

COUNTY ASSEMBLY OF BUNGOMA

COUNTY ASSEMBLY DEBATES

DAILY HANSARD

TUESDAY 7TH JUNE, 2022

Afternoon Sitting

COUNTY ASSEMBLY OF BUNGOMA

HANSARD OFFICIAL REPORT

TUESDAY 7TH JUNE, 2022

The House met at 2:30 p.m.

(Mr. Speaker [Hon. Emmanuel Situma] in the Chair)

PRAYER

MOTIONS

REPORT BY PUBLIC ACCOUNTS COMMITTEE ON THE AUDITOR GENERAL'S REPORT ON THE FINANCIAL STATEMENTS OF THE COUNTY ASSEMBLY OF BUNGOMA FOR THE YEAR ENDED 30TH JUNE, 2020

Mr. Speaker: Hon. Sudi, I am told you have the honor of moving the motion today.

Hon. Sudi Busolo: It is unfortunate Mr. Speaker that the Chairperson is not there.

Mr. Speaker: You are not audible enough Hon. Sudi, what are you saying?

Hon. Sudi Busolo: I am saying that it is unfortunate the Chairperson is not here.

Mr. Speaker: Hon. Sudi, all Members of the committee are equal to the task, there is no small Member or a bigger Member.

Hon. Sudi Busolo: You know it is only the Chairperson that gets the responsibility allowance.

Hon. Majimbo Okumu (*On a point of information*): I want to empathize with Hon. Sudi Busolo because he might move this motion and there is no seconder.

Mr. Speaker: Hon. Majimbo don't pre-empt debate.

Hon. Majimbo Okumu: Because he could be wasting our time, we sit here and then we can't debate.

Mr. Speaker: No! The thing here is the House starts its sitting at 2:30 p.m. When that time comes and there is no seconder, we will see how to handle it because in essence, Members are indirectly asking...

(Loud consultation)

They are saying Hon. Elly Tindi has arrived in style.

Hon. Sudi Busolo: I will go straight to the Committee Members.

Hon. Tony Barasa Chairperson...

Mr. Speaker: Hon. Sudi what are you moving? What is it all about? Let it be on HANSARD, title and ...

Hon. Sudi Busolo: This is a PAC report, title was read by the clerk.

Mr. Speaker: No, move the motion as per the practice.

Hon. Sudi: It is already on HANSARD but let me just repeat Hon. Speaker.

This is a report of the Public Accounts Committee on the Auditor General's report of the County Assembly of Bungoma for the year ended 30th June, 2020.

COMMITTEE MEMBERSHIP

The committee as currently constituted comprises of the following members;

- | | |
|---------------------------|------------------|
| 1. Hon. Tony Barasa | Chairperson |
| 2. Hon. Joseph Magudah | Vice Chairperson |
| 3. Hon. Elly Tindi | Member |
| 4. Hon. Busolo Sudi | Member |
| 5. Hon. Everlyne Mutiembu | Member |
| 6. Hon. Martin Pepela | Member |
| 7. Hon. Rosemary Khisa | Member |
| 8. Hon. Erick Wapang'ana | Member |
| 9. Hon. Metrine Nangalama | Member |
| 10. Hon. James Chesibok | Member |
| 11. Hon. Jerusa Aleu | Member |

OFFICE OF THE AUDITOR GENERAL

1. Mr. Stanslaus Mogaka
2. Mourice Otieno

CONFIDENTIALITY UNDERTAKING BY MEMBERS OF THE COMMITTEE AND ITS SECRETARIAT

Mr. Speaker Sir,

To enhance the integrity of the Committee and its work, the Committee members and its Secretariat have signed a confidentiality undertaking in accordance with Bungoma County Assembly Standing Order No. 82. Members have undertaken that in relation to the consideration of the Report of the Auditor- General on the County Assembly of Bungoma for the year ended 30 June 2020, they will not disclose any matter relating to the proceedings of the said report that is classified as confidential which shall include any evidence or documents presented to the Committee and any information under discussion or deliberation at its meetings before it is tabled and deliberated by the County Assembly.

COMMITTEE SITTINGS

The committee held a total of four (4) sittings to consider the report of the Auditor-General on the financial statements of the County Assembly of Bungoma for the year ended 30th June, 2020.

PROCEDURE ADOPTED BY THE COMMITTEE

With technical guidance from the Office of the Auditor-General, the Committee critically analysed both oral and written submissions from the Accounting Officer who appeared before it on diverse dates from 22nd February to 7th March, 2022 to respond to queries raised in the report of the Auditor- General in respect to the County Assembly.

Mr. Speaker Sir,

This report contains observations and recommendations of the Committee that were arrived at by consensus through detailed and factual deliberations while taking into account both oral and written submissions from the management.

Allow me, Honorable Speaker, to applaud Honorable Members and the Secretariat of this dedicated Committee for their valuable commitment and exemplary work which made the interrogation exercise and the subsequent production of this report a major success.

CHAPTER TWO

THE REPORT OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS OF THE COUNTY ASSEMBLY OF BUNGOMA FOR THE YEAR ENDED 30 JUNE 2020

Qualified Opinion

I have audited the accompanying financial statements of the County Assembly of Bungoma set out on pages 1 to 60, which comprise the statement of financial assets and liabilities as at 30th

June, 2020 and the statement of receipts and payments, statements of cash flows and statement of comparison of budget and actual amounts recurrent and development combined for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for the Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of the County Assembly of Bungoma as at 30th June, 2020 and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Cash Basis) and comply with the Public Finance Management Act, 2012 and the County Government Act, 2012.

Basis for Qualified Opinion

Unsupported Fixed Asset Balances

The summary of fixed Assets register at Annexure 3 to the financial statements reflects assets totaling to Kshs. 700,100,538 as at 30th June, 2020. However, the County Assembly did not maintain an updated register to show the nature, physical location and fair value of the Assembly's assets, contrary to Regulation 136(1) of the Public Financial Management (County Governments) Regulations, 2015, which states that:

The Accounting Officer shall be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws.

In the circumstances, the accuracy and completeness of the total assets balance of Kshs. 700,100,538 as at 30th June 2020 could not be ascertained.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs).

I am independent of the County Assembly of Bungoma Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Management responses

The management agrees with the audit findings that at the time of audit, the County Assembly did not maintain an updated Asset Register, however, the process of developing an automated fixed asset register has begun. The terms of reference have been developed and the tender document prepared, but due to lack of funds the tendering process is yet to commence. The

management through a petition to the Budget and Appropriations Committee has sought for funds for the automation of Fixed Assets in the Financial Year 2022/2023 budget. Currently, the management appointed members of staff to identify and update the asset register which has now been finalized as attached. This we have done as we wait for the approval of the request by the Budget and Appropriations committee to provide funds for the automation of the fixed asset register. *{Attached are the approved TOR and tender document for automation of Asset Register}*

Committee Observations

The committee notes the efforts made by the Assembly in ensuring fair value figures captured in the Financial Statements for Assets are supported by an Asset Register in compliance to Regulation 136(1) of the Public Financial Management (County Governments) Regulations, 2015. The Assembly appointed officers to develop an Asset register which was confirmed by the committee but the process of automating the same has not been done due to budget constraints as submitted by the Accounting Officer.

The developed Asset register has used 10% as depreciation rate across all the Assets which is not in conformance to the Income Tax Wear and Tear capital deduction rates for various categories of plant and equipment.

Committee Recommendations

The management to review the fair value of asset figures in the assets register in compliance to Income Tax depreciation rates.

The County Assembly to budget for automation of the Asset Register as per the terms of reference in the FY 2022/2023.

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. There are no key audit matters to report in the year under review.

Other Matter

1. Budgetary Control and Performance

The statement of comparison of budget and actual amounts for recurrent and development combined for the year under review reflects an approved receipt budget of Kshs. 1,072,587,080 and actual receipts of Kshs. 1,022,394,769 resulting in a budget shortfall of Kshs. 50,192,311 or 5%. Similarly, the statement reflects an expenditure budget of Kshs. 1,072,587,080 compared to an actual expenditure of Kshs. 1,009,138,641 resulting in a net under expenditure of Kshs.63,

448,439 or 6%. The underfunding and underperformance constrained execution of planned activities and delivery of services to the residents of Bungoma County.

Management Responses

The management agrees with the audit findings that there was an under absorption which was as a result of delays in exchequer releases and delayed approval of the 2nd supplementary budget which caused delay in procurement process for instance the case for procurement of the Hansard System. However, in the FY 2020/2021 budget the funds were provided and payments were made as budgeted for.

Committee Observations

The committee observed that the under absorption of the budgets was attributed to delayed exchequer releases and the negative effects of delayed approval of supplementary budgets for the planned activities. The County Assembly didn't receive Kshs. 50,192,311 as at the close of the financial year (5%) which also contributed to budget implementation underperformance of Kshs.63, 448,439 or 6%.

Committee Recommendations

The committee recommends that the Accounting Officer should ensure all goods, works and services included in the annual budget should be procured and paid for before the end of the fiscal year, subject to timely release of funds by the National Government

The Accounting officer should ensure budget variations during the year are managed in line with the provisions of Regulation 46 of the PFM Regulations (County Governments) 2015.

2. Pending Accounts Payables

As disclosed in Note 3.10(1) on other important disclosures and Annex 1 to the financial Statements, the County Assembly had pending bills of Kshs. 58,900,906 due to suppliers of goods and services as at 30th June, 2020. Further, Annex 2 of the financial statements indicates that the county Assembly had nil other pending payables due to county government entities as at 30th June 2020. However, the following anomalies were noted:

2.1 Pending Payables to Bungoma County Assembly Car Loan and Mortgage Scheme Fund

Records maintained by the Bungoma County Assembly Car Loan and Mortgage Scheme Fund indicate that the County Assembly had borrowed an amount of Kshs. 72,289,089 from the Fund during the year under review. This is in exception of a balance brought forward of Kshs.36, 722,914 to bring the total amount which the county assembly owes the Fund to Kshs.

109,012,003. The Assembly had refunded a total of Kshs. 41,932,158 resulting to an outstanding balance of Kshs. 67,079,845 as at 30th June 2020.

2.2 Pending Payables to Bungoma County Assembly Employee Car Loan and Mortgage Scheme Fund

Records maintained by the Bungoma County Assembly Car Loan and Mortgage Scheme Fund indicated that the County Assembly borrowed an amount of Kshs. 4,966,431 from the Fund during the year under review. This is in exception to a balance brought forward of Kshs. 17,190,318, bringing the total debt to Kshs. 22,156,749. The Assembly had refunded Kshs. 9,591,024 leaving a balance of 12,565,725 as at 30th June 2020.

The total debt of Kshs. 79,645,570 owed to the two Funds had not been disclosed in the financial statements. Consequently, the accuracy of the other pending payables balance of Nil as at 30th June 2020 could not be confirmed.

Management Responses

The management agrees with audit findings that during the financial year under review, the County Assembly did not make some important disclosures in the statements and this was as a result of County Assembly preparing its Financial Statements on IPSAS Cash basis. The management has taken note of the recommendations of audit and will adjust the figures in the subsequent years accordingly. The County Assembly has also budgeted for the pending payables due to the MCAs Car and Mortgage funds in the next financial year as a first charge. The outstanding borrowings from the employee car and mortgage funds have since been cleared.

Committee Observations

The management failed to repay back borrowed money from the Fund facilities as observed by the Auditor General within a year as provided for under Section 142(3) of the PFM Act, 2012, which provides that;

‘A County government entity that has any borrowing under the Act shall ensure that the money borrowed is repaid within a year from the date on which it was borrowed.’

These bills are likely to affect budgetary provisions for the subsequent year(s) from which they have to be repaid.

Committee Recommendations

The Accounting Officer to ensure reconciliation between the records of borrowings maintained by the Car Loan and Mortgage Funds and the County Assembly is done to ascertain accuracy of the current status of pending payables balance which is to be fully budgeted for clearance in the FY 2022/2023. Loan borrowings and repayments should be in line with Regulation 142 of the PFM (County Governments) Regulations, 2015.

This committee calls upon the Accounting Officer to ensure presentation and disclosure of pending bills is done as required in the reporting format recommended by the Public Sector Accounting Standards Board (PSASB) in the financial statements. Where there are capacity gaps, trainings on the subject to be organized as a matter of urgency.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1. Delayed Completion of office Block

The statement of receipts and payments reflects an expenditure of Ksh.159, 134,172 under acquisition of assets which, as disclosed in Note 8 to the financial statements, includes an amount of Ksh.141, 531,863 incurred on construction of buildings. The amount was paid to a local contractor for a contract awarded for construction of the County Assembly's Office Block at a contract sum of Ksh.447, 768,217.

As previously reported, the contract was to be carried out in eighteen (18) months with expected completion date of May, 2018 which was later revised to 178 weeks pushing the completion date to 30th September, 2020. However, as at the time of audit in December, 2020, two months after the revised completion date had expired, the project was approximately 89% complete and it was not known when the same would be completed and put to use.

Further, documentation for application and approval of a revised completion date in line with the provisions of Section 139(2) of the Public Procurement and Assets Disposal Act, 2015, which requires an accounting officer of a procuring entity, on the recommendation of an Evaluation Committee, to approve the request for the extension of contract period accompanied by a certificate from the tenderer was not provided for audit verification.

Consequently, Management was in breach of the law and the residents of Bungoma may not get value for the amount so far paid.

Management Response

The management agrees with findings of audit that there have been delays in completion of the office block occasioned by non-appropriation of funds to County Assembly's development vote, delayed exchequer or adverse reversal of funds in County Assembly's Supplementary Budgets. The management has so far fast tracked the completion of the project. The Administration block is at 93% complete. { *Works officer report attached* }

Committee Observations

The committee noted that the delayed construction of the administration block was occasioned by non-appropriation of funds in the development vote for the project. The committee also notes lapses in procedures in relation to contract extension period.

The report of the works officer annexed proves that the project was 93% complete including a summary of pending works as at 21st December, 2021 was availed and verified by the committee.

Committee Recommendations

The Committee recommends the County Assembly to allocate sufficient funds in the supplementary budget to enable the project be completed within the current financial year, since the project was supposed to be completed in September, 2020.

Section 46 (4) (d) of the Public Procurement and Asset Disposal Act 2015, provides that an evaluation committee appointed for a project should complete the procurement process for which it was appointed and no new committee is to be appointed on the same issue. On this ground, the committee directs that the evaluation committee that was appointed for the project should be solely responsible for granting extension of the contract.

It is against that background that the committee hereby directs that a compliance report of regularization of all previous and subsequent extensions of the contract period are availed to the County Assembly within (60)days from the date of adoption of this report

Irregular Charge of Expenditure

The statement of receipts and payments reflects an expenditure of Ksh.455, 255,383 under use of goods and services which, as disclosed in Note 4 to the financial statements, includes an amount of Ksh.265, 022,475 in respect of hospitality supplies and services. The later balance included an amount of Ksh.3,559,700 paid to a local firm in respect of training services but was captured under hospitality supplies and services. This is contrary to Regulation 43(20) of the Public Finance Management (County Governments) Regulations, 2015 that requires a County Government entity to execute their approved budgets based on annual appropriation legislation, and the approved annual cash flow plan, with the exception of unforeseen and unavoidable spending dealt with through the County Emergency Fund or supplementary estimates.

Consequently, the management was in breach of the law.

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit so as to obtain assurance as to whether the activities, financial transactions and information reflected in the financial statements are in compliance in all material respects, with authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Management Response

The management agrees with the audit finding that during the budgeting process, the committee activities were appropriated under the ‘Hospitality Supplies and Services ‘vote’. These activities included Committee retreats, benchmarking activities, training/capacity building, public participation and fact finding activities. The County Assembly strives to improve on Budget process, implementation and controls to ensure activities are appropriated to correct votes. Thus there were no irregular reallocations practiced.

Committee Observation

The Committee having gone through the Program Based Budget finds no anomaly since the funds were budgeted for.

Committee Recommendation

The Committee finds the query immaterial and hence recommends for the dropping of the query.

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

As required by Section 7(1) (a) of the Public Audit Act, 2015, based on the procedures performed, except for the matters described in the Basis for Conclusion effectiveness of Internal Controls, Risk Management and Governance and basis for qualified Opinion sections of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

Information and Communication Technology Control Environment

Review of governance documents and interviews with management revealed the following;

1. The management had not established an ICT Strategic Committee at the Board Level.
2. There was no ICT Strategic Plan and the roles and responsibilities for each ICT function were not defined.
3. There was no tangible plan in place to ensure up-to-date security on all systems software including patch management process and instead only manual methods were used.
4. There was no formal change request documentation completed indicating the change to be made and the reasons for all changes to financial systems for any system upgrades. No documented and tested emergency procedure has been put in place.
5. The Assembly did not have an ICT continuity and Disaster Recovery Plan.
6. The Assembly had no Back-Up and Retention Strategy.

Consequently, the Assembly's ICT infrastructure and resources were not managed in line with the best practices and may have challenges in restarting in case a disaster occurred.

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the Audit so as to obtain assurance as to whether effective processes and systems of internal control, risk management and overall governance was maintained in all

material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Management Response

The management agrees with the findings of audit and has communicated to the County Assembly Service Board to ensure that IT resources are governed in line with the best practices by establishing a functional IT Strategic Committee and IT Strategic Plan as per the recommendations of audit. However, the assembly has an up to date approved ICT Policy.

Committee Observations

The Committee notes that the Assembly has an ICT Policy that would guide the establishment of the ICT Strategic Committee at the Board as well as the requisite roles and responsibilities.

Committee Recommendations

The Committee recommends for the establishment of the ICT Strategic Committee at the Board within 21 days from the date of adoption of this report and operationalizes the ICT Strategic Plan within 30 days from the date of adoption of this report.

Conclusion

In conclusion, **Mr. Speaker Sir**, the County Assembly Management should ensure full control of operational functions including enhanced expenditure controls, capacity building of staff and strengthening of internal control systems for proper and effective use of resources and service delivery to the public as envisaged under Section 117 of the County Governments Act, 2012 so that going forward, qualified audit opinions from the Office of the Auditor General is forestalled

ADOPTION SCHEDULE

Mr. Speaker Sir, we the Members of the Public Accounts Committee having prepared this report, hereby append our signatures adopting it.

No	Name	Designation
1	Hon. Tony Barasa	Chairman
2	Hon. Joseph Magudah	Vice Chair
3	Hon. Everlyne Mutiambu	Member
4	Hon. Rosemary Khisa	Member
5	Hon. Erick Wapang'ana	Member

6	Hon. Martin Pepela	Member
7	Hon. Elly Tindi	Member
8	Hon. Sudi Busolo	Member
9	Hon. Jerusa Aleu	Member
10	Hon. Metrine Nangalama	Member
11	Hon. James Chesibok	Member

The report is adopted Hon. Speaker. I now call upon my able Leader, Deputy Majority Leader, and the Member representing Tongaren Ward Hon. Elly Tindi to second the motion.

Mr. Speaker: Thank you Hon. Sudi for moving the motion. Allow me to invite Hon Elly Tindi to second the motion.

Hon. Elly Tindi: Thank you Hon. Speaker I second the motion.

Hon. Speaker: Honorable Members a motion has been moved and seconded that the House adopts the report by the Public Accounts Committee on the Auditor General's report on the financial statements of the County Assembly of Bungoma for the year ending 30th June, 2020. I propose.

Members I am hearing some murmurs that I read the mood of the House to know whether it is black or white, but we will proceed. Honourable Members, Hon. Sudi, in view of that much contribution there will be no right of reply. To that stage we proceed accordingly. Honourable Members I will now proceed and put a question to the House to make a decision over.

(Question put and agreed to)

Hon. Speaker: Honourable Members from our Order Paper of the day that was the only Motion we had. We will now adjourn and resume on 8th of June, 2022 at 9:30 a.m.

House adjourns