

**COUNTY GOVERNMENT OF BUNGOMA**

**COUNTY ASSEMBLY OF BUNGOMA**

**COUNTY ASSEMBLY DEBATES**

**THE DAILY HANSARD**

**WEDNESDAY, 13<sup>TH</sup> SEPTEMBER, 2023**

**Afternoon Sitting**

**Third County Assembly,**

**Second Session**

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**COUNTY ASSEMBLY OF BUNGOMA**  
**HANSARD OFFICIAL REPORT**  
**WEDNESDAY, 13<sup>TH</sup> SEPTEMBER, 2023**

The House met at 2:30 p.m.

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

**PRAYER**

**COMMUNICATION FROM THE CHAIR**

1. VISITING DELEGATION FROM KAMUNERU PRIMARY SCHOOL

Honourable Members today in Public Gallery and Speaker's gallery we have teachers from Kamuneru ACK Primary School accompanied by the Board Management Members and pupils.

Pupils are numbering to 85; let all of them be upstanding.

*(Pupils rise)*

They are class eight candidates, expected to sit for KCPE towards the end of the year. Kindly be sited.

Honourable Members, the following teachers have accompanied the pupils from Kamuneru Primary School

1. Isaac Chesari
2. Huumphrey Kiru
2. Stephen Sinyo
3. Sylvia Boyo
4. Elizabeth Naibei
5. Sospeter Kirong
6. Jackline Meza
7. Irine Chemtai
8. Maximila Teresa

9. Humphrey Masai
10. Esther Kwemoi
11. Okumu Benson
12. Mophat Otwane
13. Macho Cosmus
14. Denis Chesituk
15. Jamin Kironget
16. Esther Nafula
17. Kallen Kimtai

Those are the teachers.

We also have the Board of Management members;

1. Reu Caleb
2. Charles Kimachas
2. Mildred Chepkwemoi
4. Jennipher Makaran
5. Samson Sikuku
6. Chepkorir Simotwo
7. Councillor Chemiati
8. Peter Kitere
9. Violet Chepkwemoi

You can sit now.

*(Applause)*

Honourable Members, at the appropriate time, I will allow you to make few remarks as we proceed. They are from Kapkateny Ward represented by our Deputy Leader of Majority Hon. Joan Kirong.

## PAPERS

### 1. REPORT BY SECTORAL COMMITTEE ON FINANCE AND ECONOMIC PLANNING

**Hon. Juma Orize:** Thank you Mr. Speaker Sir. I rise to table a report by the Sectoral Committee on Finance and Economic Planning on Revenue Administration and Management Amendment Bill, 2023.

**Mr. Speaker:** Honourable Members, the report by the sector Committee on Finance and Economic Planning on Revenue Administration and Management Amendment Bill, 2023 is hereby tabled and it becomes the property of the House.

### 2. REPORT BY SECTORAL COMMITTEE ON TRADE, ENERGY AND INDUSTRIALIZATION

**Hon. Johnston Okasida (Chairperson, Committee on Trade, Energy and Industrialization):** Thank you Mr. Speaker Sir. I rise to table a report by the Committee on Trade, Energy and Industrialization on the Bungoma County Government nine month financial statements for financial year 2022/23 in respect to the department of Trade, Energy and Industrialization.

**Mr. Speaker:** Honourable Members, a report by sector Committee on Trade, Energy and Industrialization on the Bungoma County Government nine month financial statements for the financial year 2022/23; in respect to the department of Trade, Energy and Industrialization is hereby tabled and formally it becomes the property of the House.

## NOTICES OF MOTION

### 1. REPORT BY SECTORAL COMMITTEE ON FINANCE AND ECONOMIC PLANNING

**Hon. Juma Orize (Vice Chairperson, Committee on Finance and Economic Planning):** Thank you Mr. Speaker. I rise to give a notice of motion that this House adopts a report by the Sectoral Committee on Finance and Economic Planning on Revenue Administration Amendment Bill, 2023.

**Mr. Speaker:** Honourable Members, a notice of motion having been dully issued by the Committee on Finance and Economic Planning on Revenue Administration and Management Amendment Bill, 2023; I hereby direct the Clerks to share the report with Honourable Members, as the same will form business on the Order Paper in the cause of the week or once scheduled by the HBC.

### 2. REPORT BY SECTORAL COMMITTEE ON TRADE, ENERGY AND INDUSTRIALIZATION

**Hon. Johnston Okasida (Chairperson, Committee on Trade, Energy and Industrialization):** Mr. Speaker Sir, I rise to issue a notice of motion that this House adopts a report by the Sectoral Committee on Trade, Energy and Industrialization on the Bungoma

County Government nine month financial statements for financial year 2022/23 in respect to the Department of Trade, Energy and Industrialization.

**Mr. Speaker:** A notice of moving having been issued by the Sector Committee on Trade, Energy and Industrialization on Bungoma County government nine month financial statements for financial year 2022/23; in respect to the department of Trade, Energy and Industrialization. I now direct the Clerks to share the report with the Honourable Members as it will form Business on the Order Paper.

## STATEMENT

### 1. HONORABLE MEMBERS WELCOMING REMARKS TO THE VISITING DELEGATION FROM KAMUNERU PRIMARY SCHOOL

**Mr. Speaker:** Honourable Members, as this juncture we will allow the host of the said school Hon. Joan Kirong' to make a few remarks and another four members before we come back to the motions.

**Hon. Joan Kirong':** Thank you Mr. Speaker Sir. Allow me welcome the family of Kamuneru ACK Primary School who comprise of pupils, teachers and parents. I welcome you; and feel at home. This is a House of procedures that you have been hearing about and today you have managed to visit the same. The school is located in Kamuneru Sub-Location, Kamuneru Location neighboring my home and has a pupil population 927 from ECDE to JSS. The school has been doing well up to date and if you go to my area, you will find that we have many graduates and some of them are already working in various parts of the country including our Deputy Clerk Leonard Momos who is a product of Kamuneru ACK; and not forgetting my husband.

*(Applause)*

We have been working well and I am proud of this school. I want to thank the teachers for doing a good job and as leaders here, we passed through your hands. You are the ones who made us who we are today because of the work of your hands. You create people and you are the only professionals that share a profession with Jesus Christ; reading through the Bible...

**Mr. Speaker:** Hon. Kirong', don't be a pastor today. Stick to the issues at hand because you will end up provoking Hon. Makari to become a Bishop today.

**Hon. Joan Kirong':** Mr. Speaker that is the reality. I want to tell the pupils that you have learnt more because our officers have taken you through many issues with regard to the County Assembly's operations. They have been taught about the arrangements in this House; like where the Clerks are sitting, the Speaker, the majority and the minority side. You will learn more and know how we transact our Business in this House. My advice to my girls and boys is that education is the key. Through education you can be able to dine with Presidents

and you can get any position in this Country. Therefore, study smart to get somewhere in this country.

Equally, I wish to congratulate the Parent's Management Committee for accompanying your children; this shows clearly that you love them and I beseech you to continue loving and encouraging them. Finally, I wish the candidates who are going to sit for their exams success with God's blessings.

*(Applause)*

**Mr. Speaker:** Honorable Members, the requests are many and therefore I will only allow the first four requests. Thereafter, I will allow the Chairperson of the Committee on Education to make his remarks.

**Hon. Jacob Psero:** Thank you Mr. Speaker Sir for this opportunity. Allow me welcome the pupils, teachers and Board of Management of Kamuneru Primary School to this House. I want to thank the Head Teacher and the management of the school for enabling these young members of the society to come and learn in this House. Welcome and understand that this is a place of rules and procedures and it is only meant for those who are well behaved. That is why I take this opportunity to encourage our young pupils to ensure that you behave well while in school for you excel particularly in your examinations. I want to believe that class eight pupils are here; and we are only a few days to the examinations period; and we are requesting you through your teachers to ensure that you perform well. I am aware that Kamuneru Primary is one of the good performing schools and while I was a Principal in various in that region of Mt. Elgon right from Kaptama to Cheptais; Kamuneru Primary School was a feeder school to most of the schools that I was teaching and I am happy to learn that you are here.

We want to appreciate the school that it has done well and that is why we have executive members like Mr. Momos who is the Deputy Clerk Legislative Services in this Assembly. Don't think that Momos is a small man in the village; he holds a key position in this House. Otherwise, to my colleagues the teachers, I thank you for the work you are doing and I know it will bear fruits. We are doing a noble job particularly educating the young ones including those that have mucus, jiggers and everything else. We take our entire time to ensure that we assist these young children. Continue working hard and you will get God's blessings. I was a teacher and I did my job well and that is why I earned a ticket to this House. Otherwise, if I did a wrong job in the various schools, I want to believe nobody from Chesikaki Ward could have given me an opportunity to come to this House.

Otherwise, I want to tell the pupils that you have an opportunity to learn outside the classroom. The monotony of the classroom is now out and you can see what you are being taught in this House, including the environment. Get to know the opportunity of the landmarks around like we have the law courts behind us here. Next to it we have the prisons for those that are breaking the law; including the various means of communication and transportation. We have an airstrip around and the railway; get time and pass through those particular places. Otherwise, welcome and I am happy to meet my old colleagues whom we

schooled together like Mr. Kimachas and Cheshari. May you have journey mercies as you go back to school.

**Hon. Sudi Busolo:** Thank you Hon. Speaker for allowing me also to advice the students of Kamuneru Primary School, teachers and the Board of Management. For the pupils since you are the last class doing the 8.4.4 curriculum, kindly work hard since you have already made history. Try your best by engaging your teachers who are there for you so that you get better grades.

For parents, I thank you for electing my colleague Hon. Joan Kirong' for the second term. I want to request that come 2027, again remember her because she is focused, hardworking and a visionary leader.

*(Applause)*

She is our Deputy Majority Leader, which is a big position. Please elect her again. I thank you.

*(Applause)*

**Hon. Wafula Waiti:** Thank you Mr. Speaker. First I want to congratulate Hon. Joan Kirong' for this noble idea to enable the pupils visit this Assembly. For pupils, discipline and hard work in school will earn you a living in future and you will reach where you want to go. A member here from your region is our Deputy Majority Leader whom we respect. For the girls if you emulate Hon. Kirong', you will be like her in future.

Finally, this is to the parents who are accompanying the pupils; teachers stay more with the pupils in school than parents at home when the schools have opened. You indicated that they are candidates for this year, these pupils, parents and teachers have been going through difficulties while going to school. When time for sitting for exams comes, you will see parents coming up with different means of handling them during exams and that is where pupils lose track. My request is that parents should allow teachers to coach the pupils up to the end as they sit for their exams.

**Hon. Jack Kawa:** Asante Ndugu Spika kwa kunipa fursa hii kuwakaribisha wageni wetu wa leo. Kwanza niruhusu nimshukuru Mheshimiwa ambaye ni Kiongozi wa wengi kwa sasa kwa sababu wakati Kiongozi wa wengi hayupo yeye anashikilia hicho kiti.

Ndugu Spika nataka kuchukua fursa hii pia kuwashukuru walimu, wazazi pamoja na wanafunzi walioko kwenye chumba hiki. Nataka kusema ya kwamba watoto wanapotembezwa ndipo wanajua na kusoma mengi.

Pili, nataka kuwasihia walimu pamoja na wazazi ya kwamba inafaa kuwakuza watoto kwa njia ya kikanisa ili wawe watu wa kuheshimu Mungu. La mwisho, nikiwa mwenyekiti wa Kamati ya Jinsia na Utamaduni, nawasihia walimu na wazazi Kaunti ya Bungoma tumewekwa kwenye nafasi ambayo si nzuri ambapo tumeorodheshwa nambari tatu kwa visa vya mimba za mapema. Sisi kama waheshimiwa wa Bunge hili la Bungoma tunaenda kupigana na hili

janga na tukipata kwamba mwanafunzi yeyote amapachikwa mimba; utakuwa adui wa mtoto ambaye ameathirika. Tuko na rekodi hizo kwa hivyo nahimiza kwamba hawa watoto wapewe nafasi kusoma ili baadaye waje waketi kwenye nafasi hizi zetu.

Kwa wazazi nasema asanti kwa kumpigia mheshimiwa kura kwa mara ya pili. Nilifanya kazi na Mheshimiwa Mukenda, na mkanipa Mheshimiwa Joan muhula uliopita na muhula huu pia tuko na yeye. Mkipa mtu nafasi moja, mbili, tatu; atakuwa na uzoefu wa kufanya kazi vizuri. Lakini unampa leo, kesho unamtoa unaleta mwingine, kazi haitafanyika vizuri. Mheshimiwa Joan ni kiongozi wetu katika jumba hili na tunampea heko na heshima. Yeye ni mwanachama wangu wa UDA ambapo kinara wa chama ni Kiongozi wa taifa hili. Tunasema asante na mwendelee vivyo hivyo.

**Hon. Aggrey Mulongo:** Thank you Mr. Speaker. You have not conditioned any member; why now condition me?

**Mr. Speaker:** Because of old age...

**Hon. Aggrey Mulongo:** Thank you Mr. Speaker. I take this opportunity to thank Mheshimiwa Joan and our Deputy Clerk Mr. Momos for inviting pupils, parents and teachers from Kamuneru Primary School. This school is on the mountain and I am on the slopes and when Momos pushes a stone it reaches my home. In fact, I and Hon. Sudi visited *Daraja Mungu* where the water goes beneath for almost a kilometre, while people are practicing agriculture at the top of *Daraja Mungu*. I am say that this year *Mheshimiwa* Joan participated in volleyball games as a booster and the team emerged the best and they will be taken to Rwanda because of her effort. I was the cheering squad number one for all the teams, right from volleyball, football, netball...

**Mr. Speaker:** Hon. Mulongo, yesterday while you were away they sought to declare you as the patron of the cheering squad, but something was said; that you used to run around carrying a bottle with some stones inside; unless you inform us about the bottle...

**Hon. Aggrey Mulongo:** That is part of cheering Mr. Speaker. For pupils who are here, I encourage you to have discipline right from home, church and school. Respect your teachers, parents and all those that you meet on your way including the neighbors and you will prosper. While in class, think about academics and nothing else. The Chairperson of the Committee on Gender has talked about it. During our days in Primary School, we used to excel minus pregnancies. At the moment early pregnancies has been normalized and pupils need to learn from your elders.

For teachers, teaching is a calling; therefore bear with the pupils because there are those coming from poor families and those that come from good backgrounds. Just bear with them and teach them equally because this is a calling; you should not be selective. During our days we used to hide while going to sit for exams...

**Mr. Speaker:** You need to wind up.



**Hon. Aggrey Mulongo:** To the Board of Management, make sure that you coordinating between the parents and teachers. Don't always be in school because once you are in school you will be compromised...

**Mr. Speaker:** Hon. Chemion, I will have Hon. Ali Machani after Chemion. Just in summary.

**Hon. Francis Chemion:** Thank you Honorable Speaker for allowing me to say something on this floor. You know you are saying we must summarize but for information, Kamuneru is my second home. As you see me here, I was born in those parts of Kaptama but the people of Kamuneru including the DCL and others who are here are part and parcel of...

**Mr. Speaker:** I know where you are heading to and you will now start demanding for the remaining dowry. Avoid that line of argument.

**Hon. Francis Chemion:** That is the line that I was taking Honourable Speaker to confirm that it is a very dear school to me. Kamuneru is an area that is now doing very well in very many aspects other than academics. When I was teaching in Kopsiro in those years, there were no hotels; but as we speak, we have a great restaurant within that area where members can hold meetings, have a snack courtesy of our DCL; and today the DCL has again through alongside the Honourable Member and brought these young people to this Honourable House. This is a very big achievement for the school.

For learners just to land here and have a look at the robes of the Speaker and the Sergeant-at-Arms, the sitting arrangement, and the functions of various parts of this County Assembly is a milestone in their lives; and I am very sure in the near future some of them may admire to contest after completing their studies to become Honourable Members of this House.

We just want to ask the Government because we now have the junior secondary school domiciled in primary schools. The Government has tried to employ very many teachers this year but they are not enough. We still have a very big shortage in our schools and you know, if you have two teachers for a junior secondary school class that is not adequate. I will not sit down before I mention Hon. Joan Kirong'. She is a very able leader, she has demonstrated her capacity in agitating for the issues in Kapkateny Ward and most of the time she has tried to balance the resources for that ward. For the community, deciding to re-elect Hon. Joan is a plus and if you want continuity, the public should know this.

For continuity of development and very many other issues, it is better for a member to serve for some time so that the vision of such an Honourable Member can be accomplished.

For teachers, I know we are trained, we went to colleges, we know how to deliver the content, and the only thing that remains is our commitment to duty. Let us be committed, let us serve our people. I know we do a lot of work. If there is a profession that you have to do a lot of work even overnight, it is teaching, because apart from physical teaching...

**Mr. Speaker:** Honourable, wind up please!

**Hon. Francis Chemion:** Apart from physical teaching in class, you have to prepare for the next day's lesson; you prepare schemes of work, records of work covered, teaching and learning aids. It is a very tedious job and we wish them well as they perform.

**Mr. Speaker:** Thank you. Hons. Waiti, Ali Machani, and then I will have Opwora! You know when you insist on speaking, that is your calling, I will leave it open. Proceed, Hon. Ali Machani!

**Hon. Ali Machani:** Shukrani muelekezi wetu mhadhama Spika. Ningependa kuchukua nafasi hii pia nimshukuru dada yetu kiongozi aliyechaguliwa kutoka sehemu ya wageni waliokuja kwenye jumba hili, naibu kiongozi wa wengi Mheshimiwa Joan kuleta shule yetu ya msingi ya Kamuneru. Mimi pia nitakuwa miongoni mwa wale wenye kupeana nasaha kwa wageni wa siku ya leo wakiwa wanafunzi, walimu na pia kamati ya halmashauri ya shule hiyo ya Kamuneru; kwamba si rahisi sana mpate fursa kutembelea bunge la jimbo. Si rahisi na mara nyingi nyakati zetu ilikuwa ni kwamba lazima muelekee Nairobi. Lakini kulingana na ubora wa ugatuzi, leo hii tuko na bunge ambalo dada yetu na wengine wote waliohusika wameleta wageni wetu ili wajihusishe na mazingara na maeneo katika bunge letu.

Cha mno ni kwamba wale ambao wamekaa tunawazungumzia ni watahiniwa kwenye mtihani tunaoutarajia. Ukiwa kwenye shule ya upili ni mwanzo tu wa elimu; kuna sehemu zaidi ambayo inatajikana uvumilie ili upitie na ni ushauri wangu kwamba walimu mnayo kazi ngumu, kama vile watangulizi wangu walivyosema. Kwamba ni wito na ni watu watatu katika nchi hii ambao wana wito. Mtu wa kwanza ni mwalimu, wa pili ni mtumishi wa Mungu huenda wewe ni Imam Sheik ama *Pastor* na mtu wa tatu ni MCA, mbunge wa wadi katika jimbo lolote lile.

Ni kazi ambayo lazima ujitokeze na uwe tayari kuhudumia. Uangalie malipo; na hapo ndipo watu mara nyingi hawapewi pesa za kutosha. Mheshimiwa Joan nataka nikushukuru na pia nikupe hongera kwa sababu kupata kiti ni rahisi lakini kukihifadhi ni vigumu sana; na wewe kati ya wabunge wa kike umeonyesha mfano kwamba unaweza pigania nafasi hiyo tena mara ya tatu. Naomba wale ambao mmekuja, fikisheni salamu zetu kwa watu wa eneo lake kwamba chini ya Spika Emmanuel Situma ambaye pia ni mtoto wa mwalimu; na wakati wao ilikuwa wao wanaelimishwa na kiboko, lakini wakati huu viboko vilitolewa na sasa ni ushauri.

Nataka nikushukuru muelekezi wetu...

**Mr. Speaker:** Thank you Hon. Ali Machani. Hon. Opwora, We are winding up! After he has spoken, I will have Hon. Simotwo, the Leader of Minority then the Chair. The rest, you hold your horses please!

**Hon. Edwin Opwora:** Thank you Mr. Speaker for this opportunity. A lot has been said about hard work and encouragement to the students, but I have an issue that I would like the teachers and the Board of Governors to maybe take in. The pupils we have are candidates and right now we are seeing a trend where teachers are sending away students who have not completed paying their fees. I just want to beseech the teachers and the Board of Governors

to get a better way of communicating to parents instead of sending back these kids. This is a very critical moment for them and I beseech that the school needs to give them ample time so that they can perform to their best.

We are pushing for the girl child a lot and forgetting about the boy child. I am happy that in this House we have two members Hon. Joan and our DCL who happen to be former students of this school; as an example, let us push the boy child to also perform better so that we can have better husbands and better men in future. These students come from Mt. Elgon and it is a good terrain for sports and as an example, our MCA is a very active member of the sports in this Assembly. I just want to encourage the pupils to also embrace sports. Please utilize your talents so that besides your academic excellence in school you can also benefit from your talent.

**Mr. Speaker:** Thank you. Hon. Simotwo!

**Hon. Franklin Simotwo:** Thank you Mr. Speaker for allowing me this time to say something about our school from Kamuneru. Kamuneru Primary school is one of the oldest schools in Kapkateny; this school borders Chepyuk and is just adjacent to the forest. When I was young, it was one of the schools that have been performing very well. This is the reason why I say thank you teachers and parents who have brought along our pupils from Kamuneru to this Honourable House.

I want to congratulate teachers for making this effort. Remember before devolution, our pupils were travelling all the way to Nairobi to see such a House, but we want to congratulate those who came up with the noble idea of creating counties; that is why today our pupils are here seeing what is in the National Parliament in Nairobi. I wish these teachers and pupils the best; because we are approaching the exams.

Lastly, I wish to echo the sentiments of my colleague Hon. Joan. We only have one lady MCA in Mt. Elgon from the six MCAs who won elections; and winning an election in the Sabaot culture is not an easy thing because we still perceive that ladies cannot lead, but Joan came out strongly and won. In fact out of the nine men who contested with her, she made sure that she scored and is back to the Assembly. Otherwise, I want to say to ladies of Mt. Elgon that this is your role model. That she is even among the top leaders in this House; so we have a leader, the Deputy Leader of Majority. Given that she is a female leader but still you can see the way she is seated. She is among the top leaders and so count yourselves as people who are more privileged to have such a very brilliant lady who can get a top seat. I think she still...

**Mr. Speaker:** Wind up Hon. Simotwo!

**Hon. Franklin Simotwo:** Otherwise thank you for...

**Mr. Speaker:** Hon. Otsiula, then I will come back to you.

**Hon. Benjamin Otsiula:** Thank you Honourable Speaker for keeping the tradition. First of all, let me take this opportunity to thank the teachers, the members of the Board of

Management and the pupils of Kamuneru primary school for securing this chance to come and learn. I will be very brief. I know the teachers are happy. I have been looking at them smiling when they saw Hon. Joan Kirong' the Deputy Majority Leader, Hon. Psero and Simotwo. I can assure you these are very committed members of this Honourable House and I just want to pass this information to our pupils that this House as far as learning is concerned, we have three roles to play; we have our legislative function, oversight function and we also play the representation role.

When we legislate here for example, the budget that runs the whole County is approved by this particular House by these very Honourable Members. When you get to hear of bursaries, those of you who will be going to form one next year, your respective leader seated here will approve our budget and that is how money will trickle down to the ward level.

They say that you now have a basic right under Article 53(1) (d) of the Constitution; free and compulsory right to education. However when you enjoy that right to education, you must also be disciplined. You cannot be given a right to enjoy and enjoy for eight years or six years in primary thereafter come out of school empty handed. Display very high standards of discipline, take your chance in school, study hard, prepare very well and pass your exams. Otherwise with this long process of education, if you don't exercise a lot of discipline, caution and patience, you may end up regretting later.

Because of the long schedule of work that you are facing, I beg to end there, but I can confirm to our visitors that I am a very able Chair of Education and Vocational training.

*(Applause)*

**Mr. Speaker:** Hon. Otsiula, you do not drum for yourself. Hon. Leader of Minority, Lusenaka Antony, proceed!

**Hon. Antony Lusenaka:** Thank you Hon. Speaker. I will be very brief. I have just received a message from Hon. Joan Kiron'g that she forgot to assure these students that the scholarship program is still there for the needy and bright students; plus the bursary scheme so they should work hard in school as they prepare for their exams. I can assure the parents and the teachers that for any bright and needy student, the County Government has a program to support such cases, so don't despair; though the Chair of Education did confirm whether the issue was being handled. We had a few challenges but I think come next year, all will be well and settled. We are there to support this government on matters education to ensure that this County is also put on the map.

**Mr. Speaker:** Thank you Hon. Lusenaka, Honourable Members, allow me on behalf of the rest of us who have not had a chance to speak; and the management of the County Assembly of Bungoma and the leadership of the House, wish the KCPE candidates all the best in the forthcoming examinations. For parents, do your work. As parents and teachers, we wish you all the best because my leader has spoken. You are the only one who shares a calling with Jesus Christ as our teacher; so we wish you all the best and keep on working for our own children. We proceed!

**8. RESUMPTION OF THE MOTION BY THE MOVER ON THE REPORT BY THE AD-HOC COMMITTEE ON THE TASKFORCE REPORTS ON HUMAN RESOURCE AUDIT, SCHOLARSHIP AUDIT AND PENDING BILLS AUDIT.**

**Mr. Speaker:** Thank you Honourable Members. For guidance, we adjourned as per our Standing Orders and we are resuming the motion by invoking Standing Order 35. We resume from where we had stopped; that is at page number 82 of our report. So we are going to page 83 accordingly.

Proceed, Hon. Tony!

**Hon. Tony Barasa:** Thank you Hon. Speaker.

**4.3 Committee analysis of the taskforce report**

**Mr. Speaker Sir,** the committee analyzed the short, mid and long term recommendations as submitted in the Taskforce report and summarized them in two thematic areas; legislation and management.

**i. Legislation**

**Taskforce Recommendations**

**Mr. Speaker Sir,** the taskforce acknowledged that the Bungoma County Education Support Scheme Regulation, 2019 and the Draft Guidelines 2018 had excellent provisions and clauses for implementation of the scheme. During the implementation of the scheme, the Department however deviated from the provisions of the Regulations as highlighted in the taskforce recommendations. For better implementation of the program, the taskforce recommended as follows with regards to the Regulation and Guidelines:

1. There is need to enforce legislation on Bungoma County Education Support Scheme Regulations, 2019 as was designed to the latter.
2. The Guidelines for the management of Bursary and Scholarship Scheme under the Bungoma County Education Support Scheme dated 17<sup>th</sup> December, 2018, to be tabled in the County Assembly for consideration and approval for immediate implementation by Department of Education and Vocational Training.
3. There was need to revise the Regulation on Bungoma County Scholarship Scheme to include definitions of terms like special bursary, half continuous bursary, full continuous bursary among others.

4. Primary school heads and High School Principals should be greatly involved in identifying needy students to be beneficiaries of the Scholarship Program.

## **Committee Findings**

### **a) Approval of guidelines**

**Mr. Speaker Sir**, the taskforce report highlighted that Guidelines for the Management of the Bursary and Scholarship Scheme under the Bungoma County Education Support Scheme dated 17<sup>th</sup> December 2018 were not signed by the CECM, Education and Vocational Training or approved by the County Assembly.

The committee observed that the cited Regulations were formulated before the enactment of the Regulations, 2019. Upon the approval and gazettelement of the Regulations, the CECM issued annual circulars to guide the implementation of the scheme pursuant to Section 7(2) which stipulates that the County Executive Committee Member in charge of Education shall in consultation with stakeholders' issue guidelines on the allocation of scheme taking into consideration the limits provided in section 7 (1) (a-c) with priority given to the devolved functions.

**Mr. Speaker Sir, the committee recommended** that Guidelines for the Management of the Bursary and Scholarship Scheme under the Bungoma County Education Support Scheme dated 17<sup>th</sup> December 2018 were therefore deemed null and void upon gazettelement of the Regulations 2019 hence no need for approval by the County Assembly.

### **b. Review of the Regulations**

**Mr. Speaker Sir**, the Taskforce recommended that there was need to revise the Bungoma County Education Support Scheme Regulation to include terms like special bursary, half continuous bursary and full continuous bursary. Additionally, the Taskforce recommended involvement Head of Primary and Secondary Schools in identification of needy students.

**The Committee observed** that regulation 2019 on the definition of terms defines the word "bursary" to mean "payment" of a sum of money from the scheme to maintain and a needy student for educational purposes. The Regulation does not provide for the special bursary, half continuous bursary and full continuous bursary. These terminologies were introduced during the implementation of the 4<sup>th</sup> and 5<sup>th</sup> cohorts of the program to accommodate the increased number of applicants for bursary who could not be accommodated in the Scholarship program.

**Mr. Speaker Sir, the Committee therefore recommends** that for the sustainability of the scheme, implementation should adhere to the provision of the Regulations 2019 hence did not agree with the Taskforce recommendation.

Additionally, the Committee agreed to the Task force recommendation that primary schools head teachers and principals of secondary schools play a critical role in identification of genuinely needy students joining Form One and continuing with secondary education.

**Mr. Speaker Sir, the Committee recommends the Department of Education and Vocational Training** reviews the scholarship application form in the First Schedule of the Regulation; section (C) to include recommendation by the primary school head teachers for form one students and high school principals for continuing students.

## **ii. Management of the Scheme**

**Mr. Speaker Sir,** the Committee noted that most of the taskforce recommendations highlighted issues on the management and administration of the scheme, a responsibility which was vested on the Department of Education and Vocational Training as per the Bungoma County Education Support Scheme Regulation 2019.

The taskforce recommended as follows with regard to management of the scheme:

1. There were inaccuracies in cash and cash equivalents from the financial statements from the report of Auditor General on Bungoma County Education Support Scheme for the year ended 30<sup>th</sup> June 2020. There is need to reconcile the records to give the true reflections of the funds of the Scheme that could aid in financial planning.
2. The Ward Education Support Scheme Committees for the forty-five (45) wards were never renewed even upon lapse of three years. These committee office bearers should be renewed or reappointed in line with the requirements as stipulated in Sections 12(5) of the regulations which stipulates that *“persons appointed under this regulation other than the Ward Administrator and Departmental Education Officer shall hold office for a term of three years and shall be eligible for reappointment for one further term”*
3. Schools with beneficiaries with untraced/transferred/dropped/demised students should return the excess amounts of money to Bungoma County Education Scholarship Scheme Account.



**Mr. Speaker:** Yes Hon. Ali Machani, Hon. Tony are you having a seat or you are squatting?

*(Inaudible)*

No, you must resume your seat, you cannot squat in the House!

Hon. Ali Machani, what is the issue?

**Hon Ali Machani** *(On a point of order)*: Thank you Honourable Speaker for observing that. You know even the pupils were very much worried. Is it in order, the Honourable Member is too fast. You know we need to listen and get the content and then internalize and then as we digest, we will have reactions over the same.

**Mr. Speaker:** Honourable Members, I will ask the Chair of the ad-hoc committee to read; but as we are doing so, follow up so that you do not miss anything as we are moving; so that we are able to debate soberly. Proceed!

**Hon. Tony Barasa:** Thank you mayor. Hon. Speaker...

**Mr. Speaker:** Hon. Tony, he is honourable emeritus...

**Hon. Tony Barasa:** Emeritus mayor.

**Mr. Speaker:** Yes please. Proceed!

**Hon. Tony Barasa:** Thank you Mr. Speaker.

4. Internal controls and risk management on the scholarship/ bursary disbursements from bursary identification to issuance of cheques and acknowledgement of the same firmed up. In this vein, cheques should never be written and be disbursed to schools without verifiable and reconciled previous lists from schools
5. Home visitations were poorly carried out and the tool was not fairly administered. The tool had beneficiaries who hailed from able homes. There was need to come up with the home visitations reports that clearly stipulate the qualified and unqualified beneficiaries with justifiable reasons and these lists should be made public
6. Findings indicated that there was no agreeable qualification tool for selection of the beneficiaries. There is need to come up with the tool and consistently use it at both



Ward and County levels. The only available tool was the Home Visitation Evaluation Sheet.

7. There were challenges associated with the Information Technologist's /Data Management Staff's inability to update the system. The system had beneficiaries who had exited (done KSCE) and changed program/schools, beneficiaries with more than one sponsor, who received double/triple payments, those dropped out of schools and those expelled on grounds of indiscipline. It is highly recommended by the Taskforce that the system be updated regularly to reflect the exact number of beneficiaries. The Department is advised to transfer the two Data Management Staff from the Department of Education and Vocational Training for failure to prudently discharge their sole mandate/duties.
8. It also recommends that once vetting is done the final list of beneficiaries to be displayed for public consumption.
9. Fees to be paid via EFT method if all beneficiary schools in Kenya can be mapped on IFMIS system. It will cut on costs and time being spent on processing the cheques.
10. The initial cut off mark of 350 in KCPE should be maintained and performance yardstick of C+ should be emphasized and implemented across all scholarship beneficiaries so that a student whose performance is below the agreed threshold of a C+ should be relocated to County/Sub-County schools. This will cut down the budget for the Scholarship.
11. For better management of the scheme, the Taskforce recommends that a Directorate be formed within the Department of Education and Vocational Training to specifically deal with management of the Scholarship program.
12. Re-vetting be carried out during the long December holiday on the 5<sup>th</sup> cohort students to ascertain the actual bona fide beneficiaries since the numbers were bloated, that is the additional 80% on the lists. This will enable the county government to sustain the program. The Department of Education and Vocational Training should emulate how other institutions (sponsors) like Equity Bank-Wings to Fly are able to identify and distinguish working class (able parents/guardians) from non-working (unable parents) by use of the identification cards among other methods. Those parents whose children

are benefitting from the scholarship program and are working class (able parents/guardians), the Taskforce highly recommends their children to be removed from the scholarship program

13. From the findings, implementation of the scheme violated Regulations 7(1)(a-c). Pursuant to the Regulations, 2019, the Education Support Program should be implemented as per the approved Bungoma Education Support Scheme Regulations of 2019, 7(1) (a-c) bearing the ratios allocated to the bursary (not less than 57% and not exceeding 87%), scholarship (not less than 10% and not exceeding 40%) and administrative costs (not exceeding 3% of the total funds). The Taskforce recommends that more funds (gifts/donations/ grants/endowments) can be sought from other sources to strengthen the bursary kitty as per Regulations 11(1) (b).
14. The findings revealed that the Ward Administrators had very poor inventory keeping and were inadequate to handle scholarship/bursary effectively since they work under deplorable conditions. There is need to equip the ward offices and capacity build the human resource since the wards discharge vital roles for sourcing and vetting scholarship/bursary beneficiaries.
15. The composition and implementation of the Ward Education Support Scheme Committee and County Education Support Scheme Committee should be as stipulated in the Regulation, 2019.12(1, 2 and 3). Ward Education Support Scheme Committee was seriously violated especially for the 4<sup>th</sup> Cohort (2021) and 5<sup>th</sup> Cohort (2022).
16. The Taskforce recommends that bursars/account clerks to issue school receipts once payments are made and also prepare returns to the department for immediate update of the system. It was observed that some beneficiaries were not aware that their fees had been paid.
17. Since the Kenya Government intends to reduce its Annual Budget, the allocations to the counties will consequently be reduced. Therefore, the taskforce highly recommends reduction of beneficiaries' intake in 2023(Cohort 6) as compared to the 2022 intake. This will allow the county government to handle the huge numbers that were admitted in 2022 (Cohort 5) for sustainability.

18. Awareness should be carried out to the communities so as to encourage students to choose schools in Bungoma County during Form one selection process. Parents should be encouraged to embrace this for it reduces other incurred costs such as high fare. This will in turn lead to development of county school infrastructure and academic enhancement in our schools.

## **Committee's Findings**

### **a) Books and Records of Accounts (Cash and Cash equivalents)**

**Mr. Speaker Sir**, the Taskforce submitted that there were inaccuracies in cash and cash equivalents from the financial statements from the report of Auditor General on Bungoma County Education Support Scheme for the year ended 30<sup>th</sup> June 2020. It recommended that there was need to reconcile the records to give the true reflections of the funds of the Scheme that could aid in financial planning.

Cash and cash equivalents comprise cash on hand and cash at bank, short term deposits on call which are readily convertible to known amounts of cash and are subject to insignificant risk of changes in value.

**The Committee was in agreement** with the Taskforce recommendation that the scheme administrator must ensure that the cash books are reconciled and updated to reflect the true financial position of the scheme.

### **b. Ward /County Education Support Scheme Committee Operations**

**Mr. Speaker Sir**, the Taskforce report indicated that the composition and implementation of the Ward Education Support Scheme Committee and County Education Support Scheme Committee should be as stipulated in the Regulation, 2019,12(1,2 and 3). Ward Education Support Scheme Committee was seriously violated especially for the 4<sup>th</sup> Cohort (2021) and 5<sup>th</sup> Cohort (2022).

Additionally, the taskforce observed that the Ward Education Support Scheme Committees for the forty five (45) wards were never renewed even upon lapse of three years. It recommended that the committee office bearers should be renewed or reappointed in line with the requirements as stipulated in Sections 12(5) of the regulations which stipulates that *“persons appointed under this regulation other than the Ward Administrator and Departmental Education Officer shall hold office for a term of three years and shall be eligible for reappointment for one further term*

## Committee's Findings

The committee observed that criterion for formulation of the Ward Education Support Scheme committee is provided for in the Regulations 12(1-2). The taskforce report indicated that the committee composition was violated in cohorts four (2021) and five (2022). Out of the forty-five (45) Wards, Fourteen (14) Ward Education Support Scheme Committees provided minutes to the taskforce for data collection and the analysis which revealed as follows:

- a) Non-members were present in the meetings as proved by the minutes provided. These were CECMs, Chief Officers, and Village Administrators among others from various departments.
- b) Some Ward committees exceeded the recommended five (5) people contrary to Section 12(2) of the Regulations. Among the sampled Wards were Bumula, Khasoko, Chepyuk and Naitiri/Kabuyefwe.
- c) Lack of minutes and attendance lists in some Wards. The minutes provided were for fourteen (14) Wards against the forty (45) Wards. This was an indication of poor record keeping contrary to Regulations 9.
- d) Alteration of vetted lists by inserting hand written additional names in some Wards ;(Naitiri/Kabuyefwe and beneficiaries replaced by minutes in Siboti Ward.)
- e) Gender and regional balance not adhered to by the CECM in the composition of some Ward Committees ;( Bumula, Khasoko and Chepyuk)
- f) Ward Education Support Scheme Committee appointment and reappointment letters were missing.
- g) Regulation 10(1)( a-f) was not followed in the manner of operations of the County Education Support Scheme Committee . Some members did not turn up for meetings consistently and there were no apologies recorded in the minutes. The meetings were also attended by non-bona fide members.

An analysis of the Ward minutes provided confirmed attendance of non-members of both Ward and County Education Support Committees and membership of more than five (5) people contrary to Section 10(1-f) and 12(2).

Additionally, departmental records provided revealed correspondence from the CECM Education and Vocational Training dated 21<sup>st</sup> June 2021 extending the term of office for all the Ward Bursary Committees; however there was no evidence of appointment of specific Ward Committee members.

The committee therefore observes that the Department of Education and Vocational Training contravened sections 9(1&2), 10(1-2) and 12(2) with regard to the composition of the committees and management of the scheme.

The committee recommends that subsequent appointments and operations of the committee should adhere to the provisions of the regulations.

#### **c. Internal controls and risk management of the scheme**

**Mr. Speaker Sir**, the taskforce recommended that internal controls and risk management on the scholarship/ bursary disbursements from bursary identification to issuance of cheques and acknowledgement of the same should be firmed up. In this vein, cheques should never be written and be disbursed to schools without verifiable and reconciled previous lists from schools.

Additionally, the taskforce proposed that school fees were to be paid via EFT method if all beneficiary schools in Kenya could be mapped on IFMIS system. This would cut on costs and time being spent on processing the cheques.

The Committee made reference to the Auditor General Reports for the year ended 30 June 2021. In the report, the Auditor general raised the issue of unsupported award of bursaries and scholarships. Of concern was non-submission of acknowledgment receipts, hence it was not possible to verify the existence of the students who benefited from the scheme or the authenticity and validity of the awards.

The Committee concurs with the taskforce recommendation and directs the Department of Education and Vocational Training, together with beneficiary schools should ensure that individual receipting is undertaken for beneficiaries and cashless payment systems are embraced to enhance accountability.

#### **d. Qualification criteria for selection of the beneficiaries**

The taskforce report indicated that a Home Visitation Evaluation Sheet was formulated and used for beneficiary identification. It observed that home visitations were poorly carried out

and the tool was not fairly administered. The tool had beneficiaries who hailed from able homes. There was need to come up with the home visitations reports that clearly stipulate the qualified and unqualified beneficiaries with justifiable reasons and these lists should be made public

### **Committee's Observation**

**Mr. Speaker Sir**, the Bungoma County Education Support Scheme Regulations, 2019, Section 18 (a-f) stipulated the qualification selection tool for scholarship beneficiaries. The section stipulates that:

*(18) An applicant shall qualify for a scholarship if the applicant is-*

- a) A resident of the county;*
- b) Highly talented or has exhibited outstanding excellence in his or her area of specialty;*
- f) Is vulnerable.*

Additionally, the Bungoma County Guidelines for the Management of Bursary and Scholarship Scheme, 2018 stipulated guidelines which were used in the implementation of the scholarship program. Key among them was that the scheme was designed to support outstanding students from Bungoma County in national and extra county schools.

The Committee scrutinized the home visitation sheet and noted that the basic information required in the sheet included applicants name, school admitted to, Ward and Village Unit. The key items assessed were the KCPE performance, nature of the primary school attended, nature of the bread winner, the family's financial capability, and the family living environment and conditions, family assets and the nature of disability of applicants. The sheet sought to capture basic bio data of the applicant, poverty indicators which aimed at ascertaining the vulnerability of the candidate and ascertain whether the student was newly admitted or an on-going student. However, the poverty indicators from 3 to 8 did not specify the score range to help in categorizing vulnerability of applicants.

The committee observed that that aspect of talent, outstanding excellence and discipline were omitted in the home visitation sheet. Since the criteria set out in the regulation was not fully adhered to, vetted lists contained ineligible beneficiaries which resulted in the bloated

number. Students from other school categories, other national and extra county schools were awarded scholarships contrary to the guidelines.

Pursuant to Regulation 17(11), the committee concurred with the taskforce report that there was need to come up with the home visitations reports that clearly stipulate the qualified and unqualified beneficiaries with justifiable reasons and these lists should be made public and amend the Regulations to include the visitation form.

#### **e. Record Keeping and Data Management**

The Taskforce findings indicated that there were challenges associated with the Information Technologist's /Data Management Staff's inability to update the system. The system had beneficiaries who had exited (done KSCE) and changed program/schools, beneficiaries with more than one sponsor, who received double/triple payments, those dropped out of schools and those expelled on grounds of indiscipline. It is highly recommended by the Taskforce that the system be updated regularly to reflect the exact number of beneficiaries. The Department is advised to transfer the two Data Management Staff from the Department of Education and Vocational Training for failure to prudently discharge their sole mandate/duties.

#### **Committee's Findings**

**Mr. Speaker Sir**, Section 13(1) and (2) of the Regulation 2019, stipulates the functions of the Ward Education Support Scheme Committee among others; to receive acknowledgment receipts from the institutions. With regard to scholarships, the roles of the Ward committee as per the Guidelines 2018 are to receive the applications and enter them into a scholarship application register, undertake preliminary evaluation and submit their recommendations to the County Education Support Committee for final evaluation and decision.

The guidelines further stipulate that within one month after the cheques have been issued, the Ward Education Support Committee must submit acknowledgement letters and receipts from schools to the County Education Support Committee.

The Committee noted lack of coordination between the Ward Education Support Committee and the County Education Support Committee in that issuance of Cheques is undertaken by the County Committee but accountability in terms of submission acknowledgment of receipts is vested in the Ward Committee as per Guidelines 2018.

From the foregoing, the committee noted that the Ward Committee plays a critical role in the preparation and submission of bursary and scholarship records and reports. The Taskforce report highlighted poor inventory keeping among the Ward Administrators, and this was evidenced by lack of minutes and reports for the committee sittings and operations.

The Taskforce report associated challenges with record keeping and data management with the Information Technologist's /Data Management Staff's inability to update the system.

The Committee observed that responsibility of ensuring proper books and records of accounts are vested on the Scheme Administrator as per Sec. 9 of the Regulations and reinstate the need to regularly update the system. It however differs with the Taskforce on the recommendation to transfer the two Data Management Staff from the Department of Education and Vocational Training for failure to prudently discharge their sole mandate on the basis that the buck stopped with the appointing authority and the Scheme Administrator.

#### **f. Establishment of Scholarship Directorate**

**Mr. Speaker Sir,**

The Taskforce report recommends that for better management of the scheme, a directorate be formed within the Department of Education and Vocational Training to specifically deal with the management of the Scholarship Program.

The Committee noted that the Regulations provide structures for the administration and management of the scholarship scheme as stipulated in sections 8, 9 and 11. The Regulations establish the County Education Support committee and gives powers to the Executive Committee Member to designate the administrator of the fund. Creation of a distinct directorate to deal with issues scholarship would result in duplication of functions.

Additionally, establishment of the directorate is the mandate of the County Public Service Board pursuant to Section 59 of the County Government Act, 2012. Implementation of the recommendation by the taskforce would result in increase of the wage bill.

#### **g. Re-vetting of fifth (5<sup>th</sup>) cohort beneficiaries**

**Mr. Speaker Sir,** the taskforce report recommended that re-vetting be carried out during the long December (2022) holiday on the 5<sup>th</sup> cohort students to ascertain the actual bonafide beneficiaries since the numbers were bloated, that is the additional 80% on the lists. This will enable the county government to sustain the program. The Department of Education and



Vocational Training should emulate how other institutions (sponsors) like Equity Bank-Wings to Fly are able to identify and distinguish working class(able parents/guardians) from non-working (unable parents) by use of the identification cards among other methods. Those parents whose children are benefitting from the scholarship program and are working class (able parents/guardians), the Taskforce highly recommends their children to be removed from the scholarship program.

The Committee observed that approximately 843 students were already enrolled in the program, consuming approximately Kshs 30 Million are in 6<sup>th</sup> Cohort,8870 students consuming approximately Ksh 310 Million for 5<sup>th</sup> cohort,2192 students consuming approximately 77 Million and 556 students consuming approximately 20 Million.

All cohorts will require approximately 437 Million annually excluding arrears. This poses a great risk on sustainability which could affect other programs in the Department.

**The Committee recommends** re-vetting of the 5<sup>th</sup> cohort as per the Regulations to a manageable number for sustainability purposes.

#### **h) Utilization of the Bursary and Scholarship Capital**

The Taskforce noted that implementation of the scheme violated Regulations 7(1) (a-c). It recommended that the Education Support Program should be implemented as per the approved Bungoma Education Support Scheme Regulations of 2019, 7(1) (a-c) bearing the ratios allocated to the bursary (not less than 57% and not exceeding 87%), scholarship (not less than 10% and not exceeding 40%) and administrative costs (not exceeding 3% of the total funds). The Taskforce further recommended that more funds (gifts/donations/grants/endowments) could be sought from other sources to strengthen the bursary kitty as per Regulations 11(1) (b).

#### **Committee Findings**

**Mr. Speaker Sir**, the committee made reference to Section 7(1) (a-c) which stipulates that the initial capital of the Scheme shall be allocated as follows:

- a. An amount not exceeding three(3) per cent of the total funds shall be allocated for the administration purposes of the scheme;*

- b. An amount not less than fifty seven(57) percent and not exceeding Eighty Seven(87) per cent of the fund shall be disbursed as bursaries to needy students;*
- c. An amount not less than ten (10) percent and not exceeding forty (40) percent of the funds shall be disbursed as scholarship targeting secondary school students with outstanding performance.*

The Taskforce based its findings on the main budget allocations for the FY 2022/2023 which was Kshs. 400M for bursaries and scholarships. The approved budget had an allocation of Kshs. 12M for administrative cost, Kshs.228M for bursaries and Kshs. 160M for scholarships. There was no allocation for VTC capitation. The first supplementary budget allocated an additional Kshs.124M, thus a total allocation of Kshs.524M.

During the interrogation by the Ad hoc Committee, the Department submitted that of the Kshs.524M was distributed as; Bursary (Kshs. 180M- 34.4%) and Scholarship (344M- 65.6%). It was further submitted that for effective implementation of the program, Kshs. 955,811,250 was required by 30 June 2023.

With an allocation of Kshs.524M, a deficit of Kshs. 431,811,250 still remains outstanding. From the foregoing, it was evident that the scholarship program has taken the lion's share of the fund contrary to the provisions of the Regulations.

The committee was in agreement with the Taskforce recommendation and emphasizes that subsequent disbursement of the scheme fund should comply with provisions of regulation 7(1) (a-c).

#### **i) Inventory Keeping by Ward Administrators**

**Mr. Speaker Sir**, the Taskforce findings revealed that the Ward Administrators had very poor inventory keeping and were inadequate to handle scholarship/bursary effectively since they work under deplorable conditions. There is need to equip the ward offices and capacity build the human resource since the wards discharge vital roles for sourcing and vetting scholarship/bursary beneficiaries.

The committee noted that out of the forty-five (45) Wards, only fourteen (14) Ward Education Support Scheme Committees provided minutes to the taskforce for data collection and the analysis. Additionally, the department did not submit any reports of minutes pertaining to the Ward Committees for verification.

The committee therefore concurs with the taskforce report that for effective management of the program, the Ward Administrators need to be capacity built on the requirements of the Regulations and should be provided with ideal working environment.

**j) Placement of students in schools within Bungoma County**

**Mr. Speaker Sir**, the taskforce recommended that awareness should be carried out to the communities so as to encourage students to choose schools in Bungoma County during Form One selection process. It further suggested that parents should be encouraged to embrace this for it reduces other incurred costs such as high fare. This will in turn lead to development of county school infrastructure and academic enhancement in our schools.

The Committee observed that placement of students in secondary schools is undertaken by the Ministry of Education through the National Education Management Information System (NEMIS) and learners are placed based on performance, schools of choice and capacity of the schools to promote national cohesion.

The committee disagreed with the Taskforce recommendation.

**k) Sustainability of the Scholarship Program**

**Mr. Speaker Sir**, the taskforce report indicated that since the Kenya Government intends to reduce its Annual Budget, the allocations to the counties will consequently be reduced. Therefore, the taskforce highly recommends reduction of beneficiaries' intake in 2023(Cohort 6) as compared to the 2022 intake. This will allow the County Government to handle the huge numbers that were admitted in 2022(Cohort 5) for sustainability.

Since the introduction of Scholarship Program in the FY 2017/2018 as a corporate social responsibility initiative of the County Government, there has been an increase in enrolment of students into the Scholarship Program without sufficient budgetary allocation.

With the rising numbers of beneficiaries from the 453 in the first cohort to 8870 in the fifth cohort; and increased expenditure coupled with the shrinking resource envelope; the Committee is concerned that the Scholarship Program is unsustainable in the long run.

The Fourth Schedule of the Constitution of Kenya, 2010 lists the devolved functions to County Governments under the Education department to include pre-primary education, village polytechnics, home craft centres and childcare facilities; where least focus has been applied.

The obligation of secondary and tertiary education institutions falls under the National Government functions.

**The Committee recommends** that for sustainability of the Bursary and Scholarship Scheme, the Department of Education and Vocational Training **MUST** adhere to the provisions of the Bungoma County Education Support Scheme Regulations, 2019.

Subsequently, guidelines formulated to operationalize the Regulations pursuant to Section 7(2) should be aligned to the Regulations and approved by the County Assembly.

## CHAPTER FIVE

### **5.0 Interrogation of Pending Bills Report of the County Government**

#### **5.1 Introduction**

The Task force on pending bills was appointed by His Excellency the Governor, Hon. Kenneth Makelo Lusaka vide Gazette Notice No. 11273 under Section 17 of the County Governments Act on 16<sup>th</sup> September, 2022. The Task force was to advise and guide the Bungoma County Government on the settlement of genuine pending bills thus classified them as eligible and ineligible.

Their findings were arrived at through verification of the availed documentary evidence, field visits and relevant explanations considering the consolidated main budget, supplementary budget, procurement PPDA procedures and regulations, PFM Act and regulations and other relevant laws and regulations.

They sampled out pending bills of Kshs. 1,021,892,030 across all the departments that were verified but they did not mention the total pending bill in which they sampled from. They also verified pending bills for four flagship projects; the Dual carriage way, the Misikhu-Naitiri Brigadier road, Masinde Muliro Stadium and Mother and Child 300 bed capacity hospital. From the verified amount Kshs. 439,976,825 were indicated as eligible while Kshs. 581,915,205 ineligible.

#### **5.2 Flagship Projects**

The Task force examined pending bills for four flagship projects as follows;

## 1. Dual Carriage Way

### Task force findings

The Task force established that;

- i. The project has a pending Bill of Kshs. 168, 597,364.00 includes Kshs. 108,540,363.00 claim on delayed payment to the contractor.
- ii. The identity of ZHONGMEI ENGINEERING GROUP LTD is questionable. The official search document (CR12) is supposed to indicate the shareholders / directors of the company details; name, number of shares held by each shareholder and percentage shareholding, however the CR12 provided lacked shareholders information since it only showed the directors names, description, address and nationality. Further whereas the certificate of compliance was issued to ZHONGMEI ENGINEERING GROUP LTD on 3<sup>rd</sup> November, 2009, the company changed its name from JIANGXI ZHONGMEI ENGINEERING GROUP LTD TO ZHONGMEI ENGINEERING GROUP LTD on 15<sup>th</sup> November, 2012.
- iii. Variation of contract sum by Kshs. 191,202,204.40 (14% of the contract sum). Whereas the variation of the contract sum was within the approved limit of 25% as per PPAD Act 2015. The evidence of submission to PPRA was missing.
- iv. Overstated revised contract sum; the original contract sum of Kshs. 1,382,442,975.76 was varied upwards by Kshs. 191,202,264.40 totaling to Kshs. 1,573,645,180.16 however the revised contract sum as indicated was Kshs. 1,573,728,108.16 hence an overstatement by Kshs. 82,928.00 (1,573,728,108.16 - 1,573,645,180.16).
- v. The original budget for the FY 2019/2020 was 271,912,595 (1.81km at 150M per Km) was reduced to Kshs. 241,459,064 which translates to 1.61km (a reduction of 0.2km). During the same Financial Year, two interim payment certificates no. 2 and 3 were processed whose sum was Kshs. 355,102,566.30. The amount processed exceeded the budgeted allocation by Kshs. 113,607,502. There is no evidence of communication between County government of Bungoma and KeNHA.
- vi. Bid bond was provided however it was not sealed nor rubber stamped by the bank to confirm the authenticity. The bid bond amount was Kshs. 25,000,000,000.

- vii. There is no evidence of due diligence and public participation conducted on this project.
- viii. The payments made to date are contrary to the completion rate of the works done
- ix. There is no evidence of the implementation team constitution and approval on this flagship project.

### **Submissions by the Department of Roads**

CECM gave highlight of the procurement process which was an open tender where two bidders showed interests; Zhongmei Engineering Group Limited and Sakam Enterprises Limited. The tender opening minutes were not submitted.

The Bid bond submitted lack the signed date, seal and stamp from the bank hence need to confirm its authenticity.

Two copies of CR12 dated 16<sup>th</sup> July, 2019 and 5<sup>th</sup> June, 2020 were submitted yet the contract agreement for the project was signed on 15<sup>th</sup> January, 2019. The department did not explain how the CR 12 was submitted after signing of the contract.

The report on the variation was submitted where the contractor had presented an appraisal of the works in February 2022 that was to increase the value of the contract by Kshs.

348,593,572 translating to 20.13% and later he submitted an addendum of Kshs. 490,000,000 translating to 35.4% of the contract sum. The evaluation committee on variation works analysed the submission from the contractor and approved the increment of the contract sum by Kshs. 191,202,264 translating to 13.85% of the original contract sum of Kshs. 1,382,442,975.

The department confirmed that the total payment for Dual carriage was Kshs. 1,050,623,080 and the total pending bill of Kshs. 544,899,240 comprising Kshs. 108,597,364 on claim on delayed payment and Kshs. 436,301,866 on work done.

The work done is at 94% and the last payment was made more than a year ago.

### **Committee's Findings**

#### **a. Contract agreement**

The contract was entered into on 15<sup>th</sup> January 2019 between the County Government of Bungoma and Zhongmei engineering group LTD for CONSTRUCTION OF KANDUYI –

SANGALO JUNCTION TO DUAL CARRIAGE ROAD (C33). CONTRACT No. BGM/CNTY/OT/RPW/184/2018 – 2019.

The contract sum as per the agreement is Kshs. 1,382, 442,975.76 and the contract period is 24 months with the commencement date being 22<sup>nd</sup> October, 2019.

### **Directorship of Zhongmei Engineering LTD**

Two CR12 dated 16<sup>th</sup> July, 2019 and 5<sup>th</sup> June, 2020 respectively were availed both indicating the directorship as follows;

Pang Yankun	- Director	- Foreigner
Dai Longpei	- Director	- Foreigner
Cheng Xiayu	- Director	- Foreigner
Patrick Wangalwa Oundo	- Local representative.	- Kenyan

The Registrar of Companies' reference in the two CR12 is the same – CF/2009/13377. Change of name from JIANGXI ZHONGMEI ENGINEERING GROUP LTD to ZHONGMEI ENGINEERING LTD does not necessarily alter the registration details of the company.

### **b. Contract Variation**

From the report of the evaluation committee the contractor submitted an appraisal of the works done or anticipated to be done which constituted 35.4% of the contract sum. The evaluation committee on interrogation of the same and considering the bills of quantities and the contractor rates recommended a variation of Kshs. 191,202,204.40 which constitutes 14% of the contract sum. Section 139 of the Public Procurement and Asset Disposal Act provides that;

*(1) An amendment or a variation to a contract resulting from a procurement proceeding is effective only if—*

*a) the variation or amendment has been approved in writing by the respective tender awarding authority within a procuring entity; and*

*b) any contract variations or amendments for goods, works and services shall be as prescribed.*

*(5) An accounting officer of a procuring entity shall submit a quarterly report of their varied or amended procurement contracts to the Authority.*

There was no evidence of any reports as prescribed under Section 139(5) of the Public Procurement and Asset Disposal Act above. It is worth noting that non-compliance with the above provision does not necessarily invalidate the variation.

#### **c. Bid bond**

The Bid bond was provided however it was neither sealed nor rubber stamped by the bank to confirm the authenticity. The bid bond amount was Kshs25, 000,000.

The bid bond submitted is dated 20<sup>th</sup> November, 2018 by Equity Bank. The same is stated to be valid up to the time of execution of the contract agreement.

#### **d. Due diligence and public participation**

Whilst the Task force noted that there is no evidence of due diligence and public participation conducted on this project the committee agrees that contracts of such a magnitude of works should commence with due diligence pursuant to Section 83 of the Public Procurement and Asset Disposal Act. This includes; feasibility study/market survey and bench marking and public participation.

#### **e. Rate of work done vis a vis payment rate**

The payments made to date are contrary to the completion rate of the works done. The department confirmed that the total payment for Dual Carriage was Kshs1, 050,623,080 and the total pending bill of Kshs544, 899,240 comprised Kshs108, 597,364- claim on delayed payment and Kshs436, 301,866 on work done. The work done is at 94% and the last payment was made more than a year ago as submitted by both the department and the contractor.

#### **f. Project Implementation team**

The Task force noted that there is no evidence of the implementation team constitution and approval on this flagship project. The Task force recommended that the department should form a project implementation committee on the project to ensure proper completion and handover including surrender of project assets to the client.



The agreement for transfer of powers between KeNHA and the County Government of Bungoma for the financing and contract for the dualing of 6.5 Km Kanduyi – Bungoma – Sangalo Junction (C779) road section provides under *Article V clause 5.5* that;

*“A joint implementation team shall be created comprising of members from both parties to this agreement who will be actively playing the joint role aimed at ensuring effective implementation of the project.”*

During the interrogation, the department submitted minutes of a technical meeting consisting of the CECM roads, the Chief Officer, the assistant Resident Engineer, the contractor’s country director and the contractor’s site agent and stated that the same was the project implementation committee.

#### **g. Communication between County Government and KeNHA**

The Task force observed that the original budget for the FY 2019/2020 was 271,912,595 (1.81km at 150M per Km) was reduced to Kshs241, 459,064 which translates to 1.61km (a reduction of 0.2km). Further that during the same Financial Year, two interim payment certificates no. 2 and 3 were processed whose sum was Kshs355, 102,566.30. The amount processed exceeded the budgeted allocation by Kshs113, 607,502. The taskforce noted that there is no evidence of communication between County government of Bungoma and KeNHA and recommended that such contracts that have an adverse effect to the budget must co-opt the National government authorities (KeNHA) for partnerships and approvals.

The department submitted the agreement for transfer of powers between KeNHA and the County Government of Bungoma for the financing and contract for the dualing of 6.5 Km Kanduyi – Bungoma – Sangalo Junction (C779) road section. The agreement is signed by the director Highway Planning and Design, KeNHA and the Chief Officer Roads, Transport, Infrastructure and Public Works, County Government of Bungoma.

Under **Article II** of the said contract **clause 2.0** of the said contract provides;

*“the county government of Bungoma covenants on demand by the contractor to pay all monies, obligations and liabilities whether principal, interest or otherwise which may now or at any time in the future be due, owing or incurred by the contractor or KeNHA, whether actual or contingent and whether alone, severally or jointly or otherwise and in whatever name or style and together with interest, charges and other*

*expenses from time to time as well after as before any demand made or judgment obtained hereunder in relation to the project.”*

**h. Report by the Committee on Roads, Transport, Infrastructure and Public Works**

The County Assembly Committee on Roads, Transport, Infrastructure and Public Works in its report on the status of construction of the Kanduyi-Sanga’lo junction (C33) road to dual carriageway contract no. bgm/cnty/ot/184/2018-2019 made the following observations;

1. **THAT**, the dual carriageway project was substantially complete and was currently in use by motorists and other road users.
2. **THAT**, the project contract timelines had lapsed and that the project now operates within the defects liability period of 24 months since July 2022.
3. **THAT**, the contract has already explored 13.5% of the contract sum in variations on the project. A sum of Kshs191 million was approved by the accounting officer as price variation, while there is a contractor’s claim 1 of Ksh108 million in lieu of time variation.
4. **THAT**, the County Government of Bungoma owes the contractor a sum of Kshs438, 275, 620 on valued works on the project i.e. from certificates 7, 8 and 9.
5. **THAT**, the outstanding payments owed to the contractor are attracting interest as per the conditions of contract (Clause 60.1) and that the employer is at risk of being charged for defaulting on payment.
6. **THAT**, the a sum of Kshs300 million that was proposed in first supplementary budget for the project was later reduced to Kshs106 million; an amount which has not yet been released to the department to enable the department pay the contractor for valued works on the project.
7. **THAT**, the KeNHA is willing to take over the project and upgrade it to the Highway standards; provided that the County Government honors the conditions that it has set out.
8. **THAT**, quantities in some of the bills namely; 1.09, 5, 8, 12, 13, 14, 17, 20 and 26 increased due to changes in prices of commodities brought about by the global inflation

From the foregoing the County Assembly Committee on Roads, Transport, Infrastructure and Public Works made the following recommendations with regard to the project;

1. **THAT**, the department should ensure that the contractor completes the dual carriageway project and fully hands it over to the County Government within the stipulated contract time lines.
2. **THAT**, the department should ensure that all outstanding payments to the contractor are fully paid to avoid accrual of interest on delayed payments and instances of litigation for defaulted payment by the contractor.
3. **THAT**, the department should allocate more funds in the subsequent financial years towards the project to cover for the challenges arising from global inflation so as to fast track the project completion and to enable a smooth handing over to the KeNHA

## 2. Upgrading of Misikhu - Naitiri-Brigadier Road

### Findings by the taskforce

The Taskforce established that;

- i. Copies of all IPCs were not availed. Out of Kshs828, 794,128.37 interim certificates only Kshs521, 618,118. Hence could not verify Kshs307, 176,010 (37%).
- ii. Contract variation report to support Chief Officer Roads letter dated 20/09/2019 regarding price adjustment of 1.124. There is need to verify the effect of this variation on the entire contract.
- iii. Minutes supporting the extension of contract period by 12 months letter done by the Chief Officer Roads dated 12<sup>th</sup> Dec, 2018. This did not go through the project implementation committee.
- iv. IPC No 16. Seeks release of retention of Kshs37, 943,405.87. Tabulation to support this figure from paid IPCs was not provided.
- v. The taking over certificate raised on 18/11/2019 indicates that 8.5 km of road had been done and defects liability period had expired. The contractor on his part vides correspondence of July 9, 2020 indicated 18.65 km. The contractor also claimed to have been paid Kshs617, 583,269.62 which translates to **55.43%**. However the contractor has only done **22%** of the road. Physical verification of the road shows it is far from completion.
- vi. Complete review of tender document to be done. The bid bond should remain in place the entire period of the contract.
- vii. The National Government committed to support through conditional grant of Kshs. 200 million. This amount was to be channelled through KeRRA who were

to complete the Naitiri-Misikhu Road /Nzioa Bridge-Matunda. How the transition to KeRRA was communicated to the contractor to be ascertained.

- viii. Probable pending Bill amount of Kshs273, 988,705 arising from claim on reimbursements from certificate number 4 was not verified.
- ix. The highest contract value carried out by Midland was Kshs203 million. Did they have enough capacity for this contract of Kshs1.115 billion
- x. Need documentation to understand clearly who initiated contract closure: contractor or the County government so as to assess the culpability or otherwise.
- xi. The legal opinion recommended by the County Attorney on 9/02/2021 indicated that final projects accounts be submitted. This was not availed. Neither is there a snag list.
- xii. Avail due diligence report before the contract was awarded.
- xiii. Provide the original and supplementary budgets for 2016/2017 FY to establish whether there were sufficient funds to award the contract.
- xiv. Confirm recovery of balance of advance payment of Kshs97, 414,014. An amount of Kshs14, 179, 905 has since been recovered vide certificate number 10 – Kshs10, 354,416 and certificate no. 13 – Kshs3, 825,489.09. The total advance was Kshs111, 593,919 issued through advance payment certificate of 14/02/2017.

#### **Submission by Contractor Misikhu – Naitiri – Brigadier Road**

The director and project manager appeared before the committee and submitted that construction of the road; 42km road and 3 bridges was awarded to them on 19<sup>th</sup> December, 2016 but the actual work began in May 2017 due to delay in formulation of design. With the cash flow problems the works stopped but they managed to complete 20km and handed over on 18<sup>th</sup> November, 2019.

The director stated that on 7<sup>th</sup> September, 2020, they had a meeting at the Cabinet Secretary Transport, Infrastructure, Housing and Urban Development Office where the Cabinet Secretary, 2 directors from KeRRA, the County Attorney, CECM Roads and Public Works and Chief Officer Roads and Public Works were present where they discussed on winding up of the agreement and taking over the project by KeRRA.

They stated that the contract sum of the project is Kshs1.1 Billion out of which Kshs612, 494,045.68 had been paid and there was a pending bill of Kshs107, 946,648.41 due to interest on delayed payment and a retention of Kshs12, 620,458.40 totalling to Kshs120, 567,106.81,

and once the funds are paid, the contractor was willing to go back to the site to complete the works.

On the current status of the road, Mr. Divyesh indicated that as per the Bill of Quantity, the road was for low volume but while they were still working on it cane tractors were plying it hence alleged potholes. It was the responsibility of the County Government to ensure that the road is used as intended

### **Submissions by the department**

The department submitted that the contract sum for the project is Kshs1, 115,939,198 out of which Kshs595, 617, 235 has been paid. There was no pending payment for the work done but the County owes the contract Kshs120M for claims on delayed payments and retention fee. Overall Work done is at 48%.

Out of a total payment of Kshs595, 617,235, Certificates of payments were provided amounting to Kshs252, 652,997.97. The payment certificates were;

- Certificate NO.2 Kshs59,475,875.75
- Certificate NO. 3 Kshs46,560,437.72
- Certificate NO. 6 Kshs33,726,327.40
- Certificate NO. 8 Kshs87,968,044.20
- Certificate NO. 13 Kshs24,922,312.90

The certificates for the payments amounting to Kshs**342, 964,238** were not availed to the Committee.

The extension of contract period by 12 months did not go through the project implementation committee.

On the recovery of the amount advanced to the contract, it was submitted that out of Kshs111, 593,919 advanced, Kshs46 million had been recovered.

The County Government vide letter reference KeRRA/ 06/1/4692 dated 2<sup>nd</sup> November,2020 forwarded the minutes of the meeting held on 7<sup>th</sup> September, 2020 between the Cabinet Secretary Ministry of Transport and Infrastructure and the Governor resolving on improvement to Bitumen Standard of Naitiri-Makunga-Misikhu Brigdier –Matunda Roads in which KeRRA was to get authority from the Ministry of Transport to document and package balance of works and tender for the same through open tender with the financing from the National Treasury under development budget.

The initial MOU between the County Government and KeRRA on the road was not availed but the CECM submitted that after consultation meetings, the road from Naitiri to Brigadier was awarded to a Chinese contractor who was on site and the scope of work for Midland Construction Ltd was to change from low volume road to bitumen standard.

### **Committee's findings**

From the submissions of the department and the contractor, the Committee observed that;

- i. Interim Payment Certificate No 16. Seeks release of retention of Kshs37,943,405.87. Tabulation to support this figure from paid IPCs was not provided.
- ii. The department did not avail all the interim payment certificates for all the payments.
- iii. The CR 12 provided indicated a certificate from the companies registry dated 15<sup>th</sup> June ,2022 with company number C166229 in the name of Mid land Construction Company Ltd registered on 16<sup>th</sup> December,2008. The directors are Divyesh Kotecha Ramesh as the Director and Richard Mundia Kariuki the secretary
- iv. The contract closure was initiated by the County Government to allow the National Government to take up the project.
- v. Section 83 (1) of Public Procurement and Disposal Act provides for conducting of due diligence report on the winner of the contract before award of the tender. This was not justified by the department when they appeared before the Committee.

### **3. BCRH 300 Bed Maternal and Child Unit**

On the BCRH 300 Bed Maternal and Child Unit, the Task force found out that;

- i. The project was to be funded by County Government of Bungoma, World Bank and National Government totaling to Kshs35,616,518.03 which is far much below the contract amount of Kshs239,665,436 by Kshs204,048,918. It is against the PPAD Act 2015 to start any project with insufficient funds.
- ii. Further, the budget for FY 2018/19 only provided for Kshs35, 000,000 against the contract sum of Kshs239, 665,436.60. Yielding an adverse variance of Ksh204, 665436.60. The current total payment amounts to Kshs177, 565,786.60 (certificates 1 -7).
- iii. First interim certificate Kshs25M was paid by Health department while other certificates were paid by the County Secretary office. Besides, one payment voucher

without supporting documents amounting to Kshs54, 443,857.60 was paid however it could not be clearly verified by the Ministry Health or the County Secretary's office because of the blame game.

- iv. The contract extension period of 6 months from 6/08/2021 should end on 06/02/2022 and the extension was not communicated to PPRA.
- v. Professional opinion attached has been grossly violated by the Ministry of Health
- vi. That soon the Ministry of Health will receive request for variation to enable the contractor complete the works.

### **Submission by the Department**

The CECM submitted that the initial contract sum for the project was Kshs239 million where the County Government contributed Kshs27 million while KDSP contributed Kshs212 million. The project began in July, 2019 and it is expected to be completed by October, 2023.

The representative of the County Secretary, Mr. Joseph Kisindai informed the committee that the project was a conditional grant from the World Bank and initial BQ had three floors but it was adjusted by the County Government to 5 floors hence necessitating the provision of extra funds by the County Government.

On the variations on the project, the Finance Officer stated that the contract sum was increased by Kshs59, 704,620 due to change on site location from the BCRH to pediatric wing, external works, drainage and sewerage, water supply, introduction of bed lift, change of structure design, provision of gas line, construction of a generator house and 3 phase power supply.

At the time of interrogation, the department didn't have any pending bill on the project. The variation was to facilitate the completion of the remaining works on the project.

### **Report by Public Administration and ICT Committee**

The Committee on Public Administration and ICT made the following observations in its report on the 300 bed maternity wing;

1. That the KDSP project for the construction of the 300-bed maternity wing at BCRH is domiciled in the Office of the County Secretary. However, the project implementation and supervision is coordinated by the Department of Health which is the beneficiary /user, hence the confusion on who between the Chief Officer Health and Sanitation and



Chief Officer-Office of the County Secretary; should be the accounting officer for the KDSP funds.

2. That the project is managed by a project Implementation Committee chaired by the Project Manager and consists of members drawn from the departments of Health, Roads and Public Works, Procurement, Public Health and stakeholders.
3. That the project is planned to be implemented in two phases: phase one construction of the facility while phase two-equipping of the maternity wing.
4. That the total projected cost of the project is Kshs339,000,000; broken down as Kshs239M co-funded between the Ministry of Devolution-KDSP project at a cost of Kshs212M and County Government of Bungoma Kshs27M for phase one and phase two at Kshs100,000,000 fully funded by the KDSP.
5. That the Department of Health as the user Ministry budgeted Kshs34,999,980 in the FY 2018/19 for the project as the County Government's contribution.
6. That the procurement procedures were duly followed pursuant to Sections 46, 74, 80 and (2 (2) of the Public procurement and Disposal Act, 2015.
7. That the contract was awarded to M/S INTERLECT Contractors limited at a quoted sum of Kshs239,665,436.60.
8. That the project commenced on 7th June 2019, with the completion date expected to be 7th August 2021. The committee however noted that this might not be achieved based on the slow progress of works as observed during the site visit.
9. That the slow progress of works was attributed to variations made in the course of implementation of the project. However, the committee was not seized of any document as proof of variation of the project. In the absence of the documentary proof the accuracy of the procurement process during the variation could not be ascertained.

#### **Committee findings/ observations**

1. Variations were approved by the Director Public Works for the Chief Officer vide letter dated 21<sup>st</sup> January, 2022 but the minutes for approval of the variations by the evaluation committee and request for the variations on the works were not availed.



2. The department of Health budgeted for Kshs34, 999,980 in the FY 2018/19 for the project as the County Government's contribution yet its contribution to the project was Kshs27 million. The department needs to give the expenditure report of the allocation.
3. The department should re-look at the time frame of the project which was earmarked for 6 months in the variations bearing in mind the delays that may be caused by the appropriation processes.

#### **4. Masinde Muliro Stadium**

In ascertaining the value for money for Masinde Muliro Stadium, the Task force established that;

- i. There was a payment voucher of Kshs19, 551,438 without documentary evidence or explanations attached to the pending bill of Kshs70, 905,309.65 for the financial year 2022/2023. This amounts to an irregular payment.
- ii. The procurement plan and the budget (including the supplementary budgets) don't align with the contract sum. The procurement plan total to Kshs477, 798,058 against the contract sum of Kshs679, 386,376. Yielding a variance of Kshs201, 588,318.
- iii. Contract period initially dated 14<sup>th</sup> June 2019 – 14<sup>th</sup> June 2021 extended to 14<sup>th</sup> June 2023 by two years contract period. This amounts to 100 per cent extension period yet the payment amount of Kshs502, 942,756.73 not in tandem with the reason of extension. Furthermore the value for money of the need for the stadium to the community and other stakeholders at large is compromised.
- iv. The paid amount to date is Kshs502, 942,756.73; vis-à-vis the contract sum of Kshs679, 386,376.00 amounts to 82 per cent completion rate; yet the interim certificate 8 claiming pending bill of Kshs79, 905,309.65 has a percentage completion of 74 per cent.
- v. No previous interim certificates attached
- vi. No payment vouchers attached
- vii. County expenditure form never signed at all
- viii. No evidence of market intelligence on the prices of the Bill of Quantities

#### **Submission by the Contractor**

The Director and the Quantity Surveyor appeared and informed the Committee that the project had no pending bill and the works were at 80% completion. The total payment for the project that they had received was Kshs477, 439,780.

He added that they had not raised any variation but due to price fluctuation, preliminaries for the extension of the contract and additional works that were not in the original BQ, they were working on the variation.

### **Report by Youth and Sports Committee**

The Committee on Youth and Sports reports on the status of stadia in Bungoma County made the following observations;

1. According to the contractor, Phase one of the project was 78% and 74% done according to the executive. It included construction of the VIP launch and terracing, administrative offices, fencing of the stadium, parking and grassing of the football pitch.
2. The payments done so far did not tally with the actual work done on the site. The County Government seem to have paid much vis a vis the works.
3. Some section of the stadium appeared to have been encroached by human settlement and the contractor distanced himself from the issue.
4. The contractor was working out of the specified timeframe.
5. The major challenge sited by the contractor was flow of funds to complete the project as the amount of money paid against the work done did not match. The County Government has paid 85 per cent which is equivalent to five hundred and seventy seven million, four hundred and seventy eight thousand, four hundred and twenty shillings (Ksh577,478,420) out of the six hundred and seventy nine million three hundred and eighty six thousands three hundred and seventy six (Kshs679,386,376)
6. All the payment certificates accrued interests; which in turn cost the County Government an extra of twelve million four hundred and twenty-seven thousand seven hundred and eighty two shillings and fifty one cents (Ksh12, 427,782.51). These moneys are usually paid in subsequent payment certificates.
7. There was a contract extension agreed on 26<sup>th</sup> April, 2019 that gave the contractor two more years to complete the project beginning 14<sup>th</sup> June 2021 to 15<sup>th</sup> June, 2023. This was agreed upon consideration of the funding of the project.

### **Committee's finding**

From the list of pending bills submitted by the department of Gender, Culture, Youth and Sports, there was no pending bill in respect to Masinde Muliro Stadium therefore it has no pending bill.

### **5.3 Departmental Reports on the Pending Bills**

#### **Education and Vocational Training**

The Task force report highlighted pending bills of Kshs33,591,699 comprising Kshs32,643,049 for development and Kshs948,650 for recurrent. Those indicated as eligible were Kshs16, 503,495 and ineligible were Kshs15, 230,471.

The main reasons for ineligibility of the pending bills were attributed to;

- Use of restricted tendering
- Projects were not in the procurement plan
- Lack of evidence for project period extension
- The projects were not complete

#### **Submission by the department**

The CECM Education and Vocational Training appeared before the Committee and submitted that the department had no recurrent pending bill while development had total pending bill of Kshs83, 335,451 comprising Kshs50, 855,143 for Ward Based Project and Kshs32, 480,308 for vocational training centre projects. Also the project status report for Ward Based Projects as at 9<sup>th</sup> April, 2023 was submitted.

He also submitted copies of letters for the extension of contract for the projects whose contract period had lapsed and termination letters for the stalled projects.

#### **Committee's findings**

1. All the recurrent pending bills flagged out by the Taskforce had been paid yet they were marked as ineligible.
2. The taskforce did not indicate the financial year in which the projects were initiated.
3. Retention has a separate account and cannot therefore be considered as pending bill but the report listed some projects' retention as pending bills.
4. From the list of pending bills submitted by the department, only one item; the construction of ECDE classroom at Nakhwana, Bitobo and Kitabisi appeared in the pending bills list flagged out by the Taskforce. Others are retentions, commitments or already paid.

5. The taskforce report did not differentiate between pending bills and commitments. It was noted that the amounts payable for some Ward Based Projects were not consistent in the taskforce report and the project status report as shown below:

	PROJECT	Pending bill as per the taskforce report (Kshs)	Payable balances as per the project status report for Ward Based Projects (Kshs)
1.	Construction of 1 ECDE classroom and 2 door pit latrine at Kostoi, Cherongos and Chelilde primary Schools.	748,549	2,977,016
2.	Construction of 1 no. ECDE classroom and 2 no. door pit latrine at Kaboroit, Chepkowo and Kimurio primary schools.	1,896,032	3,270,060
3.	Construction of 1 no. ECDE Classroom at Samoya, Musikoma, Walala, Muslim, and Siritanyi primary schools	3,589,782	3,382,096
4.	Construction of 1 ECDE classroom at Lumasa, Buema, Bukusu, Mungeti, Sitoma and Nakayonjo primary in Tuuti/Marakaru ward	805,277	118,570
5.	Proposed erection and completion works for 1 no. ECDE classroom and Office at Mupeli and Central Baptist primary Schools. Pending bill Kshs1,139,000 eligible while Kshs1,139,000 ineligible	1,139,000	4,389,000

### **Trade, Energy and Industrialization**

The Task force highlighted pending bills of Kshs14, 116,640 that at the time of this committee interrogation, they had all been paid although pending bill worth Kshs1, 029,844 had been indicated ineligible.

The Chief Officer informed the Committee that the department currently has a pending bill of Kshs19, 565,175 in respect to Ward Based Projects.

### **Gender, Culture, Youth and Sports**

The Task force highlighted pending bills of Kshs21, 699,861 out of which Kshs14, 398,429 was indicated as eligible while Kshs7, 301,432 was ineligible.

The Task force interviewed the accountant and the procurement officer as a basis of their findings on all the pending bills in the Gender, Culture, Youth and Sports Department.

The ineligible pending bills were in respect to the construction of Maeni Youth Empowerment centre with a pending bill of Kshs1, 666,282, service for reviewing Bungoma Youth Fund Regulation with a pending bill of Kshs2, 400,000, completion works for High Attitude Training Centre with a pending bill of Kshs4, 786,705 and Kshs848, 445 in respect to Sang'alo multipurpose hall.

### **Submission by the department**

The outstanding pending bill for the department as at 30<sup>th</sup> June, 2022 was Kshs33, 513,172 out of which Kshs18, 150,923 had been paid leaving a balance of Kshs15, 362,248.

### **Committee's findings**

- The construction of watching stand at Mbakalo stadium has two pending bills of Kshs2, 923,740 and Kshs914, 582 and the Taskforce approved for payment after verification by an independent quantity surveyor on the percentage of completion.
- On the pending bill for the review of Bungoma Youth Fund Regulations, the taskforce observed that the payment vouchers were being prepared but they recommended that the payment was subjected to verification by interviewing the public participants thus the recommendation is not in line with the observation.
- On the pending bill for the construction of Maeni Youth Centre, the taskforce observed that it was a commitment yet the structure is in place therefore it's a pending bill.

### **Tourism, Environment, Water and Natural Resources**

The Task force presented a total pending bill of Kshs73, 582,467 broken down as; eligible Kshs17, 692,991 and ineligible Kshs55, 889,486.

The ineligibility of the pending bills was based on;

- Negative vote book balances and the taskforce recommended that budget to be harmonized through the supplementary budget or payment be made in subsequent financial year.
- Full board conference services at Satelite Hotel and Minata Hotel and use of direct procurement in sourcing for services from Minata Hotel
- Lack of post mechanical inspection reports
- Discrepancy in the computation of the VAT and Withholding tax
- Lack of necessary supporting documents on the payment voucher.
- Need to verify the existence of the upgrading of borehole to solar pumping system, construction of 1 water kiosk, pipe laying at Namutokholo Borehole, Namwela ward.

### **Submission by the Department**

The Chief Officer elaborated that the 20 days full board conference facility pending bill was for evaluation of the Ward Based Project and it was done in two phases of 10 days each. There was need for the evaluation team to work at night because the accessibility of the IFMIS is effective off peak hours hence full board conference service.

The department resolved to use direct procurement since no hotel had submitted its quotation within the period required and the tender on proposed construction of Perimeter Fence and Office at Bungoma Dumpsite had been closed and given the stipulated timelines for evaluation and compliance to the court and NEMA. They resolved to use Minata Hotel since it was among the local pre-qualified hotels within Bungoma County and who were willing to offer the services.

On the Khasoko Water Projects the specific projects include;

- Upgrading of Mungore Dispensary Borehole
- Drilling of Namusasi and Namanze health centre borehole
- Rehabilitation and protection of 6 water springs
- Drilling of 2 boreholes and equipping with Solar Pump and Protection of Khulutende Spring.

On upgrading of borehole to solar pumping system, construction of 1 water kiosk, pipe laying at Namutokholo Borehole, Namwela ward, the department confirmed that the project was completed and paid for.

The department has a total pending bill of Kshs118, 369,664 comprising Kshs75, 424,766 for Water and Natural Resources and Kshs42, 894,921 for Tourism and Environment.

### **Committee's findings**

The Committee observed that;

- The computation of the VAT and Withholding tax are automatically calculated in the IFMIS therefore the Task force may not have been aware of the tax rates applied and their computations.
- The Task force did not carry out physical verification of all projects to ascertain their existence hence the need to verify their physical location before making payments.
- Most of the pending bills are due to lack of funds in the specific vote books and this does not make them to be ineligible.
- The department justification for full board conference facilities within Bungoma County is executable.

### **Health and Sanitation**

The Task force report raised 57 pending bills under the department of Health and Sanitation. 47 of these were pending bills for construction works, seven (7) for supplies and three (3) for outsourced services.

40 of the pending bills have been cited as ineligible for payment and the totals are as summarized in the table below.

<b>Category</b>	<b>Amount (Kshs)</b>
Eligible	29,639,998.60
Ineligible	81,244,591.70
Total	110,884,590.30

The issues that the task force qualified the ineligibility on include:

- a) **Bills payable upon provision of missing documents**
- b) Bills payable upon reconciliation.
- c) Bills whose files were not availed for verification
- d) Bills whose sums exceed budgeted amounts

The report however does not indicate the financial year from which these bills were analyzed.

The department submitted a list of pending bills for both development and recurrent expenditure categorized as Community Empowerment Projects (CEF) or head quarter/ department initiated projects.

The status is summarized below.

No.	Financial Year	Project category	Nature of Bill	Amount (Kshs)
1	2017/18	CEF	Development	4,097,938.72
2	2018/19	CEF	Development	4,410,502.43
3	2018/19	Headquarters	Development	9,659,827.36
4	2019/20	CEF	Development	27,347,546.46
5	2019/20	Headquarters	Development	1,362,559.20
6	2020/21	Headquarters	Development	24,784,273.86
7	2020/21	CEF	Development	41,428,757
8	2021/22	-	-	213,215,852
9	-	-	Recurrent	154,298,173
10	-	Sanitation	development	17,376,711.00
<b>Total</b>				<b>497,982,121.02</b>

Comparatively, there were variances in figures as drawn from the pending bills' taskforce report *vis a vis* the pending bills status report from the department. Some of the pending bills as captured in the report could not be located on the list that was submitted by the Department of Health. (*Annexed*)

The Committee further observed that the Pending bills for Supplies and services as raised in the taskforce report corresponds with the figures in the summary that was provided by the department.



## **Roads and Infrastructure**

The Task force flagged out pending bills of Kshs235, 675,925 out of which Kshs150, 930,944 had been categorized as eligible; Kshs80,403,760 as ineligible and Kshs7,770,240 had not been categorized.

The main reasons for ineligibility were;

- Need for attachment of relevant documents than included; e-procurement forms, advert, procurement requisition form, acceptance letter, professional opinion, documents not serialized, payment voucher not signed, county expenditure forms not duly signed and rubber stamped.
- The specific roads maintained had not been mentioned
- Similar photos attached to two different roads
- The works specified in the BQ had not been completed

## **Submission by the Department**

The CECM Roads provided a copy of contract agreement for routine maintenance of roads in Kabuchai, Sirisia and Mt. Elgon sub counties. As per the contract the following roads were to be maintained;

- Proposed construction of Archbishop Wabukala- Namwesi Twin Box culvert
- Spot improvement at Kapkirongo Embakasi Road
- Bisunu Chepkutumi – Butonge Road
- Kipsigon Kapsikei Junction – KOICA Water
- Kaptama Police Chelite - Chwele Ndogo Market

On the supporting documents that were missing on the payment voucher, the CECM confirmed that they had worked on them and attached accordingly.

On the roads that had similar photos, the correct photos for the projects were attached and clarified that it was an error that has been corrected on the payment vouchers.

The current pending bill for the department is Kshs393,565,741 in respect to ward based project and Kshs436,301,876 for dual carriage.

## **Committee's findings**

There were some differences on the amount of project pending bills between taskforce report and the departmental submission. **Annexed**

### **Agriculture, Livestock, Fisheries, Irrigation and Cooperative Development**

The Task force flagged out pending bills worth Kshs111, 483,984 out of which Kshs33, 073,120 had been indicated eligible and Kshs78, 410,864 was ineligible.

Supply and delivery of certified Hybrid Maize Seeds by Kenya Seed Company Ltd and basal planting / top dressing fertilizers to the 45 wards had pending bill of Kshs27,260,000 and Kshs22,296,000 respectively but indicated as ineligible due to lack of evidence of distribution to the intended farmer. The procurement process of the supply and delivery of the basal planting /top dressing fertilizer was also questioned where only one bidder responded.

Tree planting at Mbakalo primary school, Kibisi Secondary school and Karima primary school Mbakalo ward had a pending bill of Kshs962, 000 but there was no certification from both the county and respective schools that trees were planted.

Fuel Supply by M- Big Service Station had total pending bill of Kshs6, 905,020 and marked as ineligible due to inadequate budget and also recommended that the payment be made after harmonization in the second supplementary budget.

Some pending bills were marked as ineligible because the projects were not in the procurement plan and the vote book balance was insufficient and it was recommended that the payment to be made through harmonization in the second supplementary budget.

Proposed Erection and completion of coffee drying table at Kibingei FCH, Misikhu FHS, Sirandafu FCH, Lukusi FCH Kapsacho FCH, Tuikut FCH and Makhanga FCH with a pending bill of Kshs. 3,087,864 and Construction of Coffee Drying Table at Chesikaki ward with a pending bill of Kshs3,099,999 were marked as ineligible because the tables were verified to be existing however, they didn't merit the criterion laid by the Bill of Quantities guidance.

### **Submission by the department**

The CECM confirmed that the department has total pending bill of Kshs209, 633,553.

On the Supply and delivery of certified Hybrid Maize by Seeds Kenya Seed Company Ltd the CECM explained that the entire contract sum of Kshs58, 460,000 had never been paid.

The tender opening minutes and evaluation report for supply and delivery of basal planting/top dressing fertilizer to the 45 wards was provided where the committee confirmed that only one bidder responded but the CECM clarified that open tender has no limit on the number of bidders to respond for the process to continue.

On tree planting at Mbakalo Primary, Kibisi Secondary and Karima Primary, the CECM confirmed that trees were only planted at Mbakalo Primary but dried up. She promised to look into the issue of the trees that were supplied from the National Government.

On the fuel supply by M- Big Service Station, fuel register and statement of fuel consumption showing the date, invoice number, vehicle number plate, LPO number, litre of fuel and the cost were provided.

On the evidence of the receipt of the seeds and fertilizer by the farmers, sample of 15 lists of input support programme beneficiaries from 15 wards was availed to the committee.

### **Committee's findings**

There are some discrepancies on the pending bill on the supply and delivery of seeds to 45 wards where the taskforce reported Kshs27, 260,000 while the department records showed a pending bill of Kshs58, 460,000. The department is required to provide the evidence of the termination of the contract to the initial contractor, minutes of the award to Kenya Seed Company Ltd and the award letter for the payment to be effected.

The main reason for the ineligibility of the pending bills in the department was due to insufficient funds in the vote book and the Taskforce went out of their mandate by anticipating the second supplementary that was to harmonize the vote book for the payment of the pending bills.

### **Mabanga ATC**

The Taskforce reports highlighted pending bill of Kshs15, 900,380 in respect to Mabanga ATC comprising;

- Supply and delivery of 1 standby diesel generator for Mabanga ATC had a pending bill of Kshs6, 150,000.
- Proposed completion works of zero grazing unit at Mabanga ATC had a pending of Kshs. 1,520,000.

- Proposed renovation works of 2 Hostels and 1 classroom Block at Mabanga ATC had a pending bill of Kshs. 5,805,400.
- Provision of comprehensive insurance cover for Mabanga tractor had a pending bill of Kshs878, 620.
- Completion and renovation of Mabanga dining Hall had a pending bill of Kshs2, 424,980.

The Taskforce noted that these pending bills were ineligible because they were not in the procurement plan hence insufficient funds and they further recommended that the payment to be done after harmonization in the second supplementary Budget.

### **Submission by the Principal**

The principal submitted that the current total pending bill for Mabanga ATC is Kshs13, 475,400. He did not mention the pending bill of Kshs2, 424,980 in respect to the construction and renovation of Mabanga dining Hall.

In addition, he informed the committee that various County departments owe Mabanga ATC, Kshs5, 779,900 for conference services affecting daily operations of the institution.

### **Public Service Management and Administration**

The report flagged out pending bills of Kshs35,477,561 out of which Kshs6,261,137 classified as eligible while Kshs29, 261,137 as ineligible and they observed as follows;

- i. That the accountant asserted that all the pending bills for development projects are commitments.
- ii. That they had a number of Topflight Security Services pending bill amounting to Kshs16,634,016, NewHam Security security services Kshs6,732, 000.00, the cleaning crew cleaners amounting to Kshs3,457,955.00 but the documents were being processed at treasury for payment as instructed by controller of budget
- iii. That there was evidence of double claim by the administration police assigned to the Governor's residence for May, 2021 amounting to Kshs186,000.00

- iv. That some pending bills seem to have been paid or some pending bills seem to be hidden only to be availed for supplementary budget consideration.

The department on the other hand provided responses and documentation as follows;

The department provided the Salaries and Remunerations Commission circular on House benefit for Deputy Governor that provides the rate of Kshs90,000 per month.

That the funds for First Lady Office rent are budgeted under the Governor's office and the lease agreement for the office was submitted.

The department did not provide a copy of the adverts of various positions in Finance department that had a pending bill of Kshs1, 014,249.

There are two security companies; M/S Top Flight Security Limited and M/S Newham Services International Limited that the County Government has signed contract agreement from 1<sup>st</sup> November, 2021 to 31<sup>st</sup> October, 2023 that is two years contract, copies of the agreement were availed.

Copies of duty roaster for the Administration Police that shows; their names, service number, places they were attached, date and amount to be paid were availed.

The department of Public Service Management has a total pending bill of Kshs34,918,065 comprising Kshs23,985,771 for contracted services, Kshs4,942,000 for recurrent and Kshs5,990,294 for development while the office of the County Secretary has a pending bill of Kshs12,526,110.

### **Committee observations**

This Committee established that;

1. The Task force flagged out most of the pending bills under the department of Public Administration Management as ineligible because non-attachment of relevant documentation save for the following projects;
  - a) Repair services of **KBY 365C** where the recommendation is post-repair inspection is required before payment is made
  - b) Evaluation committee full day conference and accommodation on 6 pax 10 days at **JOVENTURE HOTEL LTD** where the recommendation advanced is that the bill exceeds budget allocation

- c) Day conference hotel services for 6 days 20 pax (10 o'clock tea, lunches and 4 o'clock tea & refreshments) at **MILLVIEW HOTEL** where the recommendation advanced is that the bill exceeds budget allocation
2. There is no evidence of advertisement of the positions in the finance department that occasioned the pending bill of Kshs1, 014,249 as the department did not provide a copy of the adverts.
  3. The department submitted Copies of duty roaster for the Administration Police that shows; their names, service number, places they were attached, date and amount to be paid from which the Committee has not noted any instance of double claim or payment.
  4. The circular by SRC issued on 20<sup>th</sup> May, 2019 indicates that during the 196<sup>th</sup> commission meeting the commission issued advice on the House benefit in the sense that the deadline for payment of rent for Governors, Deputy Governors and County Assembly Speakers was set at 30<sup>th</sup> June 2022 to allow counties that had not started the construction of houses time to allocate funds and prioritize construction.
  5. The department submitted a lease agreement dated 16<sup>th</sup> April, 2019 for the First Lady's office which agreement had some pages missing and majority of the terms are not discernible save that Clause 1 thereof provides that the lease is for a time period of five years and six months.
  6. The total pending bill as serialized by the Task force for ATS travel stands at Kshs2, 408,410.00. The accountant in his response stated that part of those bills had been paid, however no documentation was submitted in support of this
  7. From the contracts with the security firms the commencement dates are stated to be earlier than when the contractors executed the agreements. For example NEWHAM SECURITY SERVICES executed the 1<sup>st</sup> agreement on 22/1/2021 when the commencement date is 1/11/2020. TOPFLIGHT executed an agreement on 18/5/2022 when the commencement date thereof is 1/11/2021. The contracts' binding effect begins only at execution.

### **County Public Service Board**

The Task force report considered a pending bill of Kshs8,782,487 out of which Kshs6,606,887 was categorized as eligible while Kshs2,175,600 ineligible. The ineligibility

was citing non-attachment of the requisite documents on the payment vouchers. The pending bills were for conference services, air travel and service of motor vehicle.

### **Submission by Secretary to the Board**

The Secretary submitted all the supporting attachments for the services provided that had pending bills.

He informed the Committee that at the beginning of 2022/2023, the Board had pending bills of Kshs9,049,181 but as at 5<sup>th</sup> April, 2023, Kshs6,346,101 had been paid and therefore the outstanding pending bill is Kshs2,703,080 and their payment process had been initiated awaiting exchequer release.

### **Lands, Urban, Physical Planning and Housing**

The report flagged up a total of 12 pending bills amounting to Kshs16, 451,899 of this amount a total of bills worth Kshs5, 008, 762 were classified as eligible while bills worth Kshs11, 443,137 were ineligible.

The Task force generally observed as follows;

- i. Mis-allocation of funds evidenced, for instance the purchase of land for Cheswe ECDE in Cheptais ward amounting to Ksh2, 200,000. The land title deed No. N.Malakisi/W.Sasuri/1425 is registered under Ajuk Eric Ongurapusi Lok'Oleketi who is different from M/S Ajucksmart Company Limited.
- ii. Furthermore the available budget of Kshs. 9,700,000 for the purchase of land in Ward-Based Project of Kamukuywa, Kapkateny, Kimilili, South Bukusu, Matulo, Luuhya/Bwake, Siboti which do not include Cheptais.
- iii. Consultancy services for the preparation of integrated urban development Plan for Naitiri Trading Centre not provided for in the budget and procurement plan.
- iv. In the Consultancy services for preparation of Kimilili integrated development plan review checklist for Kimilili LPDP is similar to Kapsokwony and Naitiri.
- v. That M/S WORTHVIEW GENERAL SUPPLIERS's company incorporation certificate indicates general suppliers.

### **Submissions by the department**

The Department appeared before the Committee and submitted the following information;

- Procurement documents for renovation and refurbishment of six units at the public works quarters and awarding M/S Worth view General Supplies Ltd to construct six units at the cost of Kshs2, 142,172.00 for the project.
- Documents for the purchase of the land for Cheswe ECD in Cheptais.
- Documents showed that the current status of the pending bills of Kshs10, 577,354 was at the IB.

The Chief Officer explained that M/S Worthview General Supplies Ltd was awarded the tender for renovation and refurbishment of 6 units at public works staff quarters yet its incorporation certificate indicates general suppliers because it was the lowest bidder.

### **Committee observations**

From the Task force report and the departments' submission, it was observed that;

1. On the renovation and refurbishment of six units at public works staff quarters the contract sum was Kshs2,142,172, the payment of Kshs1,657,763.50 had been prepared and is pending for payments.
2. On the consultancy services for the preparation of integrated urban development plan for Naitiri Trading Centre, the Task force report indicated that it was not in the procurement plan but the department confirmed that it was in the procurement plan.
3. The total pending bill for the department is Kshs7, 054,334 comprising of Kshs3, 000,001 for Housing and Kshs4, 054,333 for Lands, Urban and Physical Planning.
4. The documents supplied by the department with regard to the Tender for the Proposed Renovation of six Units at Public Works Quarters and a Gate at Public Works in Kanduyi Subcounty Tender Negotiation No. \*899071 – 2021/2022 include a certificate SN. 417930 issued on 9<sup>th</sup> August 2021 pursuant to the National Construction Authority Act and Regulation no. 7 of 2014 to Worthview General Suppliers Ltd as such it qualifies to be awarded the tender.
5. Concerning the purchase of the LR. No. N. MALAKISI/W. SASURI/1425 the committee noted the following;
  - a) *The sale agreement submitted shows that the vendor is one AJUK ERIC ONGURAPUSI LOK'OLEKETE.*
  - b) *That the certificate of official search shows that the said AJUK ERIC ONGURAPUSI LOK'OLEKETE is the absolute registered proprietor of the LR. No. N. MALAKISI/W. SASURI/1425.*



- c) *That vide a letter dated 11-11-2021 one CHRISTINE APIYO AJUK whilst acknowledging to be the legal wife of the vendor, expressly gives her consent for the sale of the LR. No. N. MALAKISI/W. SASURI/1425*
- d) *That Clause 4.1 of the sale agreement provides that the purchaser shall pay to the vendor the whole of the purchase price after the signing of the transfer forms.*
- e) *That clause 6.1 of the sale agreement provides that the purchaser shall take vacant possession of the said parcel of land immediately after the execution of the agreement.*
- f) *That clause 8.1 of the sale agreement provides that in the transfer of the land to the purchaser, the purchaser will covenant to perform the obligations arising under the sale in so far as the vendor remains bound by them after the date of transfer and to indemnify the purchaser against any liability for future breaches of any of them*

The Task force ought to have therefore confirmed the current registration status of the subject parcel and whether the County Government had taken vacant possession thereof.

### **Kimilili and Bungoma Municipalities**

The Task force report flagged out pending bills of Kshs2, 176,199 for Kimilili Municipality where Kshs1, 138,000 had been indicated eligible and Kshs1,038,199 indicated ineligible due to lack of requisite supporting documents.

Kimilili Municipality has current pending bill of Kshs2, 286,000.36 while Bungoma Municipality had no pending bill.

### **Committee's findings**

There are some discrepancies on the amount of pending bills on some items, for instance on the supply and delivery of ICT items, the pending bill indicated by the Taskforce was Kshs1, 138,000 while the municipality manager indicated that it has pending bill of Kshs1, 189,000 and provision of catering service for capacity building by Joventure Hotel as per the Taskforce report has a pending bill of Kshs382, 000 while municipality manager indicated a pending bill of Kshs383, 000.

### **Finance and Economic Planning**

The Task force team flagged out pending bills of Kshs31, 458,911 where eligible pending bills were Kshs16, 986,725.02 and Kshs14, 472,186.55 as ineligible pending bills.

The ineligible pending bills were due to;

- Missing attendance list and lack of proper authorization for the recurrent pending bills
- Projects for routine maintenance of a road and provision of a *boda* shade that were under Finance and Economic Planning department but they lacked requisite documentations.
- Payment voucher not attached on the request for the development, design and printing of policy and standard operating procedures on planning, budgeting, revenue, expenditure and reporting.

### **Submissions by Department**

The Director Accounting Services appeared before the Committee on behalf of the CECM Finance and submitted that the Bungoma County pending bills as at 30<sup>th</sup> June 2022 was Kshs1,761,466,662 and as at the date of the interrogation, they had paid Kshs288,959,395 across all the departments thus a balance of Kshs1,472,507,267. He confirmed that the Treasury was paying all the pending bills that are presented to them as long as all the necessary documents are attached irrespective of the Task force recommendations as eligible or ineligible.

A copy of the contract agreement for the development, designing and printing of policy and standard operating, procedures manual on planning, budgeting, revenue, and expenditure and reporting was availed. Also copies of Finance Policy Manual, Public Financial Management Standard Operating Procedures Manual and County Public Procurement and Asset Standard Operating Procedures Manual that were prepared submitted.

He further added that the department of Finance and Economic Planning had a pending bill of Kshs554, 983,590 out of which Kshs484, 077,313 is in respect to LAPTRUST contribution balance brought forward from previous financial years.

### **Submissions by Director Procurement**

When asked on his opinion on the procurement process of the Dual Carriage way, the Procurement Director stated that he was not in possession of procurement documents for

Dual Carriage since it had undergone several investigations but promised to establish where the project files were for him to give his opinion since he was not in office during the process.

On the number of bidders in an open tender, he explained that in open tender, the law does not provide for the limitation on the number of bidders for the procurement process to proceed.

He further informed the Committee that terminations and direct procurement are required to be communicated to PPRA but the law does not provide for the communication of the project variation to the authority and the variations can be initiated by either the contractor or the client.

When asked on whether the Project Manager for a project should be within the organization or sourced outside, he stated that he can be sourced outside but if the organization has the technical personnel, he can be picked within.

### **Committee's findings**

The Committee observed that;

1. Some of the Task force findings were not in line with the project name, for instance, on the provision of conference facility for profiling of Ward Based Projects for financial year 2020/2021 at Divine Homes Resort, the Task force observed that there was no acceptance of award and that two members participated in both opening and evaluation of tender committee
2. The county treasury has made payment for the pending bills that have all the necessary documents attached irrespective of the Task force recommendation has been eligible or ineligible.
3. The pending bills for LAPTRUST contribution have accrued to Kshs484,077,313 hence the County employees are missing out on the interests that are earned from the contributions.

### **5.5\_ Complaints Received by the Taskforce**

The Task force received 19 complaints from various suppliers that the County Government owed them. The complaints received totalled to Kshs80, 363,448 out of which Kshs60, 780,525 were indicated as eligible and Kshs19, 582,922 as ineligible.

The ineligible pending bills were for Mukokwe enterprise for partitioning of County Executive, construction of Lagoons external works and fencing for tannery in Bungoma South District and Bungoma Tannery with a total pending bill of Kshs17, 717,775 that required in depth analysis of the works by a quantity surveyor and Hedka Agencies for grading and gravelling of wings- Wambiya road in Township Ward with a pending bill of Kshs1,856,147 that required a neutral road engineer to be co-opted for verification.

The Committee noted that the County Government of Bungoma owes Joventure Hotel Kshs30, 340,200 for conference facilities accrued from the FY 2016/17.

## **5.6 Recommendations by the Taskforce on the Pending Bills**

### **i. On the Budget Implementation Committee**

Although the Taskforce recommended that “there is need to establish a Budget implementation committee for each department to oversee the budget lines and related expenditures; Furthermore aid in advisory services on Supplementary Budgets preparations to avoid reading of Negative Vote books at any given time due to un-professional virements during supplementary budget preparations. This is in line with circular 7/2019. This therefore calls for reshuffling of staff members for each department so that there is equitable distribution of human capital, visa-vis the professions available. Furthermore some staff members have overstayed in one department, which renders them rigid to technological dynamic nature of the society.”

**Regulation 18 (1)** Of the Public Finance Management (County Governments) Regulations, 2015 provides for establishment in every county government entity a public finance management standing committee to provide strategic guidance to the entity on public finance management matters and discharge of the responsibilities outlined under **Regulation 19**. This committee therefore recommends compliance with regulation 18 in the sense of establishment of standing committees and not the budget implementation committee as recommended by the Task force.

The issue of staff reshuffles is a Human resource issue which this committee recommends compliance in pursuance of the deployment mechanisms by invoking the relevant powers under Section 72 of the County Governments Act and other relevant policies, guidelines and/or manuals.

## **ii. On the budget implementation reports**

The Task force recommended that; *“The draft financial statements as at 30<sup>th</sup> June, 2022 having a preliminary list of pending bills by the entire county was not provided. Therefore the County was not aware of her total liabilities. It is recommended that such a list is available to make the financial statements be complete and reliable. The government is desirous to ensure that all the AGPO related bills are given priority in settlement as per Circular ref OP/CAB.1/8A of 14<sup>th</sup> May, 2019.”*

**Section 166** of the Public Finance Management Act, 2012 provides that an accounting officer for a county government entity shall prepare a report for each quarter of the financial year in respect of the entity and not later than one month after the end of each quarter, the treasury should have a consolidated report for all the entities.

The Committee is in agreement with this recommendation, the task force carried out its audit in October, 2022; four months after the end of the financial year yet the financial report for FY 2021/22 was not availed. When the quarterly reports are prepared and submitted timely, the amounts of pending bills will be easily tracked and managed.

## **iii. On Supplementary Budgets**

The Task force observed and recommended that;

*“Preparation of supplementary budgets up to two in a Financial Year indicates weaknesses in the budgeting system of the County. The PFM regulation 2015 S.40 (3) indicates that a supplementary budget can only be prepared under:*

- a. *Unforeseen and unavoidable circumstances*
- b. *Unavoidable circumstances where there is an existing budgetary provision which however is inadequate. S.40 (6) items list of information to be included in the supplementary budget.*

*It was observed that the supplementary budgets were used as avenues to violate the commitments. This interferes with the implementation of the County integrated Development plan.”*

The Committee notes that the instructive provision on supplementary budgets is **Regulation 39** of the Public Finance Management (County Governments) Regulations, 2015 and not section 40 (3) as put forth by the Task force. Apart from the provision under **Regulation 39 (3)** on the unforeseeable and unavoidable circumstances, **Regulation 39(5)** provides that Accounting Officers may seek supplementary budget if the expenditure cannot be met by budget reallocation under Section 154 of the Public Finance Management Act.

It is the Committees considered view that preparation of 2 supplementary budgets in a financial year therefore is not necessarily indicative of weakness in budgeting systems. This is coupled with the Task force’s failure to appear before the Committee and/or offering explanations as to how supplementary budgets were used to violate commitments and the nature of violations committed. The Committee therefore differs with the Task force respectfully on their recommendation.

#### **iv. Procurement opinion**

Whilst the Task force recommended that;

*“The Chief Officers need to consider the professional opinion granted by the Director Supply chain management. However, the Director Supply chain management MUST at all times make a follow up on implementation of his/her opinion through all available structures.”*

This Committee finds that an opinion issued by the director cannot be followed up as no structures or legal provisions exist for such kind of follow up. This is mainly because section 84 (1) of Public Procurement and Disposal Act provides;

*(1) The head of procurement function of a procuring entity shall, alongside the report to the evaluation committee as secretariat comments, review the tender evaluation*

*report and provide a signed professional opinion to the accounting officer on the procurement or asset disposal proceedings.*

*(2) The professional opinion under sub-section (1) may provide guidance on the procurement proceeding in the event of dissenting opinions between tender evaluation and award recommendations.*

Subsection (2) above uses the word ‘**may**’ and is not couched in mandatory terms thus the follow up is unachievable in the sense that the Chief Officer is not bound by the opinion. The committee therefore respectfully differs with the Task force.

#### **v. Payments and vote book balances**

The Taskforce made the following recommendation on the payments and vote book balances.

1. There is more reliance on manual systems than IFMIS. The vote book balances are manually updated in the PVs indicating wrong vote heads. We recommend full utilization of the IFMIS system from procurement to financial module as per regulation 49 (2) & (3) of the public Procurement and Asset Disposal regulations, 2020.
2. Delays in payments processing should be minimized by officers concerned with payments processing as this is a high risk area exposing the county to unnecessary penalties and interests.
3. Documents authorizing payments **MUST** be fully signed and rubber stamped to avoid fraud at any given point of processing payments
4. After partial payments have been made, it’s the Internal Auditor’s duty to conduct an audit on existence of procured Assets. This will minimize loss of public Money through fraudulent deals.
5. The exchequer requests and payments releases seem not to adhere to the payables due. This is the reason why some pending bills have negative vote book balances yet they proceed to internet banking ready for payments only to be frozen by lapse of time for payments. There is need for strict adherence for payments in tandem to the exchequer requests made.

#### **Mr. Speaker Sir,**

From the above recommendations, the Committee noted that all the payments in the county are made through the IFMIS contrary to the Task force findings that there is more

reliance on the manual system. The vote books are supposed to be updated both manually and in the system.

Delays in payments are not only caused by the concerned officers not attaching all the payment supporting documents but also caused by delays in exchequer releases, system failure, not completing the projects within a financial year and the decision making at top management level that have the final say on what to pay. At the time of processing payment, the vote book must have the required amount up to the internet banking but when funds are released, they are deviated and paid to different projects or activities that were not intended for hence a negative vote book balance in the system and yet the project has not been paid for. The Treasury should come up with a policy guideline that will ensure that all the payments in the internet banking are paid for the intended purpose but not deviating the funds to other projects.

#### **5.6 Committee General Observations on the Taskforce on Pending Bill Audit**

The Ad-hoc Committee made the following general observations on the Task force report on pending bills;

1. The criteria for verification of the pending bills was not uniform across the departments; verification was done through; field visits, reviewing of documents, interviewing of the accountants and procurement officer.
2. Despite the Task force classifying the pending bills as eligible and ineligible, most of the pending bills highlighted by the Task force have been paid.
3. The report did not distinguish the retentions and commitments, they were all considered as pending bills.
4. The financial years in which the projects were initiated was not indicated in the report making it hard to track the projects.
5. Section 139 (5) of the Public Procurement Act mandates the accounting officer of a procuring entity to be submitting quarterly reports of the varied or amended procurement contracts to the Public Procurement Regulatory Authority. There was no evidence of such communications on all the variations that had been made.
6. The contract agreements provide for the claim on delayed payments not considering the causes of delayed payments like system failures and delays in exchequer releases hence need for proper drafting of the contracts to consider such aspects.
7. There was no evidence of due diligence, feasibility studies and public participation prior to project initiation particularly the flagship projects.



## 5.7 Committee General Recommendations

The Ad-hoc Committee made the following general observations on the Task force report on pending bills;

1. That going forward on such elaborate issues touching on pending bills, the County Executive should embrace instructing external auditors to conduct a special audit rather than appointing a Taskforce to conduct an exercise relating to audits.
2. **That** the County Executive **MUST** ensure compliance with Section 139 (5) of the Public Procurement Act by the accounting officer submitting quarterly reports of the varied or amended procurement contracts to the Public Procurement Regulatory Authority.
3. That the Executive through the County Attorney's office **MUST** ensure that contract agreements are properly analysed and opinions sought on the terms and conditions so as to provide clauses that cushion the County Government against penalties and interests arising from unforeseeable occurrences that occasion delayed payments like system failures and delays in exchequer releases.
4. That the County Executive **MUST** ensure that due diligence, feasibility studies and public participation must be conducted prior to project initiation particularly the flagship projects that have got great effect on county expenditure.
5. That the County Executive **MUST** ensure that due diligence is undertaken prior to making any payments of all the pending bills.

## CHAPTER SIX

### Conclusion

The Committee having confined itself to the terms of reference prescribed by this House and considered all available documents, witness evidence and relevant legal provisions in the production of this report; I urge this Honorable House to adopt this report with the recommendations herein.

Honourable Speaker, thank you, as I call Hon. Benjamin Otsiulah to second the motion.

**Mr. Speaker:** Thank you Hon. Tony. I think this is the longest report that has ever been shared. You have taken enough water and equally everybody is tired, but we are going to finish this report. Allow me invite Hon. Benjamin Otsiula a member of the Committee to proceed and do the necessary.

**Hon. Benjamin Otsiula:** Thank you Speaker, first of all I want to register my sincere appreciation to Hon. Tony Khaoya Barasa for giving me this honourable opportunity to second and support the motion before the House.

Secondly, I also wish to thank the chair having braved the entire afternoon and morning standing for close to five hours moving the motion before the House, it confirms what he previously told me that he survives on natural foods. I think I am going to borrow a leaf from that chairperson and I wish you good health as well.

As I second this motion, I wish Honourable Members to put into consideration that this has been a very voluminous report and members of the Ad-hoc committee took their time and did due diligence looking at the facts contained in the report. It is a confirmation that indeed this particular job was well undertaken. Remember when this mandate was bestowed upon the committee, my uncle Hon. Sudi Busolo was very categorical that if we don't present a very competent report before this Honourable House, we would be liable for surcharging.

From what my chairperson has presented before this Honourable House, I am 100 per cent sure that nothing is going to befall me and my fellow committee members. An issue has been well presented on the issue of pending bills; it is clear that during the interrogation and as per the report in a nutshell that the Public Procurement Act was clearly in breach. It is evident from the several contracts that were presented before the committee that the County Government was clearly entangled or rather the County Government was paying penalties. It appeared as if the County Government was very comfortable not trying to comply with the contractual specifications but at the end of the day they pay penalties; an example of the dual carriage way and Misikhu- Brigadier road. It appeared as if the County Government was losing a lot of money in terms of penalties. As per the report, the law of contract was not being observed, why is it that during the contractual process when these contracts were being made or drafted there were no specific clauses protecting the County Government in the event that these projects would be finalized within the stipulated time.

Mr. Speaker, the report is explicit about the issue of the education support scheme. Looking at what is contained in the report, you will realize that the said provisions or rather whatever that we refer to as the bursaries and scholarship regulations were well flouted. Terms were introduced, special half bursary, special bursary, if you look at the provisions of the regulations, there are no specific provisions covering such things like special bursaries. This is what brought a lot of public outcry in the county where hundreds and thousands of students who expected to be covered on this programme of scholarship ended up missing on the school fees payment.

The report recommends that in the future, the County Government and the department of Education must restrain itself and work within the prescribed laws as far as the issues of bursary and scholarship is concerned.

Finally there is the issue of Village Administrators. It is well submitted by the chairperson as it is presented in the report that no single minute was ever entered in the committee and even the task force at the time we were interrogating the facts brought before the Committee. How

comes a whole process undertaken on behalf of the County Government of Bungoma was done and it ended up to employ people without keeping proper records? How will this Honourable House be in a position to determine that the process to employ the Village Administrators was free and fair? No minutes were availed; it is not clear how they arrived at the eventual beneficiaries or interviewees who emerged to be given these positions.

If you interrogate the qualifications that were put in place, only the advert was availed to the Committee and nothing after that. At the interrogation, all members serving on the Public Service Board confirmed the picture currently in that Board. Each member was giving their own version of the story, they confirmed there were no minutes and they confirmed that some of them don't even understand where the employment letters emanated from. As per the report, it is true and I wish to direct this House to Section 75 of the County Governments Act. The report in its findings, we agree that the Public Service Board should go back, review as per the law and if at all they confirm that the employment of the Village Administrators was illegal or the due process was not followed, they have the powers as per the provisions of that Act to either revoke or make any further observations.

The issue of casuals Mr. Speaker, the report clearly indicates that the same Public Service Board which was issuing employment letters to casual employees within the County Government of Bungoma could not ascertain with certainty the number of casual workers employed in Bungoma County... they could not give an account! Some of them were not even sure of where those letters emanated from and this was very embarrassing. The Chair and his members were not in a position to explain why there were two separate court lists availed. An embarrassing part was why the two separate lists were certified by the same court confirming that we were indeed having several members purporting to be casual employees employed and serving within Bungoma County. Some of them were not deployed. How then did they get these employment letters to serve on casual basis? This confirms that the Public Service Board was taking this County for a ride and I now go back to Section 74 of the County Governments Act and I believe that they also have to go back.

I know the process is underway and the court has taken a new turn and the four hundred and sixty three as per what the chairperson has submitted are now being considered for employment. I am almost summing up on the two lists that were submitted and verified by the court, it is also disappointing to learn and note that the Public Service Board could not substantiate and tell the Committee which of the two lists was genuine. This was a very difficult task and it prompted the cMmmittee through our able chairperson to conduct a headcount within the precincts of this Assembly to confirm and verify; so that we could be in a position to know whether those names appearing on the list in courts and those names submitted to the Committee were actually people eligible to be employed as members serving the County Government of Bungoma. After that head count, it was very clear that some people never appeared and even those people who had claimed to be officials of the union surfaced in that meeting without having proof of the members they were purporting to represent; and that points to the fact that some of the members who were purporting to act as casual employees of the County Government of Bungoma were not even in existence.

Finally before I sit down, I must also say that the Committee faced a myriad of challenges while trying to come up with recommendations and finalizing this report. At the time of concluding this report, we understand the EACC was also concerned and was probing the County Public Service Board on this particular matter of recruitment of Village Administrators and I believe as per the recommendations in the report. That is why we limited ourselves to Section 75 of the County Governments Act. As a Committee we would not have wished to produce a report in this House that is contrary to the findings of EACC which was also conducting separate investigations on the issue of Village Administrators.

Much has been said, the report is voluminous, I echo the sentiments of my Chair. At this juncture I second.

**Mr. Speaker:** Thank you Hon. Otsiula for seconding the motion before the House. Honorable Members, my duty at this moment is to propose a motion for the House to debate.

*Question proposed*

**Hon. Ali Machani:** Thank you Honourable Speaker. Mine is not to contribute but to appeal to the House through your wisdom now that we have a voluminous document and the honourable members have been taken through; and I believe each and every member will want to have time to go through it, internalize and digest. More so, it touches on our area of representation on whether these things were done correctly or not, I appeal to you if we can be given time until tomorrow so that we can find enough time to go through it and debate when we are sober enough. I do propose that you give us time we work on it tomorrow when we are not tired as we are. Thank you Honourable Speaker, if you allow me I can call someone to second.

**Mr. Speaker:** Honourable Members, what Hon. Ali Machani is trying to say is that he is proposing a motion for adjournment indirectly; so if he does so then he must call a seconder and we will have a vote over the same. That is the position. Hon. Ali Machani, if you have a seconder call one then we will see.

**Hon. Ali Machani:** Thank you Hon. Speaker, allow me to call upon the landlord Hon. Jeremiah Kuloba

**Mr. Speaker:** The only problem is you are not moving it under a proper Standing Order, you are just saying you want!

**Hon. Ali Machani:** Hon. Speaker, the Standing Order is there, I think it is 31 if I am not very wrong; you can also advise on that now that I am being ambushed...

**Mr. Speaker:** 31 talks about quorums and ...

**Hon. Ali Machani:** But Hon. Speaker, reading the mood of the House, allow me ask my brother to second.

**Hon. Jeremiah Kuloba:** Thank you Speaker. You see this document is voluminous, and the reader was going very, very fast. If we can be given a few hours up to tomorrow, we can go through the document, digest it and then come back here with a full discussion. Otherwise I second the proposal.

**Mr. Speaker:** Honourable Members, what follows is that I will be proposing a motion within a motion; that this House adjourns the debate on the main motion to allow people to go and think about the same and come back, so that we debate and vote on the same.

*(Motion proposed)*

Honourable Deputy Speaker, you what to speak.

**Hon. Stephen Wamalwa:** Thank you Honourable Speaker. I rise to oppose this motion that is being brought this late in the day. For those of us who have been following this motion keenly...

*(Loud consultations)*

**Mr. Speaker:** Honourable Members one speaker at a time. The one having the floor is Hon. Stephen.

**Hon. Stephen Wamalwa:** Honourable Speaker, what of those of us who have been following this motion very religiously, faithfully to detail? What happens to us because we are ready to dispense this motion this evening? I have been following and I know very many Honourable Members here have been following. So I wish to oppose and that we conclude this motion as moved by Hon. Tony this evening.

**Hon. Job Mukoyandali:** Thank you Hon. Speaker for giving me this chance. I rise to oppose this motion. Right now is around 5:50p.m.; if we say we are adjourning this motion up to tomorrow, then it means all this time we have been sitting here is a waste. Then I would have urged that the mover of the motion would have moved this motion at 4:00p.m. so that we continue tomorrow if there was need for that.

**Mr. Speaker:** Any other speaker, Hon. Waiti?

**Hon. Waiti Wafula:** Thank you Mr. Speaker, you know we were here during morning session and the mover of the motion was elaborate, but we were only caught up with time during lunch time. I have been following this motion keenly and it has been touching on various departments. For example, I chair Agriculture, I was very keen. More so it touched on various wards which these members represent. Like it touched adversely on Naitiri/Kabuyefwe; the one I represent. That the records are not kept properly and the recommendation was put very well. I don't see the need of adjourning this motion; let us conclude so that tomorrow we engage on other issues.

**Mr. Speaker:** I will have Hon. Sudi because he is online thereafter, I will be calling Hon. Ali Machani to reply to the motion.

**Hon. Sudi Busolo:** Hon. Speaker my take on this motion is that we don't adjourn because the seconder for the motion has really simplified and demystified everything. For those who thought that it was voluminous, the seconder has made it very simple to all of us. Kindly let us proceed.

**Mr. Speaker:** Thank you, Hon. Ali Machani back to you.

**Hon. Ali Machani** (*The mover to reply*): Thank you Hon. Speaker, a motion within a motion is allowed and where we are sited as leaders, interests differ. Giving this proposal before this House, I had in mind that the members have not been served with the document. Being voluminous, we have been following, but there are things that when you are sited alone from the area you represent, you may want to raise issues that should be on record. We are not hurrying up because we need to approve this report, but we want also to be on record that anything that will be done by the executive must be accurate.

This is not the first time. We have been in this House and I remember Hon. Mukhongo yesterday raised this that there is a time we were in a hurry to do something but within no time when a report came from the other end, we were forced to cancel. So Hon. Speaker, I am not hurrying up, I am very keen and clear. The chairperson of this Committee has done a fantastic job on this report; even the members; and these members were drawn from different coalitions and they did their part keenly. The problem is not on our side; all these challenges have been arising from the executive. We can agree now to continue but it is good to own up this document all of us. It does not change anything within the remaining few hours until tomorrow. Thank you, I rest my case.

**Mr. Speaker:** Thank you Honourable Member. Now I will be putting a question. A motion has been moved and seconded and debate having ensued that this House adjourns its debate on the main motion beforehand.

*(Question put and negatived)*

The motion is basically rejected we go to debate to the main motion accordingly, we proceed.

*(Resumption of debate on the original motion)*

Honourable Members, thank you very much for your contributions, a motion has been moved and seconded that the Ad hoc committee report and recommendations on the task force report on Human Resource audit, Scholarship audit and Pending bills audit be adopted by this House

*(Question put and agreed to)*

The entire report and its recommendations from the Ad hoc committee is hereby adopted by this House accordingly.

Next item

## 2. REPORT BY THE COMMITTEE ON DELEGATED COUNTY LEGISLATION ON BUNGOMA COUNTY TRADE DEVELOPMENT FUND REGULATION 2023.

**Mr. Speaker:** Who is the chairperson? Come and proceed. Members even if you want to adjourn the report, there must be commencement first; you cannot just adjourn without moving it in a proper way. I am blind whenever I am looking at these things, proceed.

*(Loud consultation)*

**Hon. Florence Juma:** Thank you honourable Speaker, for allowing me to move a motion on the Bungoma County Trade Development Loans Fund Regulations, 2023 on behalf of the Chairperson and the Committee Members.

Chapter one; we have committee membership; and in

Chapter two, we have acknowledgment and the introduction, legal authority and objects of public finance management.

Chapter three we have the scrutiny of the instrument...

**Mr. Speaker:** Honourable Members, I keep on referring to Standing Orders. Look at number 64(b), proceed, please.

**Hon. Florence Juma:** Chapter three, we have the scrutiny of instrument on the analysis of the regulations; and on

Chapter four, we have committee observations and recommendations; and finally we have the adoption schedule and the annexures.

### CHATER ONE

The Public Finance Management Bungoma Trade Development Loans Fund Regulations, 2023 legal notice number 1 of 2023 was made by the County Executive Member for Finance pursuant to the provisions of...

## ADJOURNMENT

**Mr. Speaker:** Just a minute... Hon. Stephen Wamalwa?

**Hon. Stephen Wamalwa:** Thank you, Hon. Speaker. I rise to move a motion that we may adjourn basing on Standing Order 64 (b) and 64 (l). Also, we may resume the motion that was being moved by the Member tomorrow if it allows; because of time. I now call upon a seconder, who is the Hon. Francis Chemion.



**Mr. Speaker:** But I haven't heard any reason why you want to adjourn. I know... look at your time, your time is 7:00 p.m. Look to the Standing Order No. 32; the time of sitting ends at 7:00p.m. Let me guide you Deputy Speaker. Look at Standing Order No. 33; the hours of sitting are from 2:30p.m to 7:00 p.m. Now, when you want to move under Standing Order No. 64, you must advance some reasons and very flexible, you end up with a vote to adjourn or rejecting the voting. So it is up to you wonderful Deputy Speaker.

**Hon. Stephen Wamalwa:** When you look at Honorable Members, the way I observe; the Honorable Members are fatigued because of following the previous motion very keenly. You know there is no energy and the Honourable Members have been engaging their brains following the voluminous report; and for that reason, we can also follow this motion keenly tomorrow like we did in the previous one. I beg that Honorable Members will accept that we adjourn so that we freshen up tomorrow and prepare for the same. I call upon the Hon. Chemion to second this, so that Members can prepare themselves thoroughly for tomorrow's motion.

**Mr. Speaker:** Hon. Chemion what is your position over the same?

**Hon. Francis Chemion:** Speaker, looking at you as our Chair and I have to begin from the higher office because seeing the time you have spent sitting on that chair, you have not even gone outside and you're a human being. I look at some ladies here, their feet are swollen, some of them have medical issues and I can tell from just looking. I am not a doctor, but by sight I can tell that they may be having some issues with their health. The best way of thanking these Honourable Members for having sat from morning up to this time is to give them an opportunity to go home early enough so that they come back when they are energetic. I saw the mover of the next motion. She is always very energetic, but today because she has sat here for that long...look at her face Honorable Speaker.

*(Laughter)*

We know she is a very jovial lady always. But today if you looked at her just because of the fatigue she has undergone from listening from morning, we could give her a chance so that tomorrow when she comes back, very fresh and energetic and jovial. Whatever she will be presenting will enter into our *medulla oblongata* very well and all of us will contribute very courageously and eloquently because we will be very fresh. We will do the best Honourable Speaker. I second what the Deputy Speaker has proposed and I call that we are allowed to adjourn this motion until tomorrow.

*(Applause)*

**Mr. Speaker:** Thank you Honourable Chemion. As a practice and the law, I will be proposing a motion for you to debate. There is no shortcut to it.

*(Question proposed)*

**Hon. Ali Machani:** Thank you Hon. Speaker. If the members of public or any person within the compound or this Assembly can access what we have gone through, they will always



understand their leaders elected to this House. And I am happy with the guidance. What is being applied here is what we call guided democracy. That now someone can be on his feet speaking on behalf of the Speaker, a man who was elected and is very keen running and moderating this House trying to sympathize with you. A few minutes back, we have been on the HANSARD claiming that we can't go any further and want to expedite with this document.

Honourable Speaker, even when you were on your feet, he did not even move two steps. The question was put to objection within no time by a man respected; and number two to you was quickly on his feet quoting the Standing Orders purporting that time was running out. Knowing the Standing Orders very clearly; that we start 2:30 p.m. and you really guided him that we go up to 7:00 p.m. So I don't know what has ignited our minds and triggered our reasoning that now we have seen that that document is gone. Now with a change, this one, even the mover of the report has not complained as someone is purporting; a very senior one, as if he stays with the lady who is an Honourable Member...

**Mr. Speaker:** Honourable Ali Machani, the danger is that when you say that he stays with the lady, which is not proper, the Honourable Member for that purpose; it means that Hon. Chemion's family, and equally her family, is endangered

**Hon. Ali Machani:** Hon. Speaker, minus mincing my words, even it is on record; that the Honourable Member is not feeling well and as I am talking, you can see many are following me. Now, what am I saying Hon Speaker? That we allow this report to be moved today then we work on it tomorrow. I think Honourable Speaker you have enough wisdom; I can't guide you.

**Mr. Speaker:** Thank you members. Let me call the mover, he will respond. Hon. Stephen?

*(Laughter)*

**Hon. Job Mukoyandali:** Thank you Hon. Speaker. Listening to my Senior Hon. Member Ali Machani who is actually amazing me today, I wish to support the motion. You know in respect of what we have gone through the whole day, especially when you look at the document that we have just concluded on this floor; why we really wanted to conclude on that document is because we had already reached its climax. You look at the new document, the new motion which is being moved to the floor, we are just beginning. Once we begin, it means that we will have to be here up to seven like the Standing Orders guide us. Hon. Speaker, you look at the mood of the House, you look at the mover of the motion, she happens to be my Mum and a very close person to me. I understand how she normally behaves when she is at her best. For the first time today, I have seen her at her lowest, since she became my mum. I have seen her at her lowest.

*(Applause)*

Allow me to protect her. I don't want her to fall down while moving that motion. Therefore I second the motion that we adjourn the House.

**Mr. Speaker:** You are supporting the motion!

**Hon. Job Mukoyandali:** Yes, I am supporting the motion

**Mr. Speaker:** Thank you for your contribution. So sufficient...Hon. Stephen you can come back to reply to your motion.

**Hon. Stephen Wamalwa:** Thank you Hon. Speaker. I think the Honorable Members have explained through their inaction. We look at them and understand that even silence is a communication. When you called the mover of the motion Hon. Florence, she was disoriented. She didn't even know that she was being called upon to move a motion and that is very true. That informs that we have to get a mover who is at her best, who is not tired after engaging in a very critical motion that we just passed. So, that is the reason why we feel that we have to be fresh, especially when we are dealing with motions that are touching on issues that affect our people and even ourselves.

Honourable Speaker not to mention yourself; you even say that you have never chaired such a long session. I call upon the members that you support this; that we adjourn so that we pick from there tomorrow.

*(Applause)*

**Mr. Speaker:** Thank you our Deputy Speaker. Members allow me proceed and put a question to the said motion.

*(Question put and agreed to)*

But for guidance and direction, the motion that was to take over this this evening will be the first motion on tomorrow's Order Paper. We adjourn our sitting; we shall resume tomorrow, Thursday, 14<sup>th</sup> of September, 2023 at 2:30 p.m.

*(House adjourns)*