



COUNTY ASSEMBLY OF BUNGOMA

OFFICE OF THE CLERK

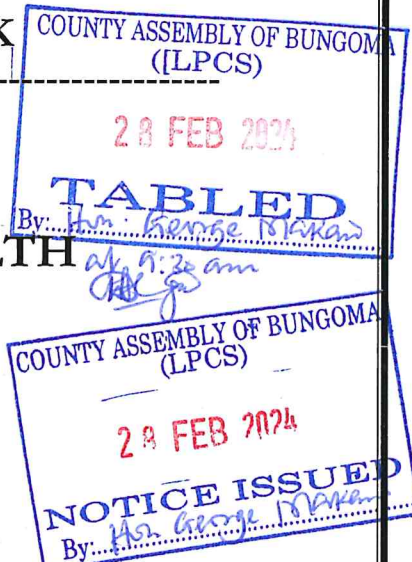
BUNGOMA COUNTY

COMMITTEE ON HEALTH

A REPORT

ON

**THE MANAGEMENT OF LEVEL FOUR HOSPITALS IN THE
COUNTY**



Clerks Chambers
County Assembly Buildings
PO BOX 1886,
BUNGOMA, KENYA.

November, 2023

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CHAPTER ONE

PREFACE

1.1 COMMITTEE MANDATE

Hon. Speaker Sir,

The Sectoral Committee on Health is constituted pursuant to the provisions of Standing Order No.217 of the County Assembly of Bungoma and executes its mandate in accordance with Standing Order 217(5) which provides as follows:

- a) Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations, coordination, control and monitoring of budget;
- b) Consider quarterly reports of the assigned departments and report to the House within twenty-one (21) sitting days upon being laid;
- c) Study the programme and policy objectives of departments and the effectiveness of the implementation;
- d) Study and review all county legislation referred to it;
- e) Study, access and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;
- f) Investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly;
- g) To vet and report on all appointments where the constitution or any law requires the House to approve, except those under *Standing Order 204* (Committee on Appointments); and
- h) Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

1.2 COMMITTEE MEMBERSHIP

Hon. Speaker Sir, the Committee as currently constituted comprises the following Members,

1. Hon. George	Makari	Chairperson
2. Hon. Jerusa	Aleu	Vice – Chairperson
3. Hon. Meshack	Simiyu	Member
4. Hon. Tony	Barasa	Member
5. Hon. Jack	Wambulwa	Member
6. Hon. Orize	Kundu	Member
7. Hon. Mourine	Wafula	Member
8. Hon. Dorcas	Ndasaba	Member
9. Hon. Joan	Kirong	Member
10. Hon. Vitalis	Wangila	Member
11. Hon. Jacob	Psero	Member
12. Hon. Anthony	Lusenaka	Member
13. Hon. Job	Mukoyandali	Member
14. Hon. Miliah	Masungu	Member
15. Hon. Grace	Sundukwa	Member

1.3 ACKNOWLEDGEMENT

Hon. Speaker, Sir,

On behalf of the Committee on Health Services, I wish to express my gratitude to the Offices of the Speaker and that of the Clerk of the County Assembly for the logistical support they provided to the Committee in the course of interrogation and writing of this report.

May I also take this opportunity to thank all Members of the Committee for their commitment and dedication in contributing in compiling and drafting this report.

Hon. Speaker Sir, it is now my pleasant duty on behalf of the Committee to present this report to this Honorable House for deliberation and adoption.

Sign Date: 29/11/23

HON. GEORGE MAKARI, MCA

CHAIRPERSON, SECTORAL COMMITTEE ON HEALTH AND SANITATION

CHAPTER TWO:

2.1 BACKGROUND AND GUIDING PRINCIPLES

Mr. Speaker Sir,

Pursuant to the provision of standing Order No.49 of the Bungoma County Assembly Standing Orders, a statement sought on the floor of the House by Honorable Ken Wanyama (Nominated Member of the County Assembly), was submitted to the committee on Health Services for processing in accordance to Standing Order No. 53 of the Bungoma County Assembly Standing Orders.

The committee on Health Services invited the County Executive Committee Member to reply to the statement sought and later to appear before the committee on Thursday 2nd November, 2023 at 10.00 a.m. for oral submissions. During the interrogation, the three Medical Superintendents for Kimilili, Bungoma and Webuye Sub-County Hospitals had not submitted all the required documents and did not provide detailed explanation on several issues raised in the statement. There were glaring gaps in the procurement process, revenue collection, banking and expenditures, waivers and exemptions at the three facilities. In the interest of financial prudence and accountability of public funds and for the purposes of policy direction, the committee invoked the provisions of the Standing Order no. 51(6)(b) of the County Assembly Standing Order and directed the three Medical Superintendents to provide additional information and further reply the issues raised in the committee.

Its upon this background that the committee, through the office of the clerk, who constituted a technical team to analyse the responses, interrogated the three Sub-County Hospital Medical Superintendents on Thursday 23rd November, 2023. The results of this interrogation forms the content matter of this report with recommendations for this House to consider and approve.

2.2 OBJECTIVES OF THE REPORT

Mr. Speaker Sir,

The committee's terms of reference for this report are as follows:

1. To further analyze the documents as submitted by the Level 4 Hospitals in line with the statement;
2. Identify gaps on matters administration, procurement and financial prudence; and
3. Recommend the best practices to streamline the procurement process, waiver administration and financial expenditure in the Level 4 hospitals.

2.3 LEGAL FRAMEWORK

Hon. Speaker Sir,

In executing its mandate, the committee was guided by the following legal provisions

Article 201 of the Constitution of Kenya on the Principles of Public Finance which states that the following principles shall guide all aspects of public finance in the Republic—

- a) there shall be openness and accountability, including public participation in financial matters;
- b) the public finance system shall promote an equitable society, and in particular—
 - i. the burden of taxation shall be shared fairly;
 - ii. revenue raised nationally shall be shared equitably among national and county governments; and
 - iii. expenditure shall promote the equitable development of the country, including by making special provision for marginalized groups and areas;
- c) the burdens and benefits of the use of resources and public borrowing shall be shared equitably between present and future generations;
- d) public money shall be used in a prudent and responsible way; and
- e) financial management shall be responsible, and fiscal reporting shall be clear.

Section 117 (1) & (2) of the County Governments Act, 2012 on standards and norms for public service delivery which state that;

- (1) A County Government and its agencies shall in delivering public services-

- a) Give priority to the basic needs of the public;
- b) Promote the development of the public service institutions and ensure that all members of the public have access to basic services.

Constitution of Kenya(2010) ; Article 227(1) which provides for fair, equitable, transparent, competitive and cost-effectiveness in procurement of Public Goods and services;

The Public Finance Management Act,2012 and the Public Finance(County Governments) Regulations, 2015;

Provisions of section 114 of the KEMSA Act, no. 20 of 2020 on procurement and framework agreement by government agencies;

Section 48(1) and (4) of the Public Procurement and Asset Disposal Act which gives powers to accounting officers of a procuring entity to establish an Ad Hoc committee known as the inspection and acceptance committee.

The provision of regulation 35 (6) and 166 (2) of the Public Procurement and Disposal Regulations 2020, on the appointment and reports of the inspection and acceptance committee.

Section 4(2) of the Kenya Medical Suppliers Authority, Rev, 2015 which stipulates that;

(2) The Cabinet Secretary shall, in consultation with the Authority and the appropriate county government organs, determine the requirement of drugs and medical supplies in public health facilities.

Additionally, the committee used the Facility Improvement Fund Operation Manual (Health Centres- December 2022) Section 4.3 that demands for the need to have a waiver system that will not be abused and lead to revenue loss. It also provides for the procedures for processing a waiver.

Section 47 (2) of The Bungoma County Health Services Act, 2019 under the Financial Provisions and Procurement that gives authority to a hospital classified as County Teaching and Referral Hospital, County Referral Hospital, County Hospital and Sub-County Hospital under section 8 to be a procuring entity.

Part (IV) of the Bungoma County Health Services Act No.5 of 2019, more particularly Sections 29 and 30 on Health planning and Management.

The committee also relied on the provisions of section 149(1) of the Public Finance Management Act, 2012 that talks about the responsibilities of accounting officers designated for county government entities. The act states that:

An accounting officer is accountable to the County Assembly for ensuring that the resources of the entity for which the officer is designated are used in a way that is—

(a)lawful and authorised; and

(b)effective, efficient, economical and transparent

Further, Article 195 of the Constitution, stipulates as follows;

- 1) A County Assembly or any of its committees has power to summon any person to appear before it for the purposes of giving evidence or providing information.
- 2) For the purposes of clause(1),an Assembly has the same powers as the High Court to-
 - a) enforce the attendance of witnesses and examining them on oath,affirmation or otherwise;
 - b) compel the production of documents;and
 - c) issue a commission or request to examine witnesses abroad.

CHAPTER THREE

3.1 PROCUREMENT PLAN AND PROCESS

Procurement Plan

Mr. Speaker Sir.

The Procurement Plans for FY 2022/23 provided to the committee by the three facilities show that for each financial year, the plans are prepared at the facilities pursuant to the provisions of the Public Procurement and Disposal Act 2015, Section 56, Sub Section 1.

Section 47 (2) of The Bungoma County Health Services Act, 2019 has given authority to a hospital classified as County Teaching and Referral Hospital, County Referral Hospital, County Hospital and Sub-County Hospital under section 8 to be a procuring entity. This thus mandates these facilities to adhere to the Public Procurement and Asset Disposal Act in preparing their respective procurement plans.

Following the foregoing, the annual plans are aligned to the plans by the Ministry Headquarter, and are normally based on revenue collection and are then agreed upon by a facility's Health Management Team which includes departmental heads. The the annual plans are further approved by the respective hospital boards.

Procurement Process of pharmaceutical and non-pharmaceutical

The procurement documents relating to tender adverts, opening, evaluation, inspection and acceptance were submitted to the committee by the three level four facilities. The committee scrutinized the documents to ascertain the authenticity of the procurement process. The gaps identified in the process were as follows:

- a) Lack of approvals of purchase requisitions from user department to procure pharmaceuticals and non-pharmaceuticals.
- b) Inadequacy in documentation during tender advertisement.
- c) Lack of appointment letters for opening and evaluation committees by the Accounting Officer.
- d) Lack of opening minutes for the advertised tenders by the opening committee.
- e) Lack of evaluation reports from the evaluation committees.

- f) There was no professional opinion from the head of supply chain to the Accounting Officer.
- g) There was no notification of award to the winning bidders/suppliers.
- h) There were no regret letters for unsuccessful bidders who participated in the particular tenders.
- i) There was no acceptance letter from the winning bidders
- j) Lack of appointment letters for the members of the inspection and acceptance Committee pursuant to Regulation 35 of the Public Procurement and Asset Disposal Regulations 2020 as read together with section 48(1) of the Public Procurement and Asset Disposal Act.
- k) There were no reports to accompany the Inspection and Acceptance certificates pursuant to Regulation 166 (2) and Regulation 35 (6) of the Public Procurement and Asset Disposal Regulations 2020 as read together with section 48(4) of the Public Procurement and Asset Disposal Act.

Management response

The medical Superintendents for Bungoma, Kimilili and Webuye level four hospitals clarified on the procurement process as follows:

That the pre-qualification of suppliers of hospital units is usually done at the County headquarter procurement department and a list of pre-qualified suppliers sent to various facilities. The facilities procure their pharmaceutical and non-pharmaceuticals mainly from KEMSA and the Mission for Essential Drugs and Supplies(MEDS).

However, due to delays in KEMSA, stocks-outs and low refill rates, the hospitals procure from other suppliers on framework agreements after floating quotations to pre-qualified and known suppliers as per section 114 of the KEMSA Act, no. 20 of 2020. They also maintain a fair and equitable rotation among the persons that are on the pre-qualified list from the County Supply Chain and the Hospital.

All suppliers who are interested in doing business with the facilities are required to provide their profiles and all the pre-qualification documents. They are then pre-listed according to the various groups and areas of interest. Requests for quotations are then floated and the suppliers who meet the criteria are enlisted on framework contract.

Users raise requisitions which are then approved for subsequent raising of Local Purchase Orders for goods or Local Service Orders for services. Goods and Services will be delivered or rendered respectively where an inspection and acceptance exercise will be undertaken. Upon satisfaction of the items, the goods will be entered into stores ledger/stock cards/inventory ready for ordering by respective requester for use. For services, if inspected and accepted, it will commence the payment process.

Once the supplies are delivered with all documentations the Medical Superintendent appoints the inspection and acceptance team which certifies the quality, quantity received and value for money.

Committee's observations

1. Procurement plans were not being fully followed especially during the alternative procuring plans.
2. The roles of the facility in-charge, the chief officer and the ministry of finance is not clear in terms of pre-qualification.
3. KEMSA supplies are normally delayed hampering service delivery in facilities
4. KEMSA supplies what is in stock leaving the facilities to look for other suppliers on framework agreement on what they need.
5. The inspection and acceptance committee is an Ad Hoc committee which should be rotational.

3.2 CONTRACT AGREEMENTS

Mr. Speaker Sir.

The committee identified that a limited number of contract agreements were provided compared to the provided L.P.Os and LSOs. Notably, the contracts were executed by unqualified persons because there were no legal persons among the signatories.

The entities did not provide monthly contract progress reports as required under Section 152 of the Public Procurement and Disposal Act, 2015.

Management response

The management of the three level four hospitals responded on this issue as follows;

The contract agreements are entered with suppliers or contractors by the Medical Superintendent and the directors or sole traders of companies either by drafting a

contract agreement or signing an L.P.O or an L.S.O. For contracts that are complex and require technical supervision, the facilities normally write letters to the relevant department to second a technical officer to assist in the technical supervision. These technical officers include road works officers, county planners, county surveyors and officers from public works who are there to ensure that the technical requirements are achieved to required standards. Also, a supervision team is put in place to help so that the contractor does a good job within the required time-frame. The payment certificates are then prepared by the relevant technical departments.

Committee observation

1. The committee observed that the L.P.Os and L.S.Os though relied upon by these facilities, are not legally binding for an agreement as much as they are for purchases.
2. The contract agreements are not drafted and signed by among others, the office of the County Attorney pursuant to section 135 of PPADA 2015.

3.3 REVENUE AND EXPENDITURE

Mr. Speaker Sir.

The committee upon scrutiny of the bank statements provided by the three level four hospitals, identified the following gaps:

1. Most statements did not bear the account names and numbers of the facilities responsible.
2. The bank statements provided contained the last pages of the monthly statement only, and did not give details of amount of revenue banked and withdrawals made during the period.
3. There was inequality in the revenue collected, revenue banked and revenue expended at the facilities.
4. Expenditure reports provided were just a one line item giving total expenditure per vote for the 11 months' period as opposed to a monthly breakdown of expenses.

Management response

Revenue Collection

The management of the three level four hospitals explained to the committee that whereas revenue collection is up to date, they could not provide full hard-copies of

the statements because they were bulky given the numerous transactions done for services rendered in the year under review. They also said it won't be cost effective to generate them. The reports for collection and banking for the year were provided to the committee.

Expenditure reports.

The three Sub-County hospitals are automated on Health Management Information System(HMIS/Funsoft) which is to prevent revenue leakages. The facilities are cashless where money is paid through a Paybill number which is banked directly to the hospital's KCB account. Withdrawals are only done through cheque system.

During the year under review, there were no hospital boards because their term of office had expired. The AIE were prepared by the Medical Superintendent after the Hospital Management Committee had approved the budget. Then it was approved by the Chief Officer –Health & Sanitation, thus giving the authority to incur expenditure at the facility.

Management of Expenditure Reports

During the budget implementation, the expenditure reports are taken to the Executive and Expenditure Committee(EEC), Hospital Management Team(HMT) and the Hospital Management Committee(HMC) for scrutiny on conformity as per the amount and item code. The management of the three level four Hospitals provided signed minutes of the management committee sanctioning and approving the expenditures.

Committee's observation

1. The facility management only provided reports on collection and banking for the year under review but not full bank statements. The management claimed that statements are bulky given the numerous transactions done for services rendered, and that it won't be cost effective to generate.
2. The committee noted that though the management only gave explanation on how revenue is collected, banked, withdrawn and expended, the question of inequality in revenue collected, revenue banked and revenue expended by the facilities was not clarified.

3.4 WAIVER REPORT

Mr. Speaker Sir.

The Public Finance (County Governments) Regulations 2015, Section 64 stipulates that an accounting officer or receiver of revenue or collector of revenue shall include in the report under paragraph (1), the following details in respect of each waiver or variation—

- a) the full name of each person benefiting from the waiver or variation;*
- b) the amount of tax, fee or charge affected by the waiver or variation;*
- c) the year to which the waiver or variation relates;*
- d) the reasons for the waiver or variation; and*
- e) the law in terms of which the waiver or variation was granted.*

Additionally, the Facility Improvement Fund Operation Manual (Health Centres-December 2022) Section 4.3 stipulates the need to have a waiver system that will not be abused and lead to revenue loss. It provides the procedures for processing a waiver as follows:

- a) Officers in charge of health centres decide if a waiver will be authorized.*
- b) A waiver book must be used to record waivers granted and each waiver must have a number.*
- c) The waiver number must be recorded in the cost sharing section of the department's service registers. The number and value of waivers granted is shown on the monthly departmental summary.*
- d) The monthly Revenue Summary Report sent to the DMOH shows the total value of waivers granted.*

Deciding whether or not to grant a waiver

Mr. Speaker Sir.

The decision to grant a waiver or not is based on history taken and observation of the status of the patient and the patient's relatives. Information noted on the waiver form (occupation, number of children, means of transport, alcohol and cigarette consumption, and type of clothing) is carefully considered.

Patients who should be sympathetically considered for a waiver include; students away from home with no funds of their own; patients with chronic illnesses; and patients who have spent a lot of money to travel to the facility. A partial waiver may be granted where part payment has been made.

Recording waivers

A book is used to record all waivers granted. The following information is recorded in the book for each waiver:

- a) Waiver number, running consecutively from 1;
- b) Patient's name, age, sex, marital status, occupation, address;
- c) Inpatient or outpatient number;
- d) Date of treatment or discharge;
- e) Services provided;
- f) The total amount charged;
- g) The amount of money waived; and
- h) Name and designation of the person granting the waiver.

Monthly review of waivers granted

The value of waivers granted is checked by the Health Committee Management Team(HCMT) when reviewing the monthly Revenue Summary Report.

The District Hospital Management Team (DHMT) members review the level of waivers granted during supervision visits. When reviewing the level of waivers, it is important to remember that too many waivers may mean that the system is being abused; few waivers may mean that hardship cases are not being identified and that patients who need care may not be receiving it.

The committee found the following gaps in the Waiver reports by the three facilities under review;

- a) Social Work Department report on waivers was not submitted. The report ought to contain the assessment of the patient's ability, home visits and confirmation of the authenticity of the information provided by the client.
- b) There was no proof of existence of a waiver committee from the documents submitted.
- c) There was no proof of approvals by the Medical superintendent.
- d) The reason for the waivers was uniform across all the patients, being poverty and inability to pay.

From the analysis, the waiver procedure was not fully and uniformly followed by the facilities.

Management response

There exists a Waiver System in the facilities to cater for vulnerable cases who are unable to pay the Hospital Bill. Waiver and exemption of hospital bills are need based. The Sub County Hospitals have waiver committees in place that meet every two weeks to evaluate needy cases to be waived or exempted. The process begins from the department in-charge where the patient is and the social worker's report. It's worth noting that waived and exempted hospital bills are not reimbursed by the County or partners hence loss to the facility revenue. The role of Medical Superintendent is to constitute a waiver committee and approve waivers.

The following are members of the waiver Committee: Hospital Administrator, Medical Social Worker, Nursing Officer who chairs the meeting, Accountant, Health Records Officer, and Laboratory Officer. The waiver committee is involved in the following:

- 1. The decision-making criteria for granting or declining waivers are on a case-by-case basis based on socioeconomic status.
- 2. The committee evaluates the eligibility for waiver based on the case history presented by a Medical Social Worker, who assesses the socioeconomic status of the family and follows through with local administration and home visits.
- 3. The committee advocates for patient enrolment on NHIF.

4. The committee then uses Medical Social Worker findings to recommend the patient for waiver or decline until further investigations are done.
5. The waiver book that is serialized is used to waive and exempt patients.
6. Approval for waiver is done by the Medical Superintendent or by H.A.O.
7. The Social Worker makes monthly waiver and exemption reports that are submitted to the accounts office for their financial report.
8. Social workers have a list of names, IPs number, age, date of admission, and date of discharge, plus the amount waived, exempted and paid.

Committee's observation

1. The waiver system is not clear. The waiver committee does the approvals in some facilities and the reasons for granting waivers or exemptions was not uniform across the facilities.
2. From the analysis, the waiver procedure was not fully and uniformly followed by the facilities.
3. It's worth noting that waived and exempted hospital bills are not reimbursed by the County or partners hence loss to the facility revenue.

CHAPTER FOUR

COMMITTEE'S GENERAL OBSERVATIONS

The following were observed across all the three level four facilities:

1. The Contract Agreements were not legally sanctioned as they were deemed to be executed by unqualified persons.
2. There was contravention of Section 152 of the Public Procurement Disposal Act 2012 which requires the procuring entity to submit progress reports on all procurement acts.
3. The bank statements provided were inadequate to effectively conclude on the facility's transactions. The bank statements lacked key features as the account names, numbers and details of amount of revenue banked and withdrawals made during the period under review.
4. The facility management only provided reports on collection and banking for the year under review but not full bank statements to the committee. The management claimed statements are bulky given the numerous transactions done for services rendered, and that it won't be cost effective to generate.
5. The committee noted that though the management only gave explanation on how revenue is collected, banked, withdrawn and expended, the question of inequality in revenue collected, revenue banked and revenue expended by the facilities was not clarified.


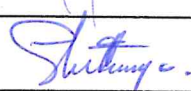
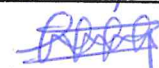
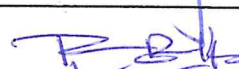



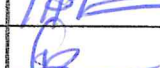
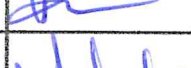

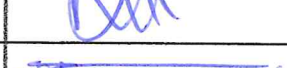
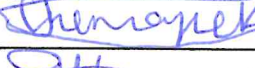
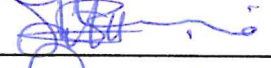
COMMITTEE'S GENERAL RECOMMENDATION

Mr. Speaker Sir, the committee therefore, gives the following recommendations:

1. **THAT** subsequently, all tender awards by level four facilities should be ratified through legally binding contracts. In addition, the facility management should ensure the contract agreements are drafted and signed by among others, the office of the County Attorney. Pursuant to section 135 of PPADA 2015, all goods and services must have a duly filled, signed and stamped Contract agreements.
2. **THAT** Procurement plans should henceforth be prepared pursuant to section 53 (2) of the Public Procurement and Assets Disposal Act 2015 in line with Public Procurement and Assets Disposal Regulations 2020, third schedule.
3. **THAT** henceforth, pursuant to section 48 of PPADA 2015, all goods and services procured must have inspection and acceptance reports and certificates.
4. **THAT** valid bank statements must be provided for effective oversight of the facilities revenue collections and expenditures.....
5. **THAT**, level four Hospitals should adhere to provisions of section 4 (2) of the revised Kenya Medical Suppliers Authority Act, no. 20 of 2015. The Act states that the Cabinet Secretary shall, in consultation with the Authority and the appropriate county government organs, determine the requirement of drugs and medical supplies in public health facilities.
6. **THAT** the County Executive Committee Member for Health and Sanitation should develop clear and uniform County policy that will ensure compliance to Public Regulations and procedures provided on administration of waivers, exemptions and reimbursements which are cited as major contributors to the low revenue base in the county Health facilities.
7. **THAT** having been appointed as accounting officers, the level four Medical Superintendents should now adhere to the provisions of section 48(1) &(2) of the Public Procurement and Assets Disposal Act, 2013 in establishing Ad Hoc committee known as the inspection and acceptance committee.

ADOPTION OF THE REPORT

We the undersigned members of the Sectoral Committee on Health affix our signatures adopting this report with the recommendations therein.

	MEMBERS NAME	DESIGNATION	SIGN
1	Hon. George Makari	Chairperson	
2	Hon. Jerusa Aleu	Vice- Chairperson	
3	Hon. Meshack Simiyu	Member	
4	Hon. Anthony Lusenaka	Member	
5	Hon Tony Barasa	Member	
6	Hon. Ndasaba Dorcas	Member	
7	Hon. Jack Wambulwa	Member	
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12	Hon. Joan Kirong	Member	
13	Hon. Orize Kundu	Member	
14	Hon. Mourine Wafula	Member	
15	Hon. Jacob Psero	Member	