealed that Management has various policies at draft level, as listed below;

- Conveyancing Document Policy

- Sector Scheme of Service and Staff Progress Guidelines
- Nairobi City County Procedure Manual
- Policy on Renewal of Subleases of County Land
- Policy on Management of County Property
- Nairobi City County Trade License Policy
- Information and Communication Technology (CT) Policy

It was not clear, and Management did not provide reasons as to why policies were not approved and implemented on time.

Management response

The County Executive Management response to the query of Inadequate Internal Controls was as follows;

- The county comprises of various Sectors and Directorate who are responsible for formulation of policies in areas of their operations. For instance- The Trade Licensing Department implemented the Trade Licensing Act 2019 and drafted a trade policy to operationalize it. The draft policy is currently before the county assembly for approval.
- **Policy on Management of County Property.** This is the Asset Management Policy which was drafted by Asset Department but later halted by the National Government with an aim to develop national guidelines and standard policies to be adopted by both Governments. The guidelines were developed early this year and County through Asset Department engaged a consultant who is currently working on a draft policy. In the month of October 2023 there was a stakeholder's engagement to collect their views on to enhance the policy.
- **Sector Scheme of Service and Staff Progress Guidelines-** The County through Human Resource Department uses the National Government policy on Scheme of Service and Staff Progress. The National Government is in the process of Developing the guidelines to enable the County draft its policy.
- **Policy on Renewal of Subleases of County Land-**This policy was implemented and is active. Similarly, other policies are in various stages of approval

Committee Observation(s)

The Committee while interrogating the management response made the following observation: -

- The Management explained and the Committee was well satisfied with the response

Committee Recommendation(s)

- The Committee noted that the matter has since been addressed. The Committee recommends that the matter be marked as resolved.

3.0 SUMMARY OF ALL RECOMMENDATIONS

Following the Committee's consideration of the **"Report of the Auditor-General on Receiver of Revenue for County Government of Nairobi for the year ended 30th June,2022"** and having considered responses from the Accounting Officers, the Committee urges the County Assembly to resolve as follows

2.1.1 Inaccurate Statement of Receipts and Disbursements

- The Committee reprimands the County Executive Committee Member for Finance and Economic Planning for failure to adhere to the IPSAS as provided for in regulation 117(2) of the Public Finance Management (County Governments) Regulations of 2015; and
- The County Executive Committee Member for Finance and Economic Planning to strictly adherence to the provisions of regulation 117(2) of the Public Finance Management (County Governments) Regulations of 2015.

2.1.2 Unsupported Miscellaneous Receipts

- The Committee recommends that the accounting officer undertakes administrative action against the officers who failed to provide the documents to the Auditors in accordance with section 156(1) of the Public Finance Management Act, 2012 and provide a status report to the County Assembly within sixty (60) days after the adoption of this report;
- The Committee reprimands the County Executive Committee Member for Finance and Economic Planning for failure to provide relevant documents as provided for in Section 62 of the Public Audit Act, 2015; and
- The Committee further recommends for a further investigation by the Ethics and Anti-Corruption Commission on the variance of Ksh 420,000,000 and submit a report to the County Assembly within ninety (90) days after adoption of this report.

2.1.3 Failure to Disburse to the County Revenue Fund

- The Committee recommends that the accounting officer undertakes administrative action against the officers who failed to provide the documents to the Auditors in accordance with Section 62 of the Public Audit Act, 2015 and provides a status report to the County Assembly within sixty (60) days after the adoption of this report.

2.1.4 Unsupported and Unreconciled Cash and Bank Balances

- The Committee recommends that the accounting officer undertakes administrative action against the officers who failed to provide the documents to the Auditors in accordance with Section 62 of the Public Audit Act, 2015 and provides a status report to the County Assembly within sixty (60) days after the adoption of this report; and
- The Committee further recommends that the Office of the Auditor-General to verify the certification of prior year adjustments and submit a report to the County Assembly sixty (60) days after the adoption of this report.

2.1.5 Undeclared and Unremitted Revenue

- The Committee recommends that the County Executive Committee for Business and Hustler Opportunities to submit the proposed Bill to the Assembly within sixty (60) days after the adoption of this report.

2.1.6 Underdeclared Revenue

- The Committee noted that the matter has since been addressed. The Committee recommends that the matter be marked as resolved.

2.1.7 Under declared Market Entry Fees

- The Committee recommends that the accounting officer undertakes administrative action against the officers who failed to provide the documents to the Auditors in accordance with Section 62 of the Public Audit Act 2015 and submit a report to the County Assembly within sixty (60) days after the adoption of this report; and
- The Committee recommends that matter be investigated further by the Ethics and Anti-Corruption Committee and submit a report to the County Assembly within ninety (90) days after the adoption of this report.

2.1.8 Unsupported and Un remitted Revenue from Nairobi Metropolitan Services

- The Committee recommends that the accounting officer undertakes administrative action against the officers who failed to provide the documents to the Auditors in accordance with Section 62 of the Public Audit Act 2015 and submit a report to the County Assembly within sixty (60) days after the adoption of this report;
- The Committee recommends that matter be investigated further by the Ethics and Anti-Corruption Committee and submit a report to the County Assembly within ninety (90) days after the adoption of this report; and

- The Committee instruct the Kenya Revenue Authority to remit Kshs. 10,000,000 and the amount collected in the month of June, 2022 to the County Revenue Fund for period under review and a report be submitted to the County Assembly within ninety (90) days after the adoption of this Report.

2.1.9 Under Collection of Betting Lotteries and Gaming Activities Revenue

- The Committee noted that the matter has since been addressed. The Committee recommends that the matter be marked as resolved.

2.1.10 Loss of Revenue Arising from Failure to Adhere to the Finance Act, 2013

- The Committee noted that the matter has since been addressed. The Committee recommends that the matter be marked as resolved.

2.1.11 Variance Between the Statement of Receipts and Disbursements and Revenue Statement

- The Committee noted that the matter has since been addressed. The Committee recommends that the matter be marked as resolved.

2.1.12 Failure to Maintain a Ledger and a Trial Balance

- The Committee noted that the matter has since been addressed. The Committee recommends that the matter be marked as resolved.

2.1.13 Uncollected Revenue

- The Committee noted that the matter has since been addressed. The Committee recommends that the matter be marked as resolved.

2.1.14 Possible Loss of Funds Due to Premature Termination of Contract

- The Committee noted that the matter has since been addressed. The Committee recommends that the matter be marked as resolved.

2.1.15 Budgetary Control and Performance

- The Committee noted that the matter has since been addressed. The Committee recommends that the matter be marked as resolved.

2.1.16 Non-Compliance with Law on Submission of Financial Statements

- The Committee reprimands the Accounting Officer for failure to provide information as required by the Public Audit Act, 2015; and
- The County Accounting Officers to strictly adherence to the provisions of Public Audit Act, 2015.

2.1.17 Gaps in Revenue Collection Platforms

- The Committee noted that the matter has since been addressed. The Committee recommends that the matter be marked as resolved.

2.1.19 Inadequate Maintenance of Records by Enforcement Department

- The Committee noted that the matter has since been addressed. The Committee recommends that the matter be marked as resolved.

2.1.20 Inadequate Internal Controls

- The Committee noted that the matter has since been addressed. The Committee recommends that the matter be marked as resolved.

4.0 ANNEXURES

Annex	Title
Annex 1	Minutes of the Sitzings
Annex 2	Written Responses to all audit queries by the Accounting Officer

MINUTES OF THE SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY SELECT COMMITTEE ON COUNTY PUBLIC ACCOUNTS HELD ON FRIDAY, 14TH FEBRUARY, 2025 AT 2:30 P.M. AT EPASHIKINO RESORT, NAKURU COUNTY.

MEMBERS PRESENT:

1. Hon. Chege Mwaura, MCA – Chairman
2. Hon. Abel Osumba Atito, MCA – Vice-Chairman
3. Hon. Paul Wachira Kariuki, MCA
4. Hon. Eutyclus Mukiri Muriuki, MCA
5. Hon. Mary Wanjiru Kariuki, MCA
6. Hon. Jane Musangi Muthembwa, MCA
7. Hon. Stazo Elijah Omung'ala Ang'ila, MCA
8. Hon. Carrington Gichunji Heho, MCA
9. Hon. Emmy Khatemeshi Isalambo, MCA
10. Hon. Rachel Wanjiru Maina, MCA
11. Hon. Cyrus Mugo Mubea, MCA
12. Hon. Mark Thiga Ruyi, MCA
13. Hon. John Rex Omolleh, MCA
14. Hon. Martin Mbugua Mwangi, MCA
15. Hon. John Ndile Musila, MCA
16. Hon. Aaron Kangara Wangare, MCA
17. Hon. Fredrick Njoroge Njogu, MCA
18. Hon. Fatuma Abduwahid Abey, MCA

MEMBERS ABSENT:

1. Hon. Hussein Fuad Mohammed, MCA
2. Hon. Billy Richardo Nyantika, MCA
3. Hon. Simon Maina Mugo, MCA
4. Hon. Redson Otieno Onyango, MCA
5. Hon. Benter Juma Obiero, MCA

IN-ATTENDANCE – THE AUDITORS

1. Mr. Jeff Otieno

SECRETARIAT

1. Mr. Kevin Wasike – Senior Clerk Assistant
2. Mr. Benedict Ouma – Clerk Assistant
3. Mr. Klinsman Munase – Legal Counsel
4. Mr. Anthony Nyandiere – Hansard Officer
5. Mr. Melvin Wachira – Research Officer

MIN.041/NCCA/PAC/FEBRUARY/2025 – PRELIMINARIES

The Chairman called the meeting to order at Three O'clock and welcomed Members present. The Chair took them through the agenda which was adopted for consideration as proposed by Hon. Fredrick Njogu, MCA and seconded by Hon. Martin Mbugua, MCA as follows: -

1. Consideration and adoption of the draft Report on the consideration of the Report of the Auditor General on Receiver of Revenue – County Government of Nairobi City for the year ended 30th June 2022,
2. Any Other Business, and
3. Adjournment.

MIN.042/NCCA/PAC/FEBRUARY/2025 – CONSIDERATION AND ADOPTION OF THE DRAFT REPORT ON THE CONSIDERATION OF THE REPORT OF THE AUDITOR GENERAL ON RECEIVER OF REVENUE – COUNTY GOVERNMENT OF NAIROBI CITY FOR THE YEAR ENDED 30TH JUNE 2022

The Secretariat tabled and took the Committee through the draft report on the consideration of the Report of the Auditor General on Receiver of Revenue – County Government of Nairobi City for the year ended 30th June 2022. The Committee deliberated on the recommendation in the report and adopted the same for tabling in the County Assembly as proposed by Hon. Emmy Khatemeshi Isalambo, MCA and seconded by Hon. Wanjiru Kariuki, MCA.

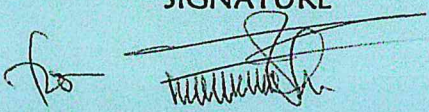
MIN.042/NCCA/PAC/FEBRUARY/2025 – A.o.B

The Chair tasked the Secretariat to draft a work plan for pending business to be considered by the Committee during a meeting to be held on Tuesday, 18th February, 2025.

MIN.043/NCCA/PAC/FEBRUARY/2025 – ADJOURNMENT

The being no other business and the time being twenty-three minutes to Four O'clock, the Chairman adjourned the meeting. The next meeting was scheduled to be communicated by a way of notice.

CONFIRMED AS A TRUE RECORD OF THE PROCEEDINGS

CHAIRPERSON
SIGNATURE 

DATE
