

COUNTY GOVERNMENT OF BUNGOMA

COUNTY ASSEMBLY OF BUNGOMA

COUNTY ASSEMBLY DEBATES

THE DAILY HANSARD

TUESDAY 5TH DECEMBER, 2023

Afternoon Sitting

Third County Assembly

Second Session

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COUNTY ASSEMBLY OF BUNGOMA
THE HANSARD- OFFICIAL REPORT
TUESDAY, 5TH DECEMBER, 2023

The House met at the County Assembly Chamber at 2:30 p.m.

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

PRAYER

PAPERS

1. REPORT BY THE BUDGET AND APPROPRIATIONS COMMITTEE ON THE BUNGOMA COUNTY GOVERNMENT FIRST SUPPLEMENTARY BUDGET FOR THE FINANCIAL YEAR 2023/24.

Hon. Jackson Wambulwa (Chairperson, Budget and Appropriations Committee): Thank you Hon. Speaker, I hereby table a report by Budget and Appropriations Committee on the first Supplementary Budget, financial year 2023/24

(Paper laid on the Table by Hon. Jackson Wambulwa)

Mr. Speaker: Thank you Hon. Jack, Honourable Members the report by the Budget and Appropriations Committee on the first supplementary budget for the financial year 2023/24 is hereby tabled and it formally becomes property of the House.

2. REPORT ON THE COUNTY BUDGET REVIEW OUTLOOK PAPER FINANCIAL YEAR 2023/24

Hon. Jack Wambulwa (Chairperson, Budget and Appropriations Committee): Thank you Hon. Speaker, I rise to table a report on the Bungoma County Budget review and outlook Paper Financial Year 2023/24.

(Paper laid on the Table by Hon. Jackson Wambulwa)

Mr. Speaker: Honourable Members, the report by the Budget and Appropriations Committee on the Bungoma County Budget review Outlook Paper for financial year 2023/24 is now tabled and now becomes property of the House.

NOTICES OF MOTIONS

1. REPORT ON THE BUNGOMA COUNTY GOVERNMENT FIRST SUPPLEMENTARY BUDGET

Hon. Jack Wambulwa (Chairperson, Budget and Appropriations Committee): Thank you Hon. Speaker, I rise to give a notice of motion that this House adopts a report by the Budget and Appropriations Committee on the First Supplementary Budget for the financial year 2023/24

Mr. Speaker: Issue for the next one as well

2. REPORT ON THE COUNTY BUDGET REVIEW OUTLOOK PAPER FINANCIAL YEAR 2023/24

Hon. Jack Wambulwa (Chairperson, Budget and Appropriations Committee): Thank you Hon. Speaker, I hereby issue a notice of motion on the Bungoma County Budget Review and Outlook Paper Financial Year 2023/24.

Mr. Speaker: Honourable Members notices of motions have been dully issued by the Budget and Appropriation Committee for the Bungoma County Government first Supplementary Budget for financial year 2023/24 and equally for the Bungoma County Budget Review Outlook Paper for financial year 2023/24. I hereby ask the Clerks at the Table to share these reports with the Honourable Members on their gadgets. The same are coming up as motions from tomorrow morning on our Order Paper as scheduled by HBC, especially the budget.

COMMUNICATION FROM THE CHAIR

Mr. Speaker: Before we proceed, I think let us deal with this issue of Hon. Aggrey Mulongo of Kibingei Ward, bring him in he gives an apology to the House so that we are able to move... he should be brought in by the sergeants and Honourable MCAs of his coalition. I hope we have a microphone for him.

Hon. Aggrey Mulongo is ushered into the chambers

Honourable Members, on 23rd of November, 2023 during the 2:30 p.m. session, Hon. Aggrey Mulongo was ruled to have been grossly out of order by the Speaker of that day and he arrogantly refused to apologize and said he would rather walk out than apologize. Now, I will ask you afresh that you tender an apology to the House and the Honourable Members here and resume your seat.

Hon. Aggrey Mulongo: Thank you Mr. Speaker Sir for giving me this chance to apologize and withdraw whatever happened on 23rd. I apologize.

Mr. Speaker: What are you withdrawing first, what were the contents? What did you say that amounted to gross misconduct?

Hon. Aggrey Mulongo: I said that the Speaker was partisan.

Mr. Speaker: So are you withdrawing what you said?

Hon. Aggrey Mulongo: I am withdrawing what I said Mr. Speaker.

Mr. Speaker: Now tender an apology to the MCAs and Office of the Speaker

Hon. Aggrey Mulongo: I take this opportunity to apologize to this Honourable House that I will not repeat it.

Mr. Speaker: Honourable Members, Hon. Aggrey Mulongo can resume his sittings. In the earlier sanctions by the Hon. Speaker, we have had a lengthy discussion with the leadership of the House from the minority and majority sides and we do not want to start raising funds for one of our colleague having lost his life out of pressure; because he was in the hospital arising from these problems and Hon. Milliah can confirm that...

You can resume your seat.

Hon. Aggrey Mulongo: Thank you Mr. Speaker

Mr. Speaker: The suspension of 21 days is lifted; you have so far served that number of days... you resume your committee sittings from tomorrow and then be a man of respect in this House.

As we do so Honorable Members, at your own time go and examine your attendance in this House. Anytime any of you asks me for permission, I generate and file a copy. I will tell you travel safely but on my side I file your permission to be a way. When you resume in the month of February, I will give each individual their attendance record and you will see whether you still have the eight sittings on your side or they are all gone.

Let us proceed

QUESTIONS AND STATEMENTS

1. QUESTION NUMBER 69, MEMBER FOR TONGAREN WARD

It is notified that pursuant to Standing Order No. 47, the following Chairpersons to respond to the question;

- I) CHAIRPERSON SECTORAL COMMITTEE ON TOURISM, WATER, ENVIRONMENT AND NATURAL RESOURCES

Mr. Speaker: The owner of the statement is Hon. Okasida Ipara. The response is to come from the Chairperson. Hon. Okasida you have a copy of the response?

Hon. Cheseto are you ready with the response... proceed

Hon. Martin Cheseto: Thank you Hon. Speaker for giving me this chance. I want to issue a report by the Committee on Tourism, Environment, Water and Natural Resources on status of statement referred to the Committee.

Standing Order No. 54 states that:

The Chairperson of a Committee shall submit a progress report to the House on Questions-

- a. Referred to the Committee;*
- b. Replied to;*
- c. Which the Committee has directed a County Executive Committee Member to provide additional information or further reply; and*
- d. Pending before the Committee.*

Pursuant to the provision of Standing Order No.49 of the Bungoma County Assembly Standing Orders, a statement was sought on the Floor of the House on 8th November, 2023. In his communication, the Hon. Speaker directed that all statements be handled by the committee within 21 days and report submitted to the House.

It is upon this premise that the Committee on Tourism, Environment, Water and Natural Resources invited the Chief Officer on 15th November, 2023 via Ref BCA/CC/SECT/6 VOL.III (3) for oral submissions on the responses he had submitted to the Committee Via Ref CG/BGM/WNRETCC/CEC/COR/VOL.1(99).

Statement Referred

Mr. Speaker Sir.

The statement was sought by Hon. Ipara (Member of County Assembly Tongaren Kiminini Ward) on the status of the Binyenya and Lukhuna Water Boreholes upgrade. In his statement, the Hon. Member sought for information with evidence on:

1. Provide information on the tender opening minutes of the contract to upgrade the boreholes.
2. Provide the two registers: the list of bidders and state the named and /or identity of the contractor awarded the tender for upgrading.
3. Provide the procurement documents (tender advert, bills of quantities, evaluation report, contract agreement, opinion of the procurement Officer in accordance with Public Procurement and Disposal Act. 2015 for the upgrading of the aforementioned boreholes and acceptance letter(s).
4. State whether there was a budgetary provision for the upgrade in accordance with section 44(2)(a) of the public procurement and Disposal Act,2015 and if yes state how much;
5. State size and quoted price of the Water Pumps to be installed for the said boreholes;

6. State how many Solar Panels were to be fitted on each borehole and what were the respective specification (watts)
7. State whether the projects were executed in accordance with the respective bills of quantities and specifically what is the depth in meters of each borehole;
8. Provide information and or a conclusive report as to whether the said boreholes were handed over by the contractor to the County Government, what was the total cost of each borehole, how much was paid and how much is the balance if any;
9. State the current status of the borehole and how regular mechanical maintenance is undertaken;
10. If completion and handing over has been done, what was the period that contractor was supposed to remain on site upon completion to monitor the performance and serviceability of the boreholes;
11. Confirm if the two boreholes upgraded are serviceable and have sufficient water;
12. What is the market price for a 2-horsepower solar water pump in Bungoma Town, Eldoret and Nairobi City?

The response by the Department

The response on the question by the Department was availed to the Committee through the Office of the Clerk on 24th November, 2023 as follows:

1. Tender opening minutes. The extract of online tender opening minutes was attached to the letter.
2. Registers and contractor information. The registers containing the list of bidders and the contractor awarded the tender have been maintained in accordance with procurement regulations. Details of the awarded contractor (Hemillers Company Limited) were attached.
3. Procurements Documents. All necessary, procurement documents, including the tender advertisement, bills of quantities, evolution reports, contract agreement, acceptance letter and the procurement officer's opinion in compliance with the Public procurement and Disposal Act, 2015 were availed.
4. Budgetary provision. The budgetary provision was allocated at a cost of Kshs3,000,000 and duly utilized for the implementation of the water projects in reference.
5. Water Pump specification. The contract stipulated specific requirement for the water pumps, including a maximum delivery head of 110m and a minimum water discharge of 1000 litres per hour. These specifications were diligently adhered to during the contract management and installation process as outlined in the lump sum contract price.
6. Solar panels installation. The number of solar panels for each borehole was determined basing on quotation received from suppliers, as outlined in the lump sum contract item. The decision making process followed the guidelines established

within the contractual framework. The specifications in watts are as presented on the attached approved quotation.

7. Adherence to Bill of Quantities. The project was executed in strict accordance with the bill of quantities, and the boreholes respective depths are detailed in the attached test pumping report, conducted after thorough testing procedures.(Binyenya Boreholes is 80 metres deep while the Lukhuna Market one is 63 metres deep).
8. Project cost and payments. The total cost for implementing the two boreholes aligned with the contracted sum specified in the Bill of quantities at a total of Kshs2, 927,840.00 as per attached contract agreement. Regarding payments, the contractor has received less than 10 per cent retention sum to account for the defect's liability period, leaving 10 per cent of the contract sum yet to be disbursed. The two boreholes have not yet been handed over officially to the County Government and this will only be after making good of the defects and release of the 10 per cent retention sum.
9. Current borehole status and maintenance. Presently, the Binyenya water is fully operational and currently in use. However,Lukhuna water borehole has encountered breakdowns and the contractor has been engaged to address the defects. Future provisions by the department have been put in place address smooth operation and maintenance of the projects.
10. Defects liability period. Upon completion, the contractor was supposed to remain on site to monitor the performance and serviceability of the water project for a period of two months after practical completion of stipulated in the contract. Completion and handover have not been done yet.
11. Serviceability of upgraded Boreholes. The upgraded boreholes are serviceable and can provide sufficient water. Test pumping report is attached.
12. Market price for solar water pump. Information regarding the market price for a 2-horse power solar water pump in Bungoma town, Eldoret, and Nairobi City is presented in the attached Sample quotations from different suppliers and the same information is available from different other suppliers.

The Chief Officer Tourism, Environment, Water and Natural Resources appeared before the committee on 27th November, 2023 at 9:00 a.m. but the interrogation was deferred to 4th December, 2023 due to interrogation of the first supplementary budget.

The Chief Officer appeared before the Committee on 4th December, 2023 at 11:00 a.m.

He clarified on issues raised by the owner of the question Hon Johnston Ipara and Committee members. One issue that was contentious was the department being unable to establish how much from the contract sum of Kshs2, 927, 840.00 each borehole consumed.

The Chief Officer did not have an immediate answer on how fast the Lukhuna borehole will be fixed to help the local people access water.

The owner of the question sought commitment from the chief Officer on how the department will find a lasting solution to Lukhuna borehole, the Chief Officer committed to work out and fix the problem urgently something that made the owner of the question **satisfied** by the response.

Thank you. The response is signed by me, Hon. Cheseto on behalf of my chairman who is Hon. Edwin Opwora, MCA Bwake Ward

Mr. Speaker: Hon. Cheseto you have confirmed you are the one who signed it on behalf of the chairperson

Hon. Martin Cheseto: Yes, I am the one who did

Mr. Speaker: Hon. Ipara, the last statement here is saying that the owner of the question was satisfied with the response, I can't speak for you; it is you to confirm that. The microphone is yours Hon. Ipara...

Hon. Johnston Ipara: Thank you Hon. Speaker. I appeared twice on the Committee on Tourism and Water and it was yesterday when the whole issue was addressed with some reservations. On item number two on the list that was presented to the Committee that participated in the tender opening, it was computer generated and it did not even indicate who the chairperson of that committee was. This meant that all of them were chairpersons and members at the same time. Hon. Speaker, I also wish to address...

Mr. Speaker: Hon. Ipara, what do you mean; that all members of the tender opening committee were chairpersons and members? How was the meeting conducted?

Hon. Johnston Ipara: What I am saying is that it was not clearly stated who the chairperson of the committee on tender was opening was. The regulations require that one of them must be the chairperson and another one who is drawn from the procurement department is the secretary. That was not clear.

Mr. Speaker: It is okay.

Mr. Speaker: On item number five, the water pump at Lukhuna is only able to pump water for five minutes contrary to where they are saying a 1000 litres per hour. It only takes five minutes and it stops; and therefore, it was not capable to discharge water as stated in this document. I wish to confirm that the water pump for Binyenya was 2hp and the water pump for Lukhuna was 1.5hp. There were two disparities; and the lump sum price was Kshs2.9 million. That is why you hear from the chairperson that the Chief Officer was unable to explain those disparities.

Mr. Speaker: Was the contract awarded to the same contractor?

Hon. Johnston Ipara: It was the same contractor who was performing the two contracts for Binyenya and Lukhuna; which were joined together.

Mr. Speaker: Still, when you look at depth of each borehole and the items like installation of the water pump and solar panels; you can't quantify and I wonder why they were unable to do.

Hon. Johnston Ipara: That is why I am informing this House through you that the Lukhuna pump which is 1.5hp is only able to discharge water for five minutes then it stops. That informs you that the people of Lukhuna and in particular Tongaren Ward did not get value for money.

Mr. Speaker: Before you finish, are you satisfied with the response.

Hon. Johnston Ipara: I wanted to draw to your attention the omissions that the committee has done so that I conclude.

Hon. Milliah Masungu: Thank you Mr. Speaker for giving me this chance. I wish to be informed; during tender opening session, the requester of the statement has informed this House that as per the regulations, this committee must have a chairperson. I am wondering which chairperson, a member of this House? I wish he could have elaborated so that we understand...

Mr. Speaker: I think you missed a point. That during the tender opening; what was availed to the committee was a computer generated document. From the list of the membership, you cannot tell who the chairperson was and who the members were.

Hon. Milliah Masungu: He even quoted a regulation that I did not get properly; that it is a requirement.

Mr. Speaker: I will allow him to clarify.

Hon. Johnston Ipara: Thank you Hon. Speaker. I am happy for the clarification sought by Hon. Milliah. I was saying this; during the tender opening, the department is supposed to appoint committee members for that purpose and it clearly states that in the appointment letter, Hon. Speaker will be the chairperson and Hon. Museveni will be the secretary to that committee. In the computer generated document, it did not indicate; and even the chairperson who presided over did not see that and when I pointed it out, they were in total agreement.

Mr. Speaker: I think it is clarified now. He has not meant that I was to be the chairperson of the tender opening committee. He has used me as an example. I hope it is clarified. Do you have something to add on?

Hon. Johnston Ipara: Thank you and I beg for your patience so that Honourable Members can also learn what we are experiencing from Tongaren/Kiminini Ward. I also wish to clarify that payment was made and the contractor was supposed to remain on site for two months which he did not. Even that beats the logic where it states that upon completion of the two months of waiting, the project is supposed to be handed over immediately. Six months after, the project has not been handed over.

The tender was advertised as a joint tender for Lukhuna/Binyenya, the lumpsum was for both projects. What beats logic because Lukhuna was supposed to be fitted with a 2hp, same to Binyenya and the panels were supposed to be similar of 285 Watts; but in Binyenya, they did provide eight panels of 285 Watts and in Lukhuna they provided four panels of 285 Watts. This is for your information Hon. Speaker.

Lastly, the market price for these pumps... the Department relied on Davis and Shirtliff on their quotations. I also sought details from Davis and Shirtliff who informed me that the pump of 2hp total cost with complete cables and switch was Kshs85, 000 and panels for eight of them comes to a total of Kshs60, 000. When I went to the open market; other than Davis and Shirtliff, I found that a similar pump complete with all accessories was Kshs60, 000 and panels each of them was Kshs34, 000. Therefore, you can see the disparities and how the people of Bungoma County and not Tongaren alone are denied their value for money. I did agree with them after they were unable to give a good explanation on their own figures.

Mr. Speaker: Hon. Ipara, I don't understand you. Having not agreed with their figures, you end up giving them a benefit of doubt.

Hon. Johnston Ipara: Hon. Speaker, I don't want to speak for everybody; the chairperson can also speak on this and I want to believe my neighbour who happens to be Hon. Kikechi was also present. I was perplexed the way the Chief Officer was unable to interpret his own figures. Based on how they were unable to, I gave them a benefit of doubt; which means they did not do the work successfully, but you give them room to improve.

2. CHAIRPERSON SECTORIAL COMMITTEE ON AGRICULTURE, LIVESTOCK, IRRIGATION AND COOPERATIVE DEVELOPMENT

Mr. Speaker: This is a question sought by Hon. Jerusa Aleu. I have seen Hon. Simotwo who is stepping in for the chairperson of the said Committee. Are you a member of the Committee Hon. Simotwo?

Hon. Franklin Simotwo: Yes.

Mr. Speaker: You can proceed.

Hon. Franklin Simotwo: That you Mr. Speaker for allowing me to give this progress report from the Committee on Agriculture, Livestock, Fisheries, Irrigation and Cooperatives Development on the status of the referred question to the Committee.

Standing Order No. 54 of Bungoma County Assembly states that:

The chairperson of the committee shall submit a progress report to the House on the questions;

- a) referred to the committee and reply which the committee has directed the County Executive Committee Member to provide additional information or further reply pending before the committee pursuant to the provisions of Standing Orders No. 47 (2) (c) of Bungoma County Assembly Standing Orders.

Statement was sought on the floor of the House by Hon. Jerusa Aleu on 8th November, 2023. In his communication, the Hon. Speaker directed the statement to be handled by the committee and report to be submitted to the House.

On this premise the Committee on Agriculture, Livestock, Fisheries, Irrigation and Cooperatives Development invited the relevant Chief Officer to appear before the committee on 23rd September, 2023 for oral submissions and written responses before 23rd November, 2023.

The statement and response referred was sought by Hon. Jerusa Aleu, MCA, Milima Ward on status of the management of Naitiri Dairy Cooperative Society Limited.

In here statement, the Honourable Member sought for information and responses on;

1. Whether the Department has considered any inspection report on Naitiri Dairy Cooperative Society Ltd
2. What action has so far been taken on individuals adversely mentioned in the report, if any?
3. Whether the Department has carried out any financial audit on the books of account of the society
4. What steps have been made so far in an effort to recover any funds misappropriated?
5. Explain the going concern of the society and why Department took too long to intervene the management that led to the current status of the society
6. Explain the steps the Department is taking to revamp the society; bearing in mind that many people depended on it for livelihoods
7. What regulations or policies and guidelines has the Department put in place to ensure that only qualified and effective individuals are elected into the management of the cooperative within the county?

The chief Officer in charge of cooperatives appeared before the committee on 23rd September, 2023 at 11:00 a.m. to respond to the statement but the Committee noted that the response was general, not comprehensive and did not answer any of the questions asked conclusively; hence not satisfactory to the committee and the owner of the statement.

The Committee directed as follows pursuant to Standing Order No. 51 (1) (b), that;

1. That the Chief Officer to provide a comprehensive report on all questions asked and submit the report to the committee within seven days
2. The Chief Officer to authenticate the response and sign on it before submitting the said response to the Committee.

I signed on behalf of the chairperson, MCA, Naitiri/Kabuyefwe Ward.

Hon. Jerusa Aleu: Thank you Mr. Speaker Sir. It is true the Chief Officer appeared before the Committee and as the owner of the statement I was not convinced because all of my questions were not answered at all. Therefore, I am still waiting for a comprehensive response from the Department.

Mr. Speaker: The chairperson of Agriculture, Livestock, Fisheries, Irrigation and Cooperatives Development you have said seven days. I note that this is basically a response of the Department which is wanting. You will be given seven days to have the feedback. I can enhance it because I am seeing a situation where we will demand the CECM to appear before this House. It is a Department that is known for making fun of this House; which we will not allow. Before I make my final decision, I can see Hon. Joseph Nyongesa online.

Hon. Joseph Nyongesa: Thank you Mr. Speaker. I rise to seek for your indulgence on this so that when we have responses from the Executive, I don't know if such responses should be circulated to all members so that it cannot be seen to be personal, yet it is a concern of the entire House and we should participate. Right now, we are just listening and not getting it right. We need your direction so that in future we also own it.

Mr. Speaker: Thank you Leader of Majority. Honourable Members, I think it is unfortunate that we are discussing something that you are not aware. PCAs you are here, a response must be shared like any other report to allow Honourable Members participate; because cooperatives are in every ward in Bungoma County. It is not a personal issue for Naitiri/Kabuywe and that the Chief Officer and CECM are from the region. It is meant for our consumption and that is why a committee is comprised of 15 members and they are not all coming from that area where the problem is. The moment you give the owner of the statement a copy of the response, equally send the same to Honourable Members to prepare.

You will have seven days Hon. Simotwo, but I am worried; if you will not have a feedback from this department, we will remove this question from the Committee and handle the Chief Officer and CECM from here. If there is no response within seven days, automatically it will come back to us here so that they take us seriously. We will wait for seven days Hon. Jerusa.

Subsequently, Honourable Members, from a leadership meeting that we will be having with the CECM and Chief Officer coming before the Committee; including their directors. A situation where the CECM disowns the feedback from the Chief Officer is not something good from the same Department. Let us proceed.

MOTIONS

REPORT BY PUBLIC ACCOUNTS AND INVESTMENTS COMMITTEE ON THE AUDITOR GENERAL'S REPORT ON THE FINANCIAL STATEMENTS OF THE BUNGOMA COUNTY TRADE AND DEVELOPMENT FUND FOR THE PERIOD ENDED 30TH JUNE, 2022

Hon. Timothy Chikati (Vice Chairperson, PAIC): Thank you Hon. Speaker Sir. I stand to move a motion on the Auditor General's report on the financial statements for the Bungoma County Trade and Development Fund for the period ended 30th June, 2022. Page two is the table of contents, chapter one is on the mandate of the committee and if you call allow me Hon. Speaker to jump to acknowledgements on page eight.

Acknowledgement

Hon. Speaker Sir, the Committee wishes to express its gratitude to the office of the Speaker and the Clerk of the County Assembly for the support rendered in the as it discharged its mandate and compiling of this report. The Committee further wishes to thank the Fund Administrator and the Chief Officer for dutifully appearing before it and also for their cooperation.

Allow me Hon. Speaker to applaud each single Honourable Member and the secretariat for their exemplary work which made the interrogation for the said financial statements and production of the report a success. I congratulate you all.

Committee Membership

Public Accounts and Investments Committee as currently constituted comprises of the following members;

1. Hon. Everton Nganga.....Chairperson
2. Hon. Timothy Chikati.....V. chairperson
3. Hon. Anthony Lusenaka.....Member

4. Hon. Stephen Keiser.....Member
5. Hon. Benard Kikechi.....Member
6. Hon. John Wanyama.....Member
7. Hon. Everlyne Mutiembu.....Member
8. Hon. Alfred Mukhanya.....Member
9. Hon. Violet Makhanu.....Member
10. Hon. Jesrusa Aleu.....Member
11. Hon. Metrine Nangalama.....Member

On behalf of the Public Accounts and Investments Committee, I now wish to table this report and urge this House to adopt it with the recommendations therein. Signed by Hon. Everton Nganga, MCA, East Sangalo Ward; Chairperson of the Public Accounts and Investments Committee.

Chapter Two

The report of the Auditor General for the financial statements of Bungoma County Trade Development Loans Fund for the financial year ended 30th June, 2022.

Introduction

Hon. Speaker, Sir, this report was issued in accordance with the provisions of Article 229 of the Constitution of Kenya, 2010 and Section 35 Of The Public Audit Act, No. 34 of 2015.

Qualified opinion

1. Undisclosed material unascertained relating to sustainability of services

The statement of financial position reflects a balance of Kshs115, 679, 790 in respect to the current portion of long term receivables from exchange transactions arising from loan disbursements to beneficiaries since 2014 when the Fund was established. However, review of the schedule supporting the amount revealed that the last time the loans were issued was in 2019. At that time there were standing loans amounting to Kshs104, 189, 595 which were expected to have been repaid by the end of 2020. This indicates that the Fund is not in a position to disburse new loans and that there challenges affecting recoveries. This has not been disclosed in the financial statements in the circumstances continued sustainability to the Fund is doubtful.

Management response

We do acknowledge the raised concerns on the growing concern of the Fund. We are however trying our level best to ensure the Fund's regulations gazettelement is finalized within this financial year. We have already held the stakeholders meeting to enhance loan recoveries

through the established government structures. We are also finalizing the data validation exercise to ensure we have verifiable data on the loans issued in terms of the actual loan status i.e. deceased cases, cleared loans, bad and doubtful loans, active or running loans.

We have also held a round table stakeholders meeting to review the strategy on enforcement of loan repayments as well as sensitization program in all the wards to ensure we improve on loan recovery. These efforts have been boosted by the political good will by H.E. the Governor and other elected representatives on sensitization of the public on the importance of loan repayment to ensure the revolving fund is well sustaining.

Oral Submissions

In their oral submissions the management undertook to avail the following documents to the Committee for verification;

- a) Documents relating to current balances and schedules to show evidence of substantial recoveries.
- b) Evidence to show that the loans disbursed were secured
- c) Evidence to demonstrate the strategies so far put in place by management to boost loan repayment.

Committee's Observations

The Committee observes that Management had failed to recover outstanding loans dating back to 2014 since they became due for recovery amounting to Kshs104, 189,595 as reported in the report of the Auditor General.

It was also observed that failure to recover the loans that are outstanding since they became due for recovery as indicated in the audit report and as agreed to by management, implied that the amount of funds available for further loaning to qualified borrowers during the said period were adversely affected.

Committee's Recommendations

1. That for the purposes of the fund sustaining service delivery for trade development loans, through disbursement of low interest loans to qualified borrowers which is its core business, the Management through the Accounting Officer should as a matter of urgency scale up recovery efforts of all loan repayments that are due as indicated in the audit report; and a corresponding compliance report be submitted to the County Assembly within 60 days from the date of adoption of this report.
2. The CECM to evaluate and assess the long-term receivables with a view of ascertaining bad and doubtful debts in order to make a provision for the same in the financial

statements; to mitigate the effects of uncertainty in recovering the amounts. Data validation exercise for the verification of the loans to be concluded in three months from the adoption of this report and a report on the same submitted for confirmation to the County Assembly sector committee.

3. The CEC Member should fast track the review of regulations to consider provision of securities for loans advanced and insurance of the loan facilities. Loan repayments enforcement to be enhanced.

Cash and cash equivalents

The statement of financial position reflects a balance of Kshs3, 425,622 in respect of cash and cash equivalents which as disclosed in note 4 in the Financial Statements include a balance of Kshs340, 717 held in an Mpesa account. However, Mpesa statement as at 30th June, 2022 were not provided to support the balance, further, as disclosed in note 4 the operations account reflects a balance of Kshs3,081,182 which however is at variance with the reconciled balance of Kshs4,203 shown in the bank reconciliation statement for the month of June, 2022.

The variance of Kshs3, 076,979 has not been explained or reconciled. In the circumstances the accuracy and completeness of cash and cash equivalent balance of Kshs3, 425,622 as at 30th June, 2022 could not be confirmed.

Management response

The said amount remained outstanding during the transfer of funds from Mpesa collection account from the utility of working account which is a mirror settlement account for the collection account. We evidenced and availed the email correspondence to safaricom requesting for the statement for the same during audit since we were informed we could not access the Mpesa statement for the fund beyond six months. We are however yet to receive the working account. The variance of Ksh480 as per the cashbook and bank statement reconciliation is due to the bank charges for the operation account as per the attached bank statements.

Oral submissions

In their oral submissions, the management undertook to avail evidence in relation to un reconciled statements including Mpesa statements in regard to highlighted figures of Kshs340, 717 held in an M pesa account for committee verification.

Committee Observations

1. The M-pesa statements were provided to the committee for verification even though the amount of Kshs340, 717 could not be traced in the statements.

2. The variance of Kshs3, 076,979 in the bank reconciliation statements was not explained or reconciled by the Accounting Officer. The accuracy of the cash and cash equivalents cannot be confirmed.

Committee Recommendations

With lack of sufficient reconciliation recommendation for the cash and cash equivalents totaling to Kshs3,076,979, the Committee finds that the Administrator of the Fund is liable for misappropriation of the said funds and should be surcharged as per the laid down procedures in line with section 156(2) of the Public Finance Management Act; which provides that if the County Executive Committee Member for Finance reasonably believes that an Accounting Officer has engaged in improper conduct within the meaning of subsection 4, the County Executive Committee Member for Finance shall;

- a) Take appropriate measures to address the matter in accordance with the laid down procedures or
- b) Refer the matter to be dealt with in terms of the statutory and other conditions of employment applicable to that public officer.

Article 226 (5) of the Constitution provides that if the holder of the public office including a political office directs or approves the use of public funds contrary to law or instructions, the person is liable for any laws arising from that use and shall make good the laws whether the person remains the holder of the office or not. The Administrator of the Fund is thus found culpable for the unaccounted for sum of Kshs3, 076,979 which should be recovered in full.

3. Current portion of long term receivables from exchange transactions subsection one unsupported receivables balance. The statement of financial position reflects a balance of Kshs115,679,790 in respect of the current portion of long term receivables from exchange transactions which as disclosed in note 5 to the Financial Statements comprises of Kshs13,877,454 and Kshs101,802,336 relating to interest receivables on current loan repayment due respectfully.

However, loan repayment schedules were not provided to support the balance. In addition and as reported in the previous year's report analysis of the list of defaulters revealed that 188 defaulters are staff of the County executive of Bungoma who collectively were in arrears amounting to Kshs4, 728,004.

Explanation was provided for failure to recover these loans from the staff of the County executive. In the circumstance, the fair evaluation and recoverability of the current portion of long-term receivable balance of Kshs115, 679,790 could not be confirmed.

Loan recoveries

In addition, the statement reflect a balance of Kshs115,679,790 in respect of the current portion of the long-term receivables from exchange transactions and comparative balance of Kshs115,775,298. The difference of Kshs95,508 represents loan recoveries during the year under review. However, the statement of cash flows reflects loan recoveries of Kshs202, 864. The variance of Kshs107, 356 has not been explained or reconciled. In the circumstances the accuracy of loan recovery amount during the year under review could not be confirmed.

Management Response

We acknowledge the variance as stated. The computed figures are based on the total disbursement subsequent loan revolving and the loans repaid. The variances are due to the fact that the delinquency report obtained from the system and actual loan balance computed differ. The difference is basically due to the loan balances as per the manual recording of loan balances and the data captured in the system. We however are carrying out an intensive data validation exercise in all the wards to ensure all the loan beneficiary details are captured correctly and all the loan balances reconciled. Some of the reasons were duplicate loan accounts, erroneous ID numbers which are the unique identifiers in correct loan balances recorded.

We had started validation exercise with the village administrators; however, this process was stopped due to three main issues;

1. Lack of finances to enable the ward administrators to carry out the exercise.
2. Non-payment of software assurance to the system vendor making us not able to access the system
3. The political issues as it was termed as an exercise meant to harass and punish loan defaulters as opposed to obtaining data.

Oral submissions

The management submitted that it would provide documents to show check off deductions on the payroll including repayments schedules and evidence of recovery from the defaulters as civil debts. The management also undertook to submit evidence in regard to the loan action against the 188 defaulters who are staff of the County executive of Bungoma who collectively were in arrears totaling to Kshs4, 728,004.

Committee observations

The department availed a sample of loan repayment arrears list which showed that most of the businesses have since been closed with others not traceable after relocation to other areas. The recoverability of the loans is in doubts since the rate of repayment is at very slow rate with most of the loans almost doubtful.

2. The Fund Administrator has not reconciled the material differences between the manual and the system loan balances to a tune of Kshs107, 356.

3. It was observed that the management did not table evidence to committee verification on failure to institute recovery measures against 188 County executive staff that benefitted from the loans through check off system.

Committee Recommendations

Regulation 21 of the Bungoma County Trade Development Loans Fund Regulations 2014- 2019 stipulates that in the opinion of the unit, there has been or is likely to be any breach or of failure to comply with any condition or term of repayment in respect of a loan. The unit may forthwith;

a) Recover the loan from the beneficiary as a civil debt under the Debts Recovery Summary Recovery Act chapter 42 of the laws of Kenya; The amount of loan or the amount then remaining unpaid together with the interest there in.

b) Enforce or realize any security relating thereto.

The Committee therefore recommends that the department carries out a thorough data validation exercise so as to know the possible recovery amount and institute recovery through the civil debts.

Employees of the County Government who are beneficiaries to the Trade Loans should be recovered immediately from their payroll. A corresponding compliance report should be submitted to the County Assembly within 60 days from the date of adoption of this report.

2. The CECM to evaluate and assess the long term receivables with a view of ascertaining bad and doubtful debts in order to make a provision for the same in the Financial statements to mitigate the effect of un-sustained in recovering the amounts.

3. The CEC Member should fast track the review of regulations to consider revision of securities for loans advanced and insurance of the loan facilities, loan repayment enforcement to be enhanced.

Statement of comparison of budget and actual amounts

The statement of comparison and budget and actual amounts reflects under transfers from County Government Final Budget and actual on comparable basis amounts to 1.2 million and a nil difference instead of 1.2 million. Similarly the statement reflects under total income final budget and actual on comparable basis amounts to Kshs1, 317,500 and Kshs10, 143 respectively with a difference of Kshs1, 071,357 instead of Kshs1, and 307,357. In the circumstances, the accuracy and completeness of the statement of comparison of budget and actual amounts would not be confirmed.

Management Response

Fund activities are mainly carried out as budgeted in the main budget of the department after presentation of our estimates during the budget making process. This is due to the fact that the fund has not yet attained self-sustainability. Most of the expenses such as tough cost of office rent, stationery, fuel or field activities, insurance and maintenance of motor vehicle capacity building of both staff and entrepreneurs review of regulations and annual software assurance are still being budgeted in the ministry since the 3 per cent administrative fee is not sufficient to facilitate for all these expenses. The Budget estimate is as attached in the financial statements which were considered during the budget making process of the department.

Oral submissions

The committee sought to know from the management how it incurred expenditure during the Financial Year 2020/2021, 2021/2022 without an approved budget.

In their oral submission, the management stated that at that time, the fund did not have a committee in place since its term had expired. The Fund Administrator further submitted that indeed the budget is always prepared subject to approval by the committee which was not existent. They further stated that the financial statements under budget comparative figures were correct since the fund did not receive any cheque during the financial year.

Committee's Observation

The Committee observed that the department operated without an approved budget. The comparative figures on budget and actual amounts were verified and confirmed as submitted by the fund administrator.

Committee's Recommendation

The Fund Administrator should always ensure that there are budget estimates approved by the management of this Fund for the year as a remedy for non - compliance to budgets in relation to Section 149 (g) (h) of the PFM Act, 2012

Assets, Property, Plant and Equipment

The statement of financial position reflects a nil balance in respect of property, plant and equipment which as disclosed in note 6(a) to the Financial Statements relates to ICT equipment which has been fully depreciated. However, no explanation was provided on why the asset have not been revalued to give them new values since they are still being used by the Fund. In addition, ownership documents for the assets were not provided for the audit review. Further,

although the management explained that assets were acquired but the County Executive of Bungoma through the Department of Trade in 2018/2019 and have remained with the Department to date. It was not explained why the assets are being reflected in the financial statements to the Fund instead of financial statements to the County Executive.

In addition, the balance was not supported by fixed assets register showing details relating to the nature or type of assets, date of acquisition, cost, supplier unique identification number, current value, current location, user, accumulated depreciation and net book values. In the circumstances, the accuracy of ownership, fair evaluation and completeness of the nil balance on property plant and equipment could not be confirmed.

Management response

The assets listed were not acquired by the County Trade Loans Fund as mentioned, neither are they managed by the Fund. The asset is used to be handed over to the Fund. The only reason why they are listed as assets to the Fund is because they are mostly used by the Fund. We however requested the Department to transfer the ownership of the asset to the Fund as recommended and put an asset register as well.

Committee's Observation

No ownership documents for the ICT equipment were provided to the Committee for verification. The ICT equipment was acquired by the County Department of Trade, Energy and Industrialization and has not been transferred to the Fund.

Committee's Recommendation

The ICT equipment should be reflected in the County Executive financial statement and not the Fund's unless when the same will be officially transferred with ownership documents therefore the financial statements of the Fund should be adjusted to reflect the same and be submitted to the office of the Auditor General for confirmation and signing.

5.2 Intangible Assets

The statement of financial position and as disclosed on note 6(b) to the Financial Statements reflects an intangible asset balance of Kshs8, 484,228. However, although the management has indicated that the assets were acquired in 2018/2019 by the County Executive through the Department of Trade, it was not explained why the assets are reflected in the financial statements of the fund instead of the financial statements of the County Executive.

Further, the statement indicates that intangible assets are under note 6(b) while in the notes to the financial statements intangible assets are shown under note 6(a). In the circumstances, the accuracy and ownership status of the intangible assets valued at Kshs8, 484,228 could not be confirmed.

Management Response

These intangible assets were acquired by the department and issued to the Fund for use. They still remain as the asset of the Department until when the Fund will be able to maintain them because we have an annual software assurance which currently the Fund cannot finance. We are also in the process of data validation to ensure the loan management system is fully deployed to all wards since it is ward based. We however captured the existence of the intangible assets as a Fund asset since it is majorly used by the Fund. We will however request the Department to officially hand over to the Fund as advised.

Committee's observations

1. No ownership documents for the intangible assets were provided to the Committee for verification.
2. The intangible assets were acquired by the County Department of Trade, Energy and Industrialization and have not been transferred to the Fund even though it is fully used by the Fund.

Committee's Recommendation

The intangible assets should be reflected in the County Executive financial statements and not the Fund's; unless when the same will be officially transferred with ownership documents to the Fund.

6. Unsupported Balances Statements of the Financial Performance Interest Income

The statement of financial performance reflects an amount of Kshs117, 500 in respect of interest income which as disclosed in note 1 to the financial statements relates to interest income from loans. However, supportive schedules were not provided for audit review. In the circumstances, accuracy and completeness of the amount of Kshs117, 500 in respect of interest income could not be confirmed.

Management Response

The County Trade Loan Fund has a loan repayment period of 24 months upon which all the loans issued fall due. The interest recorded reflects the interest of loans charged for loans issued in 2019 July which all fell due in June, 2021. The current receivables include the current loan repayments due and interest receivable. This is shown in the ledgers of loans receivable and its financial statements receivables from exchange transaction. This is 5 per cent of the Kshs2, 350,000 which was issued in 2019 and was due to be received at August 2022. As of Kshs2, 2,350,000 five per cent of that is Kshs117, 500.

Committee's observation

The submissions of the explanation of interest income are sufficient to resolve the issue.

Committee's Recommendation

The Accounting Officer should always provide foot notes to the notes in the financial statements to clarify uncleared disclosures.

Board and Committee expenses

The statements of Financial performance reflects an amount of Kshs718,900 in respect of general expenses which as disclosed in note 2 to the financial statements includes amount of Kshs678,300 relating to board and committee expenses. However, the board minutes, attendance registers, details schedules were not provided to support the amount. Further, the statement indicates that note 2 is on general expenses; which in the notes to the financial statements note 2 is on use of goods and services. In the circumstances, the accuracy of the amount of Kshs678,300 on board and committee expenses could not be confirmed.

Management Response

We have revised the Financial Statements as recommended per the PSASB template and corrected all the errors as observed to capture the true position. We had erroneously captured the staff training and filed subsistence allowance under the board and committees. The revised finals are as captured below.

Use of goods and Services

Honorable Speaker, if you can allow me very quickly to go through that table. We have;

Description	2021/2022	2020/2021
Telecommunication	40,0000	121,000
training	180,800	-
Travel subsistence and other allowances	497,500	831,400
Other allowances	600	3790
Total	718,900	956,190

Committee's Observation

There was no availed supporting documentation for the expenditure of Kshs678; 300. This raises questions on the propriety of the expenditure.

Committee's Recommendation

The Fund Administrator should pass during entries to rectify mis-posting of the domestic and training communication expenses that were inadvertently posted in the board and conference journals in the Financial Statements for the year ended 30th June, 2023. This should be compiled within two weeks from the date of adoption of this report.

Other matters

Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final revenue budget and actual on comparable basis on 1,317,500 and 10,143 respectively resulting in underfunding of 1,307,357 or 99 per cent of the budget.

Similarly, the statement reflects actual expenditure of Kshs718, 900 against approved budget of 1,317,500 resulting in underperformance of budget by 598,600 or 45 per cent of the budget. The underfunding and underperformance of the budget affected the planned activities and may have impacted negatively on service delivery to the public.

Committee's observation

The underfunding of the budgets of 99 per cent was occasioned by zero transfer of the exchequer from the County Government to the Fund. This was however not explained in the footnotes as required in the reporting templates. Similarly, no explanation was given for the underperformance of the budget at 45 per cent.

Committee's Recommendation

- a) The Accounting Officer should always ensure that approved budgets are appropriated by the Assembly and implemented as required.

Unresolved Prior Year Matters;

In the audit report of the previous year, a number of issues were raised under report on the Financial Statements and report on lawfulness and effectiveness in use of public resources. However, the management has not resolved the issues nor disclosed all the prior year matters as provided by the Public Sector Accounting Standards Board template.

The issues reported in the progress on follow up of prior auditor's recommendations do not relate to 2020/2021 but relate to 2019/2020 Financial Year.

The **Committee observes** that the Department did not provide the status report of implementation of prior year matters for the year ended June, 2021 as reported by the Auditor General.

This amounts to negligence by the Accounting Officer.

Committee's Recommendations

The committee notes that section 53 of the Audit Act obligates the relevant Accounting Officer of the state organ of Public Entity to within three months after parliament has considered and made recommendations on the audit report to

- a) Take the relevant steps to implement the recommendations of parliament on the report of the Auditor General or
- b) Give explanations in writing to parliament on why the report has not been acted upon. Failure to comply with the provisions of subsection (1), the Accounting Officer shall be in contempt of Parliament or County Assembly and upon determination by Parliament or relevant County Assembly, Parliament or relevant County Assembly may recommend administrative sanctions such as removal as the Accounting Officer, reduction in rank among others.

The Committee thus directs the Fund Administrator to provide to the County Assembly a report on the implementation of the prior year audit matters to date, within a period of 30 days from the date of adoption of this report.

C) Noncompliance with the Public Sector Accounting Standards Board template;

The financial statements submitted for audited did not reflect the following information contrary to the requirements of the Public Sector Accounting Standards Board reporting template.

The financial statements reflect incorrect numbering of the key Funding Information and Management. Photographs of the Committee and management members are not shown.

The report by the Fund Administrator is not signed.

The date of approval of the financial statement is not indicated and the statement of comparison of budget and actual amounts is indicated for the period instead of the year ended. In the circumstances, financial statements were not prepared in accordance with the accounting standard as prescribed by the Public Sector Accounting Standards Board template

Committee's observation

The Fund Administrator did not prepare the financial statements for the Fund as guided by the Public Sector Accounting Standards Board as required.

Committee's Recommendation

The Fund Administrator always should ensure the financial statements comply with these requirements of the Public Finance Management Act 2012. Section 194 sub sections three, four and five in the preparation of the financial statement as required by the PSASB.

Failure to gazette the Funds Regulations

The County Government of Bungoma Established the Bungoma County Trade Development Loans Fund vide County Assembly approval in a special sitting of 15 December, 2014. However although procedural requirements had been obtained up to the passage of the regulations by the County Assembly, the regulations had not been gazette by the time of the Audit to give effect to the establishment of the Fund. This is contrary to Article 199(1) of the Constitution which provides that county legislation does not take effect unless published in the gazette. In the circumstances the management was in breach of law

Committee observation

The Committee observes that the Fund operated without gazetted regulations rendering its activities not anchored in law during the year under review. The Committee further notes efforts that have been put in place to gazette the regulations and plans to review the same so as to address the problems of loan recovery.

Committee recommendations

- 1) Article 199 (1) of the Constitution mandates all county legislation to only take effect once gazetted in the Kenya gazette. The Public Accounts Committee urges the sectorial committees of the Assembly to be vigilant in their oversight roles in ensuring implementation of programs within ministries operate within requisite legal provisions.
- 2) Halt operations of the Trade Loan Fund until the reviewed regulations are published.

Lack of budget for the Fund

The Management did not provide a budget for the Fund to support the balances in the statement of comparison of budget and actual amounts. Consequently, the source of the balances reflected in the statement of comparison of budget and actual amounts could not be confirmed. This is contrary to section 149(2)(h) of the PFM Act 2012, which states that in carrying out a responsibility imposed by subsection (1) an Accounting Officer shall in respect of the entity concerned, prepare estimates of expenditure of the entity in conformity with the strategic plan. In the circumstances, management was in breach of law.

Committee's Observation

The Fund did not have approved budget estimates to guide its operations during the year; neither

did it have an active Fund Management Committee that is supposed to approve these estimates. The Public Accounts Committee notes governance gaps in the management of the Fund during the year under review.

Committee's Recommendation

The Funds Administrator should always ensure that there are program budget estimates for the Fund to be approved by the County Assembly. The Accounting Officer, pursuant to the provisions of section 149(2) (h) of Public Finance Management Act, 2012 should always prepare budgets as guided by the National treasury and County Treasury.

Attached is the adoption schedule signed by all members and also the annexures to support our report. At this juncture allow me to call upon the Chairman of the Committee Hon. Everton Nganga to second. Thank you

(Applause)

Mr. Speaker: Hon. Nganga you have the honour of seconding the committee report.

Thank you, Hon. Chikati for taking us through the report eloquently and clearly as we are able to follow up.

Hon. Everton Nganga: Thank you, Speaker for granting me a chance to second report. First I would like to laud the mover of the motion because he has been loud enough and eloquent. I am looking at the first query that is undisclosed material uncertainty relating to the sustainability of the service. The loan portfolio for this Fund in the County Government of Bungoma stands at Kshs115, 679,790. This is an asset to the County Government of Bungoma and these monies were issued to the beneficiaries and only 104 Million up to this moment has not recovered from the beneficiaries.

It is my request that the Department, now that we have the code that will have the Executive, that is the Governor of the County Government. His Excellency the Governor- County Government of Bungoma has actually promised and it was budgeted; some monies are supposed to be disbursed so that these monies can be drawn from these funds to be issued to the traders.

The beneficiary is outside there. Most of them are waiting and they were very happy when they heard from the Executive. So it is my request that now that our Chairperson- Budget was here, he has gone. I will be an unhappy person if the funds that were set aside for Trade Loans will be removed even if we have not...

Mr. Speaker: Hon. Nganga! Hon. Nganga! That line of debate you are anticipating debate on budget leave that line of argument please

Hon. Everton Nganga: Thank you Mr. Speaker. I am requesting the department to scale up the collection of 104 mediums so that other people can also benefit. When you look at the regulations, we interrogated the Executive. In fact, they told us the level where they had reached in formulating the regulations. The regulations are supposed to be published. The way we have mentioned that the relevant committees, especially Trade should make sure that these regulations have been published and gazetted so that this Fund should not just run without the regulations governing it; and we accept it. They were making efforts to make sure that those regulations are put in place.

Otherwise most of the queries that have been raised here have just reoccurred. When you look at the previous report that we passed here last week, those queries they also appeared and the way we have recommended issues like prior year adjustment, the Accounting Officers are failing to make the prior year adjustments. This is just negligence and it should not be repeated. You discovered that if this issue will be repeated thrice, then this will be contempt to this County Assembly and we may actually come up with the other serious and affirmative recommendations on the Accounting Officer.

This is a very good report and we need this Fund to continue existing. So if the funds will be collected and they will be channeled back, then it will benefit the good people of Bungoma County. I urge Honourable members to adopt this report with its recommendations therein. Thank you. I second the report

(Applause)

Mr. Speaker: Thank you Hon. Nganga. Honourable Members I will be proposing a motion for debate.

Question proposed

Yes Hon. Joseph Nyongesa. Our Leader of Majority

Hon. Joseph Nyongesa: Thank you, Speaker. Allow me also appreciate the mover of this report. Actually, these monies are meant to support our people who are small traders in our wards. I have already done some sampling which I wish the Chair also to look into and surprisingly the report is indicating but 188 beneficiaries who are staffs of this county but unfortunately, during the management response there was no clear indication that actually this money could be recovered; because this is what was submitted to the committee and the committee was in agreement. That the management submitted that it will provide documents to show a check off deductions on the payroll including repayment schedules and evidence for recovery.

So I don't know. After approving the report is when maybe they will show us the documents or they could have also listed those names so that it could also be captured in the annexure. Another critical issue to me is the committee observations on page 14 Number one. The Department availed a sample of loan repayment arrears list, which shows that most of the businesses have since been closed; but I have not seen that list. So I don't know if the list could come later or maybe the committee was convinced it will also be brought after approval. I don't know those are just a few samples.

Surprisingly, others were not traceable after the relocation to other areas. So, within the county or outside the county; we don't know and so we are requesting the Committee to at least be thorough when dealing with these issues so that as a House we get facts. Otherwise those are the few samples, there are many others, but I am seeing the Chair is uncomfortable. Let me stop there.

Applause

Mr. Speaker: Let me invite the mover. But as you are doing so, Hon. Chikati now that it has been put by the Leader of Majority, basically, you spoke about the people who are the employees of the County who have not be able to repay. Now, I have been checking equally the annexures that we are having here. It appears that list when you were tabling it disappeared and is not there. So you have the right reply to the motion but you are putting the Committee on Implementation in a very awkward position to make a follow up to recover money from unknown people from your own report.

Hon. Timothy Chikati: Thank you Hon. Speaker Sir. For the input provided by the Leader of Majority, I think for the 188 staff from the County Assembly of Bungoma....

Mr. Speaker: No, none of my staff here were beneficiaries of that Fund

Hon. Timothy Chikati: Sorry I stand corrected... from the Executive, sorry. Actually, we went through that list and we were satisfied. And that is why we recommended that something has to be done so that the deductions can be done from the payroll. That is one of the recommendations that we made here. If it was not annexed here, then it may be an oversight, but we actually went through that list.

For the for the people who had closed their businesses and those that could not be traced, if somebody cannot actually be traced, and maybe people had a Trade Loan; even if it is for you, or for any other Committee, where could we find them? And that is just, you know, these people cannot be found.

You know, that is what we now call bad debts. So the question that you could have raised is how we could deal with the bad debts because we don't know where the beneficiaries went. They could not be traced completely.

So that is why we came up with the validation system to be able to capture all these business people. So that moving forward, for example, if somebody dies, somebody moves from Bungoma County to Trans Nzoia or to Uasin Gishu; they could be traced so that that money can be recovered and that is our recommendation.

Mr. Speaker: Now *Mheshimiwa* Chikati. That is a very superb answer you have given us but I was wondering just like you, you have been in business and you have borrowed money. If you are taking a loan from any microfinance or bank, you always have two guarantors for that loan. In case you fail to service that loan; teachers are here and they know what I mean. They will go for guarantors to pay; unless you produce the borrower. So, in this situation, what is the prevailing situation?

Hon. Timothy Chikati: Hon. Speaker, I hope you followed the report very well. There were no regulations at that time; but since the regulation has now been gazetted, all these things that we are talking about are coming into full enforcement and we are not going to see these loopholes.

(Applause)

Mr. Speaker: So you finished ... without any prayer

(Laughter)

Hon. Timothy Chikati: Honourable Speaker I thought you asking me more questions.

Mr. Speaker: No!

(Laughter)

You know I remain a voter in Bungoma and resident here; but now when you say somebody moved away... I am sure the *nyumba kumi* (community policing) people or the village headman must know where that person moved to; either from Cheptais to either Chesikaki or Kapkatenyi or whichever place. You can't move from this county and nobody knows where you have gone to. Even those people who are known for marrying and eloping and going to a place called yemben in Uganda always come back after some nine months. So it is not that you can just disappear and nobody knows where you are.

Hon. Timothy Chikati: The Speaker. Thank you for the direction. We are talking about money here and even the security that you are talking about. If I know that I have moved with the

money maybe to another county or another country and Hon. Allan is my guarantor; of course he will be afraid of his life because at the end of the day, they will go for him. He will not even say you know... although the documents will be saying that okay, he guaranteed so and so but because of the fear of life and maybe auctioning of his items, he will also go under the ground. So we are talking about money. So Hon. Speaker, allow me to request this Honourable Member to adopt this report with its recommendations as it is.

Mr. Speaker: Thank you Hon. Chikati, but at your free time, engage the wisdom of Hon. Otsiulah. He has practiced law I think for 12 years; he will tell you, even if you hide, the state will find your property and attach it with auctioneers. There are no jokes. Let us proceed

Honourable members I will now able to put a question to the said motion as moved and seconded.

(Question put and agreed to)

The report its observations and recommendations are hereby adopted by this House accordingly.

Members, I have confirmed that that was the last item on our Order Paper. We will adjourn and resume tomorrow, Wednesday, the 6th of December, 2023 at 9:30 a.m. Thank you and have a good evening.

(House Adjourns)