

COUNTY ASSEMBLY OF BUNGOMA

COUNTY ASSEMBLY DEBATES

DAILY HANSARD

TUESDAY 10TH MAY, 2022

Afternoon Sitting

COUNTY ASSEMBLY OF BUNGOMA

HANSARD OFFICIAL REPORT

TUESDAY 10TH MAY, 2022

The house met at 2:30 p.m.

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

PRAYER

COMMUNICATION FROM THE CHAIR

Honorable Members, I wish to apologize for starting the sitting late. We were meant to commence our sitting at 2:30 p.m. but due to what had happened, the key to the armory was not availed to us but that mistake must be punished... It cannot go unpunished! As the administration the HOD must take action. If you fail, we are going to take action against you.

STATEMENTS

WEEKLY PROGRAMME OF THE BUSINESS FOR THE COUNTY ASSEMBLY FOR THE WEEK COMMENCING TUESDAY 10TH TO 12TH MAY, 2022

Hon. James Mukhongo: I wish to read the tentative weekly programme of the business for the County Assembly pursuant to Standing Order number 36, week commencing today Tuesday 10th to 12th May 2022.

The business of the **10th Day Tuesday** has been read up to item number seven, I will only read item number 8 and that is;

Motions

That this House adopts the report by the Public Accounts Committee on the Auditor general's report on the financial statements of the County Government of Bungoma for the year ended 30th June 2020 by the Chairperson.

Tomorrow **Wednesday 11th May 2022 at 9:30PM.** the Order of business will be:

From number up to six which is statement, we will have nothing.

Statements

Pursuant to provisions of Standing Order 41(2) (c), Response from the County Executive department of Education and Vocational Training to a statement sought by Hon. Majimbo on the Implementation of Bungoma County Education Scheme Regulations, Revised 2018 and the Management of Bungoma County Education Support Programme.

Wednesday 11th May 2022 2:30PM

From item number one Administration of Oaths up to item number 4 we will have nothing, then;

Papers

Report by the Sectorial Committee on Public Administration and ICT on the annual report 2021, for the Bungoma County Public Service Board, Pursuant to section 59(1) (f) and 59(5) of the County Government Act 2012 that will be tabled by the Chair person

Notices of Motion

That this House adopts the report by the Sectorial Committee on Public Administration and ICT on the annual report 2021 for the Bungoma County Public Service Board pursuant to section 59(1) (f), and 59(5) of the County Government Act 2012 which will be read by the Chair.

Statements

Pursuant provisions of Standing Order no. 41 (2)c, a statement sought by Hon. Sospeter Nyongesa from the Chair Person Sectorial Committee on Finance and Economic Planning on Implementation of Community Empowerment Fund Project in West Bukusu Ward that will be read by Hon. Sospeter.

Thursday 12th May 2022 at 2:30PM

Order number one up to seven there will be nothing.

Motions

That this House adopts the report by the Sectorial Committee on Public Administration and ICT on the annual report 2021 for the Bungoma County Public Service Board pursuant to section 59(1) (f) and 59(5) of the County Government Act 2012.

That brings us to the end of Business of the week. I wish to lay this report to the floor of the House.

(Applause)

Mr. Speaker: Thank you Hon. Barasa on behalf of the House Business Committee.

MOTIONS

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

Hon. Tony Barasa: Thank you. The journey of the report on Public Accounts Committee on the Auditor General's report of the County Executive of Bungoma for the year ended 30th of June 2020 begins now.

CHAPTER ONE

PREFACE

Mr. Speaker Sir, on behalf of the members of the Public Accounts Committee (PAC) and pursuant to the provisions of Standing Order No. 186 and in accordance with Article 229 of the Constitution of Kenya 2010, it is my great pleasure and privilege to present to this House the Committee's report in respect to the Report of the Auditor General on the financial statements of the Bungoma County Executive for the period beginning 1st July, 2019 to 30th June, 2020.

GUIDING PRINCIPLES

Obligations of Accounting Officers

Mr. Speaker Sir,

Section 149 (1) of the Public Finance Management Act, 2012 provides, inter alia that, "an accounting officer is accountable to the County Assembly for ensuring that the resources of the entity for which the officer is designated are used in a way that is-

- (a) Lawful and authorized; and
- (b) Effective, efficient, economical and transparent

Additionally, Section 156(1) of the Public Finance Management Act, 2012 states that if an accounting officer reasonably believes that a public officer employed by a County Government entity has engaged in improper conduct in relation to the resources of the entity, the accounting officer shall-

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

Further, Section 156(2) of the same Act 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) of this section, the County Executive Committee Member for finance shall-

- (a) Take appropriate measures to address the matter in accordance with 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.

In addition Mr. Speaker Sir,

Section 156(3) of the same Act states that; measures referred to in subsection (2) (a) include the County Executive Committee Member for Finance revoking the designation as accounting officer.

For clarity purposes and without prejudice to the foregoing Mr. Speaker Sir,

Section 156(4) of the said Act states that; for the purposes of this section, a Public Officer or Accounting Officer engages in improper conduct if the officer-

- (a) Contravenes or fails to comply with this Act or any regulation in force;

4.0 COMMITTEE MEMBERSHIP

The committee as currently constituted comprises of the following members as indicated...

Mr. Speaker: Hon. Tony, now this is special because it is serving in attendance of the Members of the committee.

Hon. Tony Barasa: Can I read honorable Speaker?

Mr. Speaker: Yes, because it has to go on record.

Hon. Tony Barasa:

- | | | |
|----|------------------------|------------------|
| 1. | Hon. Tony Barasa | Chairperson |
| 2. | Hon. Joseph Maguda | Vice Chairperson |
| 3. | Hon. Martin Pepela | Member |
| 4. | Hon. James Chesibok | Member |
| 5. | Hon. Everlyne Mutiambu | Member |

6.	Hon. Elly Tindi	Member
7.	Hon. Rosemary Khisa	Member
8.	Hon. Jerusa Aleu	Member
9.	Hon. Erick Wapang'ana	Member
10.	Hon. Metrine Nangalama	Member
11.	Hon. Busolo Sudi	Member

OFFICE OF THE AUDITOR GENERAL

1Mr. Daniel Owiti

CONFIDENTIALITY UNDERTAKING BY MEMBERS OF THE COMMITTEE AND ITS SECRETARIAT

Mr. Speaker Sir, to enhance the integrity of the Committee and its work and more so in relation to this report, the Committee members and the Secretariat did sign a confidentiality undertaking in accordance with Bungoma County Assembly Standing Order No. 82. They undertook that, as the committee considers/interrogates the Report of the Auditor- General on the Bungoma County Executive for the financial year ended 30th June 2020, they will not disclose any matter relating to the proceedings of the said report that is classified as confidential which shall include any evidence or documents presented to the Committee and any information under discussion or deliberation at its meetings before the same is tabled and deliberated on by the County Assembly.

COMMITTEE SITTINGS

Mr. Speaker Sir, the committee held a total of fourteen (14) sittings to consider the report of the Auditor-General on the financial statements of the Bungoma County Executive for the year ended 30 June, 2020.

However, a major challenge that the committee encountered, from time to time, is the high level of unpreparedness and failure to appear before the committee as scheduled involving some accounting officers together with their respective CEC Members which necessitated unnecessary adjournments of scheduled meetings. In addition, some accounting officers had to be turned away by the Committee for failure to come along with their respective CEC Members which was a requirement in the invitations served upon them which then necessitated last minute postponement of their appearance before the committee; further stretching the committee's time. Additionally, it also interfered with the committee's limited time set aside for site visits and

report writing. In the same breath, the committee wishes to cite an instance where it had to go out of its way to issue summons to the following CEC Member in accordance with the provisions of Section 18(part V) of the County Assemblies Powers and Privileges Act, 2017;

(i) CECM County department of Agriculture, Livestock, Fisheries, Irrigation and Cooperative Development (Responsive)

PROCEDURE ADOPTED BY THE COMMITTEE

Mr. Speaker Sir, with technical guidance from the Office of the Auditor-General, the Committee critically analyzed both oral and written submissions from the accounting officers who appeared before the Committee on diverse dates between 10th to 28th February, 2022 in respect to their respective Departments to respond to queries raised in the report of the Auditor- General.

Mr. Speaker Sir, this report contains the observations and recommendations of the Committee that were arrived at by consensus through detailed and factual deliberations, taking cognizance of the fact that there is adequate machinery within the County Government to implement the recommendations contained in this report.

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

In conclusion, Honorable Speaker, the Committee wishes to express its gratitude to the Offices of the Speaker and the Clerk for the support rendered to it during the consideration of the report of the Auditor-General on the financial statements of the Bungoma County Executive for the year ended 30 June, 2020. The Committee further wishes to thank the Chief Officers and the County Executive committee members who appeared before it. On the same note Honorable Speaker sir, the committee wishes to single out and to comment the County department of Finance and Economic Planning for its high level of preparedness more particularly in regard to the presentation of its management response (both oral and written submissions).

Finally, the Committee acknowledges the valuable input and services rendered by the Office of the Auditor-General in considering submissions from the management of various County Departments.

Mr. Speaker Sir,

On behalf of the Public Accounts Committee, I now wish to table this report and urge the House to adopt it and the recommendations therein. It is signed by Hon. Tony Barasa, MCA-Lwandanyi Ward (Chairman, Public Accounts Committee).

CHAPTER TWO

INTRODUCTION

Mr. Speaker Sir,

This audit report covers the financial year 2019/2020 and is issued in accordance with the requirements of Article 229 of the Constitution of Kenya. The auditor's report on the financial statements of the Bungoma County Executive gave a qualified opinion as stated herein below.

Management Response

a) The Audited Annual Financial Statements and Reports for the year ended 30th June, 2020 present a true and fair view of events as the process of preparation involves rigorous reconciliation of IFMIS records and the bank transactions.

However, it should be noted that there are many factors that contribute to the variances;

i) Transactions undertaken by the Departments of Health (Hospitals, Health Centers and Dispensaries) and Agriculture Facilities(Mabanga ATC/FTC) that are essentially off-IFMIS

ii) Mismatch between classifications in IFMIS and the Approved Standard Chart of Accounts. For example, whereas IFMIS classifies the transactions under the economic item series '2640500' to be under 'Transfers to Other Government Units' the approved Standard Chart of Accounts classifies such transactions to be under 'Other Capital Grants and Transfers,' hence a difference in the classification that does not affect the total expenditure. Our classification of the transactions was further underpinned by the County Executive's Financial Reporting Template issued by the Public Sector Accounting Standards Board. The template limits the accounts to be classified under 'Transfer to Other Government Entities/Units' to include;

- a. Transfers to County Government entities
- b. Transfers to Other Counties
- c. Transfers to National Government entities

These payments related to donor funded projects and programmes such as Urban Support Programme, Devolution Support Programmes among others.

iii) Assets, liabilities and Fund balances are accumulation of balances since the year 2013 when IFMIS was introduced.

iv) IFMIS Cash Management module only became effective in the year 2018/2019 and could only be used from the year 2018/2019 onwards. Therefore, the clearance of the previous balances could not be done as IFMIS could not import previous bank statements for the years before 2018/2019

v) Technical capacity and challenges of the IFMIS users.

vi) Wrong selection of the Chart of Accounts Codes by the Departments due to lack of capacity. For example, pending bills were budgeted for and paid from the Economic Sub-Item 2410104; Suppliers Credits was interpreted otherwise and utilized during the budget making to budget for the pending bills. The Approved Chart of Accounts and IFMIS classifies this item under 'Finance Costs, including Loan Interest.' The expenditure of KShs. 248,106,780 paid under the economic item 2410104 was classified under 'Other Payments'

vii) The National Treasury has not yet provided for mechanisms of recording transfers from the County Revenue Fund Account to the County Assembly

b) The County Government has since undertaken the following initiatives;

i) The National Treasury has undertaken several trainings in regard to the use of IFMIS

ii) Through the support of the National Treasury, relevant reconciliations have been made through the system so as to clear the prior year variances. The exercise is still ongoing.

Table 2: Variances between IFMIS and Financial Statements submissions by Department of Finance

The Table is there Hon. Members, you can go through

Committee Observation

The committee notes challenges that have led to continuous variances in financial statements and IFMIS General Ledger as reported by the Auditor General which have been occasioned by failure by the National Treasury to fully implement all modules and reconcile all outstanding variances.

Committee Recommendation

The committee recommends that the County Executive Committee Member for Finance to liaise with the National Treasury and the Council of Governors to ensure full roll-out of all the IFMIS modules for County Governments so that there is consistency between the integrated financial system and the financial Accounts, since this has been a recurring audit unresolved matter year in year out. The CECM to furnish the County Assembly with progress reports on this matter through quarterly reports.

Key Audit Matters

Other Matter

1. Budgetary Control and Performance

Management Responses

The Management agrees with the auditor's finding and would wish to comment as follows including the action taken;

- a) Comments – The under-absorption was caused by a variety of factors. These include;
 - i. Delay in receipt of Exchequer Releases. The Exchequer was not received on time so as to allow for sufficient time for planning and making payments for the planned events on a timely manner. The Performance of the Exchequer Releases against the cash flow plan was as follows;
Table 3: Budgetary Control and Performances. We have a table there.
 - ii. The County Government received KShs. 1,817,397,581 Exchequer Releases in June, 2020 and KShs. 317,183,537 in July, 2020(Extended period). This totals to KShs. 2,134,581,118 which accounts for 21% of the Annual Cash flow Plan for the Exchequer Releases. The late receipts may not grant sufficient time for effective planning and spending the same in whole
 - iii. The County Government had not received KShs. 1,034,513,211 as at the close of the extended period of the Financial Year 2020/2021. This amount accounted for 7% of the Approved Budget for the Financial Year 2019/2020
 - iv. Local revenue – The County Government collected 86% of its revenue targets. The County Government had forecasted to collect KShs. 919,174,079 but collected KShs. 788,624,304, hence a shortfall of KShs.130, 549,776
 - v. Other contributing factors to a limited extent include projects that had not been completed, incidences of terminated contracts due to non-performance among others

Action– As explained above, the major contributor to under-absorption is delayed Exchequer Releases. The County Government is in continuous pursuit of this matter through the Council of Governors so as to ensure that Exchequer Releases are made on time by The National Treasury

Committee Observations

The committee observed that the under absorption of the development budgets was attributed to delayed exchequer releases and the negative effects of underfunding and underperformance for

the planned activities. The County Government didn't receive Kshs1, 034,513,211 as at the close of the financial year (7%) which also contributed to budget implementation underperformance.

The committee also notes that there was shortfall in collection of revenue targets with 14% representing Ksh. 130,549,776

Committee recommendations

The Departments should be realistic with their budgets and work plans for the year in total compliance to program based budget targets for key results outputs. The Departments should strive to formulate realistic budgets that can be implemented with ease to ensure maximum absorption of budgeted funds.

The accounting officer to ensure that budget variations in any given year are managed in line with the provisions of regulation 46 of the PFM (County Government) Regulations, 2015.

2. Late Exchequer Releases

During the year under review, the County Executive of Bungoma had budgeted for Exchequer releases of Kshs.10,846,450,004 but received a total of Kshs.9,184,320,428, out of which Exchequer releases totaling Kshs.2,351,512,079 were released in the month of June and July, 2020 as shown below:

Table 4: Exchequer releases

Date Received	EFT No.	Amount (Kshs.)
04 June, 2020	FT20156HR2YS	933,833,250
24 June, 2020	FT20176TLKYR	800,428,500
15 June, 2020	FT2016750P2W	13,359,375
30 June, 2020	FT20182FZLV1	9,975,000
04 June, 2020	FT20156KT84R	26,964,149
04 June, 2020	FT20156X8TP6	32,837,307
02 July, 2020	FT201848HS1B	8,800,000
02 July, 2020	FT201844CBWR	215,270,498
04 June, 2020	FT20156G3KXH	213,714,000

06 July, 2020	FT20188PB7Z8	66,330,000
02 July, 2020	FT201840F18C	30,000,000
Total		2,351,512,079

As a result of the delayed receipt of funds, the County Executive did not have sufficient time to absorb its total budget for the year.

Management Response

The Management agrees with the Auditor's findings and would wish to comment as follows, including the action taken;

a) Comments – The County Government has experienced challenges beyond its control due to late disbursements as reported by the auditor. However, the Management would like to make the following corrections;

i. The following transactions related to Covid-19 support programme that had not been budgeted for in the year 2019/2020, but budgeted for in the year 2020/2021. Therefore, the funds are not classified as late receipts.

Table 5: Exchequer Releases Submission by Department of Finance and economic planning

Date Received	EFT No.	Amount (KShs.)
04-Jun-20	FT20156G3KXH	213,714,000.00
06-Jul-20	FT20188PB7Z8	66,330,000.00
Total		280,044,000

ii. The table excludes KShs. 63,113,039 in relation to the Roads Maintenance Levy Programme received on 2nd July, 2020.

iii. In view of the corrections, the restated schedule is as follows, hence late Exchequer Receipts of KShs. 2,134,581,118;

Date Received	EFT No.	Amount(KShs.)
04/06/2020	FT20156HR2YS	933,833,250
24/06/2020	FT20176TLKYR	800,428,500
15/06/2020	FT2016750P2W	13,359,375

30/06/2020	FT20182FZLV1	9,975,000
04/06/2020	FT20156KT84R	26,964,149
04/06/2020	FT20156X8TP6	32,837,307
02/07/2020	FT201844CBWR	215,270,498
02/07/2020	FT201848HS1B	8,800,000
02/07/2020	FT20184CHXCB	63,113,039
02/07/2020	FT201840F18C	30,000,000
Total		2,134,581,118

Action

The Management commits to continue pursuing for the timely release of funds through the Council of Governors and The Senate Parliament

Committee Observations

The committee observed that there were delays in exchequer releases as witnessed in previous years to a tune of Kshs. 2,134,581,118 for the year ended 30th June 2020 resulting to overall negative effect on budget implementation.

Committee recommendations

The County Government to continue pursuing this matter through the Council of Governors so as to ensure that Exchequer Releases are made on time by The National Treasury. Additionally, the County Government to petition the Senate on this grievous matter.

3. Pending Bills

As disclosed in Note 7.9(1) and Annex 2 to the financial statements, the County Executive had pending bills totaling Kshs.322, 771,151 which were due to suppliers of goods and services as at 30 June, 2020. The balance includes long outstanding payables of Kshs.47, 584,498 dating from 15 September, 2012 to 31 December, 2019. Further, pending bills amounting to Kshs.7, 817,181 settled during the year under review were not in the lists of pending bills for 2017/2018 and 2018/2019 financial years. Failure to settle pending bills in the year to which they relate affects the budget for the following year and may attract penalties and interest in case of litigations.

Management Comments

Department of Finance and Economic Planning

The Department of Finance and Economic Planning had pending bills amounting to KShs. 33,954,735.46.

i. Pending bills not settled on time

The pending bills were not settled on time as a result of delayed Exchequer Releases and some invoices that were not received on time to allow for the timely processing of the payments. A number of the listed pending bills were erroneously listed as they were essentially commitments.

ii. Payment of pending bills not in the list of pending bills

The items referred to were commitments that were created in the year 2018-2019 but had not matured to be declared as pending bills as at 30th June, 2019. The Financial Reporting Template does not provide for the disclosure of commitments which are essentially contingent liabilities.

The budgetary provision for these items was captured under the budgetary provision meant for pending bills so as to allow expenditure tracking of the Commitments and Pending Bills brought forward from the Financial Year 2018/2019.

Action;

i. Eligible pending bills amounting to KShs. 25,858,785.34 have since been paid. The remaining eligible pending bills are currently waiting for the First Supplementary Budget to be uploaded on IFMIS. The delay in payment was occasioned by the untimely availing of all supporting documents.

Department of Roads and Public Works

The status of pending bills is as per table 17 in the Annexure.

Department of Health and Sanitation

Management Response:

The pending bills for the department of health and sanitation for the FY 2019/20 were Ksh 8,634,175 development being Ksh 2,779,612 and recurrent Ksh 5,854,563. The development bills were attributed to un-completion of development projects on time while recurrent was incomplete documentation. The pending bills have been included in the current budget and would be cleared once certificate of completion works is presented subject upon inspection and evaluation and provision of all supporting documents. Annexed find table 16 on pending bills from the department.

Office of the County Secretary and Head of Public Service

The management response is with us here and the table is with us too

Committee Observations

The Department of Finance and Economic Planning has an outstanding Imprest of KShs. 21,910,806 out of which Ksh.13, 562,806 was attributed to documents having been taken by the Ethics and Anti-corruption Commission.

It was also observed in the department of Lands and Urban planning that failure to surrender the imprest on time was occasioned by program/activity which was to be undertaken being rescheduled hence the said imprest was surrendered in the subsequent financial year.

Under the office of the County Secretary, the committee observed that all outstanding imprest pertaining to the said office during the period under review have since been surrendered, save for two imprest with court cases and another under police investigation

COMMITTEE RECOMMENDATIONS

The accounting officers must at all times ensure that adequate controls are put in place to commit funds that are available in the budgets so that all eligible bills that become due are promptly settled within the same financial year in which they relate. To avert future and historical un-ending queries on Pending bills the Public Accounts committee urges the County Assembly through its oversight responsibility to only approve budgets that will fully recognize all outstanding pending bills for all the departments.

Accounting officers who fail to clear bills in the year they fall due engages in improper conduct as per the provisions of Section 156 (4) (d) of the Public Finance management Act, 2012 in failing to promptly pay approved bills when funds are available. The County Committee Member for Finance to take necessary disciplinary measures to the accounting officers as per the provisions of Section 156 (2) of the Public Finance Management Act 2012.

The committee recommends that accounting officers must at all times ensure that there is proper management and control of, and accounting for the finances of the County Government and its entities in order to promote efficient and effective use of all resources that are available and appropriated in the budgets.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Basis for Conclusion

1. Projects Implementation Performance

Department of Health and Sanitation

Management Response

During the financial year, the department of health and sanitation implemented 41 projects, out of which 17 are complete, 18 projects at 50% complete and above while 6 projects did not take off due to underfunding. The detailed project status is as shown below; Hon. Members you will go through as you allow me go through management responses

Office of the County Secretary and Head of Public Service

Management Response

The management responded as follows;

Under the office of the County Secretary, we have implemented only one project under the Kenya Devolution Support programme that is ongoing, below is the project implementation status as at June, 2021.

Table 9 is there.

Committee Observations

It was noted that most of the projects were ongoing at the time of audit and reporting. This basically due to the long procurement processes that led to tenders being awarded towards the end of the financial year and therefore couldn't be implemented as initially envisaged. Most of the projects however are in their final completion phases.

Committee Recommendations

The accounting officer to always ensure that all the deliverables of the projects are completed in time according to the terms of the contract, failure to which contract agreements should be terminated when the timelines are not adhered to. This will ensure value for money to the residents of Bungoma County.

Status report of the ongoing projects to be submitted to the County Assembly within (60) days from the date of adoption of this report and the relevant sectorial committees of this honorable house to follow up.

2. Long Outstanding Imprests

Management Responses

Ministry of Finance and economic Planning

The individual performances by the respective Ministries, Departments and Agencies have been communicated to the respective MDAs for their comments.

The Ministry of Finance and Economic Planning had outstanding imprest of KShs. 21,910,806 as at 30th June, 2020. The summary status is as follows;

Hon. Members can go through that.

Action- the Accounting Officer has since initiated action for recovery of the un-surrendered imprest

Department of Agriculture, Livestock, Irrigation, Fisheries and Cooperatives Development

The management acknowledges the observation made by the audit.

However, delays in surrendering imprest are sometimes occasioned by the nature of activities being field intensive and outreach based that warrants staggering over a slated period of time. The outstanding two imprest totaling Kshs. 1,300,000 has since been surrendered

Office of the County Secretary and Head of Public Service

Management Response

All imprest have been surrendered; the department has two imprest with court cases and another one under police investigation as shown below;

CS	3220317	Ignatius Simiyu Nyukuri	facilitation	for	KDSP	activities
	595,500.00					
CS	2514337	Carolyne Malangachi	2,360,000.00			

Department of Public Service Management and Administration

Management Response

The management agreed with the audit findings and stated that out of the imprest balance Kshs.67, 189,354 as at 30 June, 2020, the department had an outstanding imprest of Ksh. 20,578,900 which has since been fully surrendered immediately after the accounting officer issued reminders and warning letters to defaulters vide letter dated 12th July, 2020 vide ref CG/BGM/PSM &ADMIN/CO/VOL I (134).

Department Lands, Urban/Physical Planning and Housing

The County Treasury had outstanding imprest amounting to Kshs. 29,600 for the department of Lands, Urban, physical planning and housing as at 30th June, 2020 due to delay in execution of activities. The imprest has since been surrendered. (Appendix 111– Analysis of outstanding imprest as at 30th June, 2020).Relevant imprest surrender documents were availed and verified by the committee.

Committee Observations

The Department of Finance and Economic Planning has an outstanding Imprest of KShs. 21,910,806 out of which Ksh.13, 562,806 was attributed to documents having been taken by the Ethics and Anti-corruption Commission.

It was also observed in the department of Lands and Urban planning that failure to surrender the imprest on time was occasioned by program/activity which was to be undertaken being rescheduled hence the said imprest was surrendered in the subsequent financial year.

Under the office of the County Secretary, the committee observed that all outstanding imprest pertaining to the said office during the period under review have since been surrendered, save for two imprest with court cases and another under police investigation

Committee Recommendation

The Office of the Auditor General to liaise with the EACC on the documents that were taken away for investigations in order to carry out proper verification on the long outstanding unaccounted for public money since this has always been a scape goat by the County Executive Departments.

The accounting officers should ensure full compliance to the Regulation 93 of the PFM 2015 (County Governments) on managing imprest transactions.

Section 93 (1)&(5) of the Public Finance Management (County Government Regulations),2015 provides that;

(1) An imprest shall be issued for a specific purpose, and any payments made from it, shall be only for the purposes specified in the imprest warrant.

(5) A holder of a temporary imprest shall account or surrender the imprest within seven (7) working days after returning to duty station.

(6) In the event of the imprest holder failing to account for or surrender the imprest on the due date, the Accounting Officer shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate.

(7) If the Accounting Officer does not recover the temporary imprest from the defaulting officer as provided for in this regulation he or she commits an offence as provided under the Act

The committee directs that, the accounting officer should always ensure strict adherence to the regulations governing management and control of imprest.

3. Non-Compliance with Public Finance Management Fiscal Responsibility Principles

Management Responses

a) Development expenditure at 23%

i. Comments – The Management agrees that the expenditure on development was below 30% as required by Sec. 25(1(b)) of the PFM Regulations, 2015. However, the Management would like to explain that the budgeted amount was KShs. 4,594,339,281, which accounted for 33% of the total planned expenditure. The absorption was impeded by factors explained under ‘Budgetary Control and Performance,’ as listed below;

Delayed Exchequer financing – Projects meant for civil works are paid based on the progressive evaluation. Therefore, when the preceding certificate(s) have not been paid, contractors will delay the progress until when the preceding certificates are paid

Weather – The progress of infrastructural projects (roads) is hampered by rains

Contractor’s lack of capacity – Some contractors fail to perform as required. This has led to termination and retendering of contracts which impacts on the progress of the projects

ii. Action–The County Government has since undertaken the following initiatives;

Formation of project implementation committees to monitor the timely and effective implementation of the projects.

Pursued the timely issuance of Exchequer Releases from The National Treasury so as not delay payment of Valued Works.

Pursued measures aimed at improving the performance of local revenues so as not to be affected by delayed Exchequer Releases from the National Government.

Timely preparation and approval of Procurement Plans so as to begin procurement processes early enough.

b) Expenditure on compensation of employees at 44%

The Management agrees with the auditor’s finding and would wish to comment as follows, including the action taken;

i. Comments – The Management wishes to explain that the principle has historically not been met and has been caused by many historical factors that have occurred over time since the year 2013;

Implementation of Collective Bargaining Agreement for health workers was undertaken so as to stabilize the industrial relations and restore provision of services

- Conversion of terms for the ECD teachers was undertaken so as to provide stability in the sector
 - Employment of staff in critical functions such as health, roads, education among other
- ii. Action – The following actions have since been taken;

The County Government has since resolved to only recruit technical officers in key priority areas

The County Public Service Board further submitted that there was a bloated workforce who transcended from the defunct local authorities, some of whom do not possess the requisite qualifications for promotions or re-designation hence need for further recruitments. The management further undertook to rectify the situation and avail annual reports to the County Assembly on the steps taken.

Committee Observation

The County Government of Bungoma failed to adhere to the Fiscal Responsibility Principles contrary to the Provisions of Section 107 of the Public finance management Act, 2012 as read together with section 25 of the Public Finance Management, (County Governments) Regulations, 2015.

Committee Recommendation

The County Assembly adopted a report from the Public Accounts Committee in respect of the Auditor General Report for the year ended 30th June 2019 requiring the County Executive Committee Member for Finance to submit a responsibility statement to the County Assembly of Bungoma within 30 days of adoption of the report, explaining the reasons for the deviations and provide an explanation on how the County intended to ensure annual actual expenditure outturns as well as medium term allocation comply with the provisions of Section 107 (2) (b) &(c) of the Public Finance Management Act, 2012 and Regulation 25 of the Public Finance Management Regulations, 2015. The compliance plan that was to be forwarded to the Assembly was to be binding and the CECM for finance ensure implementation. It's on this premise that the committee recommends the CECM finance to submit a responsibility statement to this house within (30) days that will precede adoption of this report.

4. Failure to Submit Revenue Statements for Audit

Hon. Speaker, honorable members can go through the report as they allow me move to management response.

Management Response

The Management agrees with the auditor's findings and would wish to comment as follows, including the action taken;

a) Comments

In the year 2019/2020, the Revenue Statements were not produced in the year and formally submitted to the statutory institutions, including the Office of the Auditor General as required by Sec. 165(3) of the PFM Act, 2012 because of lack of a template Approved by the Public Sector Accounting Standards Board.

However, the Revenue Department has been reporting and submitting the returns on monthly, quarterly and annual basis for consolidation and incorporation into the financial statements. These statutory financial statements and reports are usually submitted to the various statutory Public Finance Management institutions.

These returns were not in a format prescribed by the Public Sector Accounting Standards Board. Therefore, lack of Revenue Statements does not imply that the revenue reported in the Annual Financial Statements and Reports for the year ended 30th June, 2020 are inaccurate. The figures are verifiable.

At the time of preparation of the annual financial statements and reports for the year ending 30th June, 2020, the Receivers of Revenue Reporting Template had not been developed and issued by the Public Sector Accounting Standards Board. The Public Sector Accounting Standards Board has since developed a reporting template for the National Government Reporting entities.

b) Action - The County Government has since customized the template for our use and are intending to train the Reporting Officers on how to use the template. The template has been put to use from the year 2020/2021.

Committee Observations

The Department didn't prepare the financial Statements for the County Revenue Fund as required by Section 165(1), (2) and (3) of the Public Finance Management Act, 2012 due to lack of a standard revenue reporting template.

Committee Recommendation

Since the template has been developed by the Public Sector Accounting Standards Board, the Department of Finance and Economic Planning should prepare and submit financial statements for the revenue in total compliance to Section 165(1), (2) and (3) of the Public Finance Management Act, 2012 in the subsequent fiscal years.

5. Compensation of Employees

5.1. Non-Adherence to One Third Basic Salary Rule

Analysis of the payrolls revealed that one hundred and seventeen (117) employees drew net salary that was below one third of their basic pay contrary to Section 19(3) of the Employment Act, 2007 which requires that the total amount of all deductions which may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of the basic pay.

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

Management Response

The Third rule is fully adhered to, however, in some circumstances due to statutory obligations e.g. the Finance Bill on house Rent was adjusted to higher figures which affected most of the staff that were occupying Government houses. Governor's office staff were downgraded their job groups and also recovered the over payment vide a letter from the County Public Service Board.

We have case where they effected pension deductions yet some employees had loan commitments. Some cases are disciplinary where an employee is either on interdiction/suspension while others have recoveries for various reasons. Imprest recoveries and those with court cases had resulted to most of the staff earning half salary and house allowance only.

Committee observations

The committee noted that the County Government indeed allowed deductions on the above quoted employees to exceed the allowable 1/3 rule of their basic pay contrary to the relevant provisions of the employment Act.

Committee Recommendations

The committee directs that the management should always adhere to the provisions of section 19(3) of the Employment Act, 2007, which requires that the total amount of all deductions which may be made by an employer from the wages of his employee at any one given time shall not exceed two-Thirds of the basic pay.

5.2. Engagement of Temporary Workers

Hon. Speaker, Members to go through the report. Allow me move to management response.

Management Responses

Submissions by the County Public Service Board.

The management did not agree with the findings and averred as follows:

The County Public Service Board as guided by Sections 74 and 75 of the County Governments Act, 2012 has not mandated any county entity, department or organ to hire any staff on its behalf and therefore if there are any workers engaged on temporal or other basis then the responsible county entities, departments and organs should be held culpable and the management cannot account and or support the expenditure of Ksh. 235,888, 852.

Submission from the Department of Health;

Engagement of temporary workers in the department of health is conducted as follows:

i) Minutes are raised by the Hospital Management Teams before hiring of temporary employees is done. Intent for employment of temporary employees is raised by respective health facilities and forwarded to the Health Management Committee for ratification.

The adverts are then placed on the local hospital boards and applications submitted by the applicants, interviews conducted and successful officers employed

ii) Each facility has a muster roll showing attendance of employees and is attached to the payment voucher when paying their dues

iii) There has been no approval by the County Public Service board when engaging this temporary workers an oversight which the department admits and going forward we shall be engaging the board.

iv) There is a detailed list of all temporary workers in the department which is normally submitted during the budget making process

Submissions from the Department of Agriculture, Livestock, Fisheries, Irrigation and Cooperative Development

The management acknowledges the observation made by the audit.

The department has continued to engage temporary workers/casuals at the Mabanga Agricultural Training Centre, Mabanga Agricultural Mechanization Service and at the Chwele Fish Farm. The Muster Rolls (showing schedule of attendance), payment vouchers of casual salaries and list of casuals is attached.

Committee Observation

The committee noted the unprocedural expenditure of Ksh. 235,888,852 on basic wages of temporary employees since there lacks;

- Evidence of how the temporary employees were hired, the work for which they were hired, and their terms and conditions of service
- Muster roll showing attendance of casual work
- Approval by the County Public Service Board, authorizing Departments to recruit casual employees.
- Listing of all temporary workers engaged by various Departments.

Committee Recommendation

- This Committee strongly condemns and warns all the accounting officers against engaging any workers on whatever terms of service in the county public service without prior knowledge, authorization and approval by the County Public Service Board pursuant to Sections 74 and 75 of the County Governments Act, 2012. The County Public Service Board to undertake a verification exercise of the temporary employee's records pertaining to the period in question and submit a comprehensive report to the County Assembly within (30)days from the date of adoption of this report with the following specific details;

- Evidence of how the temporary employees were hired, the work for which they were hired, and their terms and conditions of service
- Muster roll showing attendance of casual work.

The relevant County Assembly Committee on Implementation to take up the matter upon receipt of the said report.

5.3. Over-Employment of People from the Dominant Ethnic Community

Review of human resource records revealed 5,205 or 84% of all the County Executive's employees were from the dominant local community in the County. This is contrary to the provisions of the National Cohesion and Integration Act, 2008 which stipulates that at least 30% of employees should be from communities other than the dominant one.

Consequently, the Management is in breach of the law.

Management Response

The management agrees to the audit findings. The management further expounded that majority of the County Executive employees transcended and or were inherited from the defunct local authorities a matter that was beyond their control. However, the management made an undertaking that going forward there will be competitive recruitment while strictly observing the provisions of the National Cohesion and Integration Act, 2008 as well as section 65 (1) (e) of the County Governments Act, 2012.

Committee Observations

The Committee noted and agreed with the management that majority of the County Executive employees transcended from the defunct local authorities and by then the County Public Service Board was not in place to regulate.

The committee equally noted that with the existence of the County Public Service Board, there has been advertisement for recruitments in various positions in the county public service hence the Board could not compel applicants from other communities to apply.

Committee Recommendations

Vacancies to be filled in the county public service should always be competitively sourced and filled; members of other communities are encouraged to apply and should not be coerced so that they are considered as and when they merit by the County Public Service Board.

The Committee recommends for the strict adherence of the requisite provisions of the law regarding recruitment in the County Public Service by the County Public Service Board and more so, due regard should always be given to the provisions of the National Cohesion and integration Commission Act,2008.

6. Payment of Legal Dues/Fees

Mr. Speaker, members to go through this. I now move to the response.

Management Response

That the information available indicates that, the Department of the County Secretary paid five legal firms the legal dues/fees amounting to Ksh.8,001,644 for representing the County Executive in various cases during the year under review as follows; the names are there. We move to committee observations.

Committee Observations

The fees charged fell within what the Advocates Remuneration Amendment order provides. The court cases including case numbers and their respective fee notes from the said law firms were submitted and confirmed by the committee

Committee Recommendations

The committee hereby recommends that, when sourcing for legal services, the accounting officer in conjunction with the office of the County Attorney to always ensure that the fees/dues paid are in strict compliance with what the Advocates Remuneration Amendment order provides. Any fees/dues paid over and above what the said order provides to be recovered from the responsible accounting officer.

7. Construction of Ward Offices.

Mr. Speaker, let members go through this as they allow me go to the management response.

Management Response

The department agreed with the audit findings. It further stated that the efforts were in place to acquire land for the construction of the remaining Ward offices.

The management further stated that the Bills of Quantities did not include fencing of the offices. The management averred that Tongaren Ward office was complete while the remaining two Ward offices namely; Soysambu and Ndalul did not take off due to lack of land.

Committee Observations

The committee notes that value for money on the expenditure of Ksh. 12,274,440 could not be substantiated.

The committee notes a correspondence between the Department and the County Department of lands dated 4th March 2021 vide reference number CG/BGM/PSM &ADM/ CCO/ VOL.II (59) requesting for land ownership documents for 13 wards. However, no response from the Departments of Lands in reply was tabled.

Committee Recommendation

The Committee recommends for the prompt implementation of the projects in question and a report availed to this County Assembly with 60 days from the date of adoption of this report

failure to which the amount of Ksh. 12, 274,440 should be recovered from the responsible Chief Officer.

8. Supply and Installation of Networking Equipment and CCTVs

Members can go through this. We move to the management response.

Management Response

The management submitted as follows;

- a) Tagging is work in progress and falls under the Department of Finance and Economic Planning and the relevant department has been informed and is working to remedy the matter
- b) The damaged routers at the departments of Environment Water Tourism, Agriculture Livestock Fisheries and Cooperatives Development were replaced and now operational.

Committee Observation

The Committee noted that the County Department of Finance and Economic Planning is seized with the matter.

The Committee observes and notes the gross misconduct from the Accounting Officer in response to the audit findings for not tagging the networking equipment.

Committee Recommendation

This Committee hereby recommends that the Chief Officer County department of Finance to ensure that the process of tagging of all networking equipment and closed circuit televisions (CCTV) items is fast tracked. A compliance report must be submitted to the County Assembly within sixty (60) days from the date proceeding adoption of this report.

9. Delayed Completion of High Altitude Training Centre in Mt. Elgon Sub-County

Management Response

The management disagreed with the audit observations and submitted that the amount captured in the audit report of ksh.14, 606,224 was for phase II of the project. That under phase I, during the awarding of the contract in the year 2016, there was no attendant budgetary allocation then. As such, there was value for money in respect to the said payment. The accounting officer further submitted that the key issue in the audit report was the delayed completion of the project and that the main works are now complete at 97% save for electrical works representing about 3% under phase one. Additionally, the management submitted that the main challenge bedeviling the project since inception has always been under budgeting. That out of the total budgetary allocation of Ksh.37Million, ksh.14, 606,224 was paid. The management additionally stated that the first contract with M/s ZudaFric after having been terminated for non-delivery, the same was re-advertised and later awarded to two calves. As for the issue of lack of ownership

documents regarding the parcel of land on which the Training Center stands, the management stated that it had communicated with the relevant department of Lands for necessary action.

Committee Observations

It was noted that since inception, the project has taken in excess of over four years to be delivered

The Tender documents, the contract agreement, the relevant payment vouchers and the correspondences between the accounting officer and her Lands counterpart were not availed for committee confirmation and/or verification.

Committee Recommendations

The committee recommends that projects implemented should be well supervised to ensure that all the deliverables of the project are functional and are completed in time according to the terms of the contract.

10. Delayed Completion of Market Stalls

Management Response

In the response, the management stated as follows;

- a) The delays in completion of the stalls in question was attributed to inability on the part of the contractor to transport the goods/containers from Mombasa due to covid-19 restrictions and lockdowns and by extension late exchequer releases
- b) In regard to the issue of the ten stalls which had been installed and were being occupied by homeless boys during the time of audit, the management submitted that; the said stalls after having been installed were duly locked and additionally, the said homeless boys were basically staying just next to the site.
- c) The management further submitted that, in three weeks' time from the date of the interrogation exercise, the department would be giving out the stalls to the traders.
- d) As for the variations which were carried out on the original BQs, the accounting officer stated that the same was necessitated by the need to incorporate new components which were not factored in the original BQ. Additionally, the variations done fell within the same contract sum.
- e) The accounting officer further submitted that the delay was also attributed to the change of leadership at Kisiwa Technical Training Institute which institution had been contracted by the department to carry out the said works.

Committee Observations

The delays in question were caused by covid-19 related restrictions and lock downs thus affecting transportation services and by extension, late exchequer releases

It was also observed that another contributing factor which gave rise to the delays referred to in the audit report was change of leadership at Kisiwa Technical Training Institute who were the

contractors. Correspondences including minutes arising from the meetings organized between the institution and the department were availed and verified by the committee

Committee Recommendations

The committee recommends that all projects being implemented by the County Government should always be executed and completed in time according to the terms of the contract agreement. The committee further directs that the accounting officer avails the status report to the County Assembly within (30) days from the date of adoption of this report

11. Non-Operational Market Sheds

Management Response

The accounting officer in his submissions stated that, the management was equally taken aback when it dawned on it that such key components had not been incorporated in the BQ at the time of preparation. The management further submitted that the accounting officers usually come on board after tender opening and as such they are never privy to the contents of the BQs because the BQs aspect is a exclusively a preserve of the county department of Public Works.

Committee Observations

It was noted that the aspect of preparation of BQs is always handled by the County department of Public works to the exclusion of the user department.

Committee Recommendations

The accounting officer to move with speed and ensure operationalization of the said project is Fas tracked. A status report be submitted to the County Assembly within (60) days from the date of adoption of this report.

12. Non-Operational Water Projects

Management Response

The management agrees with the audit findings. They further submitted that the hydrological and Geo-physical surveys determine the depth at which the aquifer can be found but not the water quality and quantity. The water quality is determined after drilling and water samples taken to the laboratory for physical, chemical and bacteriological analysis. In the meantime, the department had stopped the community from using the water.

The management went to state that the department intended to purify the water through oxidation but the process involved had financial implications that required direct allocation of funds totaling to Kshs. 868,804.75 from Community Empowerment Fund as per the attached budget.

Committee Observation

The committee notes that the department there was need to approve the funds for oxidation that was not factored initially to help the community access clean and secure water as was proposed by the management in their submission.

Committee Recommendation

The Committee directs for the speedy implementation of the oxidation process through the allocation of the requisite budgeted amount and the accounting officer to provide a report on the implementation status after 60days from the date of adoption of this report.

13. Chebukwabi-Kibingei Water Project.

Management Response

The management agreed with the audit findings. The department submitted that after realizing challenges of vandalism, burst and damages on valves, it came up with a strategy of forming a management committee that comprised of members across the cluster region whereby the chair is from Kamuneru, Secretary from Kibingei and Treasurer from Sambocho. The committee members represent their regions. The management confirms that the strategy has improved on management since December 2020; the three regions of Kamuneru, Sambocho and Sacho are receiving water effectively. The Minutes for the election of the Committee Members are attached.

Committee Observation

The Committee notes and confirms the existence of the management committee vide a copy of the Minutes tabled during the interrogation exercise.

Committee Recommendation

This Committee applauds the department for the effective strategy in ensuring harmonious service delivery of the efficient water resource and resolves that the community has obtained value for money on the expenditure of Kshs. 48,890,169

14. Land Procured Without Ownership Documents

Management response

The management agreed with the audit findings and submitted as follows;

The department purchased twelve parcels of land (12) under the Ward based Projects at a total cost of Ksh. 20,550,000.

Copies of title deeds are normally used to purchase the land and the originals are handed over after payment. Parcels without copies of titles have grant of letters of administration intestate from the courts as they process ownership documents under succession.

The department did not have a budgetary allocation on administrative costs to cover survey fees, valuation costs, beaconing, stamp duty, registration fees and fencing due to the limited ceiling allocated to the department despite being amongst our proposals during the budget making process.

An administrative cost allocated in the FY 2020/21 budget for the parcels is still on-going given the long processes involved. Further, no funds have been allocated in the 2021/22 FY budget for the same.

The list of land parcels procured by the department during the period under review with their current status including the status of parcels of land under succession was availed for committee verification.

Table 13: List of Ward Based Parcels Purchased in 2019/2020 is here.

Committee Observations

It was observed that the transfer process including acquisition of ownership documents for the parcels of land procured by the department during the period under review is on-going despite budgetary constraints.

A comprehensive project implementation report for the financial year under review with estimated budget value and the actual expenditure amounting to ksh.116, 877,797 and ksh.54, 300,000.00 respectively was availed for committee verification

Scrutiny of the project implementation status report revealed that some projects earmarked to be implemented by the department had indeed stalled due to budget cuts during supplementary estimates

However, the management failed to submit valuation reports for committee confirmation/verification

Committee Recommendations

The committee hereby recommends as follows;

- i) The department should always ensure that during budgeting, both the purchase price and sufficient administrative fees to cover valuation fees, survey, stamp duty, registration, beaconing and fencing/securing charges are duly factored in the budget.
- ii) Projects implemented by the department should be well supervised to ensure that all the deliverables of the said projects are fully functional and completed in time according to the terms of the contracts.
- iii) In addition to the above, all ownership documents for the parcels of land procured should be kept in safe custody of the management.

iv) The department to ensure that, the on-going transfer process and acquisition of ownership documents is fast tracked. A comprehensive status report to be submitted to the County Assembly within (90) days from the date of adoption of this report.

14.2 Purchase of 3 Acres of Land

Management Response

The management agrees with the audit findings. However, the management went ahead to substantiate that the settlement scheme plots did not have title deeds but instead had allotment letters that were used for payments. A copy of the allotment letter was availed and duly verified by the committee.

Committee Observation

The committee notes and confirms that the payments were done with an allotment letter as tabled before the committee for verification.

Committee Recommendation

The committee emphasizes on the need of accounting officers providing all the supporting documents to the Office of the Auditor General at the time of audit to forestall such queries.

15. Upgrading of Misikhu-Naitiri-Brigadier Road

Management Comments

- a) The section from Naitiri to Misikhu was advertised and awarded to the contractor who is on site.
- b) Only 18.65km had been tarmacked and the contractor had done 2.2km earthworks so as to finish the 20km which is 20% of the contracted road
- c) The potholes and wearing off observed on the road was due to heavy surface runoff occasioned by heavy rains during the season. Otherwise the contractor had done a sub grade 2 layers on this road.
- d) The contractor had suspended the works because of the discussion that is ongoing between National Government and County Government on the completion of the remaining section.
- e) The road signage were installed 2016 December when the contractor commenced the works, but with time the signage were vandalized by locals
- f) The quantities of culvert were under estimated from the conception stage of the project, that's why the contractor was not issued with instructions to continue doing access culverts beyond 10km, apart from doing the cross-culverts
- g) This Road was designed for low volume vehicles. The designed traffic that was used was T3, but since there is an increase in sugarcane growing in the region, the trucks that use the road are of class T2 hence overloading under thus reducing on the lifespan of the road
- h) The quantities of stone pitching were under-estimated from the conception stage of the project that is why the contractor was not issued with more instructions to continue with the works

Committee Observations

1. The department of Roads and Public Works is in agreement with the observations made in the Auditor General's report as confirmed by the Public Accounts committee.
2. The County Government entered into a verbal agreement with the National Government over the upgrading of Misikhu -Naitiri -Brigadier Road, and the National Government had not honored its part of the bargain of Kshs.700, 000,000 towards the construction of the road. However, the National Government took over the sections from Misikhu to Naitiri and advertised for the contract which was awarded to a contractor who is currently on site.
3. The County Government has no MoU with KeRRA on the construction of the Misikhu - Naitiri -Brigadier Road and correspondences between the two organs were not availed for verification by the committee.
4. The County Government has made payments of Kshs. 74M as cost claims to the contractor which brings the total expenditure on the road at Kshs. 691,538,270.

Committee Recommendations

1. The Committee implores the County Government to consistently engage the National Government and its agencies to ensure the part taken over by the National Government is completed within the agreed period of the current running contract agreement.
2. The County Government of Bungoma should set its flagship infrastructural priorities right by ensuring that works initiated in the previous regimes are completed before coming up with new projects of a similar nature, consideration the huge financial implications of such projects.
3. The Department of Roads should ensure contracts entered into should be completed as per the agreed stipulated period in the contract agreement to enhance development as well as value for money for the benefit of the residents of Bungoma County.

16. Non-Operational Generators

Management Comments

The three power phase was installed in the facilities where the generators were supplied and currently the generators are operational.

Committee observations

The committee noted that despite the delays in installation of the three power phase, the same has been done and the generators are working as intended.

Committee Recommendations

The Accounting Officers should always strive to ensure value for money for public expenditure is realized without undue delay.

17. Un-Procedural Borrowings - Department of Health and Sanitation
Management Response

The department borrowed funds from the hospitals and at the time of audit, the borrowed amount had been refunded

Committee Observation

The committee gravely notes that the County Executive through the department of Health and Sanitation borrowed an amount of Kshs. 57,666,702 from the abovementioned two facilities un-procedurally by directly issuing imprest to officers without the funds first being received in the County Treasury Accounts as required by law.

Despite submissions by the Accounting officer that the borrowings were repaid through purchase of specialized materials, no documentary evidence to substantiate this allegation was produced before the committee for confirmation.

The committee further notes with concern that the relevant imprest warrants and surrender vouchers for an amount totaling ksh.51,068,602 and ksh.6,598,100 respectively were also not tabled for committee confirmation, besides the foregoing, the outstanding amount of kshs.39,713,103 was still outstanding as at the time of the audit.

In the circumstances and as rightly observed by the Office of the Auditor General, the County government of Bungoma didn't receive value for money for Kshs. 57,666,702 and consequently the County Government lost public funds.

Additionally, the committee further notes that, the requirements of sections 91,92,93 & 94 of the PFM (County Governments,Regulations,2015) regarding management of imprest transactions were grossly violated.

Committee Recommendations

Section 196 (1) and (3) of the Public Finance Management Act, 2012 has been indicated in this report.

1. The committee hereby finds the Chief Officer in charge of Health and Sanitation responsible for the questioned borrowings and thus recommends as follows;
 - a) That within (30) days preceding adoption of this report, the chief officer Health and Sanitation to submit a comprehensive report to the County Assembly with the following details;
 - i) Avail of all relevant documentation including formal requests made and the attendant approvals which gave rise to the said borrowings;

- ii) Avail all relevant documentary evidence in support of Ksh.28, 000,000 which was allegedly refunded through purchase of specialized materials to BCRH
- iii) Avail correspondence in form of letters between the department and Bungoma County Referral Hospital through which both parties agreed that a sum of Ksh.28, 000,000 be refunded in kind, i.e. through purchase of specialized materials.
- iv) Avail the names of supply chain management officers, who participated in the procurement of the said specialized materials/equipment
- v) Avail all other relevant correspondence made between the County department of Health and Sanitation and the lending facilities in regard to the said borrowings.
- iv). Avail certified copies of imprest warrants and supporting documents for Kshs. 51,068,602 and Ksh.6, 598,100 respectively.

2. That failure to which the accounting officer, department of Health and Sanitation (Mr. Patrick Wandili) to take responsibility and be surcharged the outstanding amounts of Ksh.39, 713,103

The committee awaits implementation report from the relevant committee of the County Assembly within (60) days from the date of adoption of this report.

18. Stalled and Non-Operational Projects

Management Response

The Current status of the eight Health facilities is as indicated

Committee Observation

The committee notes that the management indeed put in consented efforts to complete and operationalize some of the stalled projects whose current status is as submitted by the accounting officer and the delays were attributed to the effects of Covid 19.

Committee Recommendations

- i. The accounting officer to ensure that the sector's development budget as approved is implemented to the later in line with the provisions of section 53(2) of the Public Procurement and Assets Disposal Act, 2015 so as to ensure all projects under the department are completed and operationalized in order to realize value for money for the people of Bungoma.
- ii. Action to be taken on contractors who were awarded contracts and have failed to conclude works within the provided key timelines, specifically being Completion of Maternal/Child Ward Block at Bungoma County Referral Hospital and Sirisia, and Kabula Market Toilets.

19. Sub-Standard Works at Kamasielo and Kamuneru Primary Schools

Management Response

The management agreed to the audit findings and responded as follows:

The contract sum for M/s Techno shine ltd (BGM/CNTY/EDU/CEF/OT/81/2018 2019) was Ksh 2,373,810 out of which Ksh 2,113,328.05 was paid and the Retention amount of 211,332.81 is still outstanding which is sufficient to make good the defects as per the payment report from the projects supervisor as attached. M/s Lyss Enterprise was compelled by the project supervisor to return to the site at Kamuneru Primary School in Mt. Elgon to make good the defects before the retention amount of 167,085 is paid. The contract sum for M/s Lyss Enterprise (BGM/CNTY/EDU/CEF/RFQ/110/2018 2019) is Ksh 1,673,340 out of which Ksh 1,670,851.20 was paid and retention amount of Ksh. 167,085 is outstanding and sufficient to make good the defects as per attached payment report.

The management also informed the committee during the interrogation exercise that the Contractor at Kamasielo upon receiving the demand to redo the works; he was responsive and did the works as required to the satisfaction of the Works Department and was cleared for payment.

Committee Observation

The committee noted the correspondences between the Department through the Director Public works and the Contractor.

The committee agrees to the response on the works at Kamasielo Primary School that the works were rectified and the class is in use.

Committee Recommendation

The Committee commends the accounting officer for the immediate intervention to have the query satisfactorily handled and implores on the Public Works to be vigilant in their supervisory duties on all projects in the County government in order to ensure value for money is effectively and efficiently realized by the county residents.

20. Incomplete Works on Construction of Classrooms

Management Response

The management agreed to the audit findings and further submitted as follows:

The Department sent default notice to the contractor, M/s Barmack ltd BGM/CNTY/EDU/OT/75/2018-2019 to return to the site at Toroso and Kimabole polytechnics to complete the works before the remaining payments are made, the contractor thereafter failed to return to the site and the department terminated the contract. A new contractor is in the process of being sourced to complete the works. The payment of 47% is equivalent to works done. Attached is a termination letter

Committee Observation

The committee noted the correspondence terminating the contractors vide a termination letter dated 12th October, 2020 to Ms. Barmac Limited and Hardware of P.O. Box 18 Sirisia.

The committee notes the lack of capacity by the contractor in undertaking the project.

Committee Recommendation

The committee recommends for the immediate sourcing of a new contractor to complete the works in order to realize meaningful development and full realization of a decent learning environment in the aforementioned institution and a progress report be availed to this County Assembly after 30 days from the date of adoption of this report.

The Committee recommends that the County Public Service Board to consider redeploying and/or recruiting of competent works officers from the County Public Works Section to every county department for responsive, effective and efficient management of county projects

21. Stalled and Non-Operational Projects

Management Responses

The management acknowledges the observation made by the audit.

However for both cases operational measures have been undertaken as follows:

- a) The chicken unit at Mabanga ATC is currently operational as it houses four incubators that were procured and installed at the facility. The facility is also housing several chicken of different ages and has provided an opportunity for poultry farmer training and demonstrations.
- b) The Zero Grazing Unit at Mabanga ATC had design defects with the Bill of Quantities prepared by Public Works which the contractor stopped after realized was going beyond the provided quantities. Corrective measures were undertaken and required BQs were prepared for completion of the pending works. Since contract variations would go beyond the required legal framework, the department procured a contractor to complete the pending works and the works are ongoing.

Committee observations

The committee notes that there are four new incubators at the chicken unit at Mabanga ATC and the project is fully operational

The committee observed that there were defective Bills of Quantities which were not in line with the project expectations. This is as a result of the department of public works not being diligent in the development of the quantities.

Committee Recommendations

The Department of Public Works to be decentralized in the various County departments so that officers are well braced with what exactly is conceptualized for implementation.

22. Purchase and Distribution of Maize Seeds to County Wards

Management Responses

The management acknowledges the observation made by the audit.

It should, however, be noted that the department procured maize seed based on the three agro-ecological zones in the County (High-lands, Mid-lands and Low-lands) and seed preferences of farmers in each Sub-county. A survey was undertaken to establish maize seed preferences by farmers in each sub-county and the report clearly showed that most farmers in the low-lands preferred maize seed varieties manufactured and distributed by Western Seed Company. Farmers in the Mid-lands and High-lands preferred seed varieties manufactured and distributed by Kenya Seed Company. The department therefore initiated direct procurement processes to acquire maize seed from Kenya Seed and Western Seed as per the attached documents. The process was in conformity to Section 103(2) (a) of the public procurement and disposal Act 2015 for using this method.

Committee Observations

The committee observes that the department procured directly from Western Seed Company since they are the sole providers for maize seeds in low land areas as per the survey report carried out by the department.

Committee Recommendations

The Accounting officer should always adhere to the Public Procurement and Asset Disposal Act and provide evidence for justification of use of any method on time so as to forestall such audit queries.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

The County Executive, through the Department of Health and Sanitation, spent an amount of Kshs.269, 705,782 on specialized materials and supplies which included medical drugs, lab reagents, equipment, dressing and other non-pharmaceutical items.

During audit inspection of health facilities in the County, the following internal control weaknesses were noted:

- a) Bungoma County Referrals Hospital (BCRH) had a very small store and supplies procured by the Department and the Hospital were crammed there in such a way that it was very difficult to trace an item. Management indicated that construction of a commodity store had been initiated.
- b) BCRH procured a Health Management Information System to facilitate the smooth running of the Hospital. However, the store module was not fully operational.

- c) In the Sirisia Sub-County Hospital, the store's records were not properly kept and the balances in the ledgers were not matching the actual balances in the stores. For instance, the bin cards for catheters and urine bags and Cannula gauges had balances of 615 and 1820, while the actual balances in the store were 21 and 24 respectively.
- d) Bumula Sub-County Hospital did not have a fuel register.

The weaknesses noted may lead to irregularities and losses in the Department, which may lead to loss of public funds.

Management Responses

- a) It's true that Bungoma County Referral Hospital has a small store but this problem will be sorted out once the commodity store that is under construction is completed
- b) The store module at the time of audit had a mechanical problem but now it has been rectified and operational.
- c) At Sirisia Sub-County hospital, store records were not well kept at the time of audit but now this issue has been sorted out as the management responded to it immediately it was pointed out by the auditors.
- d) Similarly there is a fuel register at Bumula Sub-County Hospital after the auditors raised the issue

Committee Observations

The committee noted that there were indeed weaknesses in the internal control environment in the Health facilities, key to highlight being; a small store at BCRH unable to accommodate all the procurable, un-operational store management module, lack of fuel register at Bumula Sub-County and weak maintenance of stores records at Sirisia Sub-County Hospital. The management has however put in efforts to address the weaknesses including current ongoing construction of a commodity store at BCRH to sort out the issue of store space.

Committee Recommendations

- i. The Accounting officer to maintain proper records as per PFM Act 149 (1) (a), (b) and (2) (b).
- ii. The accounting officer should ensure that full control of operational functions including enhanced expenditure control, capacity building of staff and strengthening internal control systems for proper and effective use of resources and service delivery to the public.

Hon. Speaker, That marks the end of the report

ADOPTION SCHEDULE

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

Hon. Tony Barasa	Chairman
Hon. Joseph Magudah	Vice Chairman
Hon. Martin Pepela	Member
Hon. Rosemary Khisa	Member
Hon. Busolo Sudi	Member
Hon. James Chesibok	Member
Hon. Elly Tindi	Member
Hon. Jerusa Aleu	Member
Hon. Everlyne Mutiambu	Member
Hon. Erick Wapan'gana	Member
Hon. Metrine Nangalama	Member

Hon. Tony Barasa: Mr. Speaker you will allow me to call our Senior Member who is also the Chief whip opposition Hon. Busolo Sudi to second the report...

Mr. Speaker: Thank you Hon. Tony.

Hon. Isaiah Sudi: Thank you Mr. Speaker. First of all I want to congratulate my Chairperson, Public Accounts Committee for going through the report...

Mr. Speaker: Honorable Cheperenger! What is the issue? Why are you standing? We have so many chairs for you to sit on.

Hon. Isaiah Sudi: ...which was voluminous and he has done it very fast. I also want to echo my Committee Members for coming up with a very standard report. I therefore second.

Mr. Speaker: Thank you Hon. Tony. Honorable members, I will now proceed!

Hon. Isaiah Sudi: Mr. Speaker, I am not Hon. Tony, I am Hon. Sudi

Mr. Speaker: Sorry, Hon. Sudi Busolo. Thank you. Honorable Members I will now propose a motion for debate. Honorable members, a motion having been moved and seconded that this House adopts the report by Public Accounts Committee on the Auditor General's report on the Financial Statement of the County executive of Bungoma for the Financial Year ending 30th June 2020. I propose.

Hon. James Mukhongo: Thank you Honorable Speaker for the opportunity. Let me also take this opportunity to appreciate the Chair who has taken us through the Auditor General's report for 2020. I have noted some observations and when the Chairperson was presenting the report he did mention that they made many attempts or did invites to some of our officers to appear before the committee. Some of them never complied with the invites and some appeared; this is a tendency of the executive that is in place at the moment. When you invite them to appear before the committee or to share something which is very important for this County, there is a tendency to decline appearing before the committee.

However, I want to thank the committee for the effort they put in place and came up with this wonderful report. In the report we have a number of non-surrendered imprests and this is a trend in the County Government of Bungoma. It has become a habit! Staff are given imprests for a certain purpose as mentioned by the Chairperson when he was presenting the report but they don't surrender. That means some of these funds end up in different activities from the intended purpose. That is why they were given imprests and they are unable to surrender, but I am not defending them.

We have a committee in this Honorable House because...before I come there, there is this issue of pending bills in every department. It is an issue and an elephant in the House and we need to advise the County Government of Bungoma that please if they have assigned people some work and end up not paying them, I do not know how they are going to empower them economically and even the suppliers. There is total outcry outside there but how we wish that the coming Government takes care of whatever we are raising.

There is a funny story in the report; they have mentioned that there are some temporary workers in the County Government of Bungoma who are not being paid. The manner in which they were recruited is wanting. We do not know how they survive because they are there and every financial year we have been getting some funds towards the same.

There is a committee in this Honorable House that has let us down and let me be on record...The moment a Chairperson goes to bed with the Executive then you are done. This is a committee that could have assisted us here because look at the recommendations, observations and timelines are being given but you will find nothing has been done. Yet we have an oversight committee with a Chairperson and Members sited in this Hon. House. I do not know if there is any member of that committee who is listening to me .I do not know if they are in or not. That is the only committee that would have put the Executive to task.

Mr. Speaker: Honorable Sudi, are you by any chance a Member of that committee? Why are you laughing?

Hon. James Mukhongo: Maybe he knows the membership of that committee. Is he also a Member of the Implementation committee? It is very unfortunate. In future we need to have

inductions for our various committees so that they can beware of their mandate. As they execute their oversight they are also aware of the timelines and recommendations we give in this Honorable House. Otherwise, I want also to thank the Chairperson once more for giving us this wonderful report but it is now up to the executive. I do not know if they will implement because time is running. When you look in the House everybody is not sited here comfortably. We are sitting looking outside because we need to go out and campaign and the same Executive is also very busy campaigning.

Let me not forget something and I will need to be on record in the entire financial year, the projects that were undertaken; no single project has been mentioned in my Sub County that is Kabuchai. You will find some Sub Counties have a project in every sector but in Kabuchai where the Governor purports to...I do not know how I can put it. The CEO of this County but let's leave it at that because time is running out. Whom do you want to inform? I do not want to be informed! No! Many of the projects have been undertaken in Bumula!

Mr. Speaker: Honorable Sudi what is the issue?

Hon. Isaiah Sudi (*On a point of information*): That is it, the projects mentioned that were generated by the office of the Auditor General because they sample specific areas. They do not go round in all the Wards or all the Sub Counties. They just a sample and we have a lot of problems all over.

Mr. Speaker: Honorable Mukhongo, wind up!

Hon. James Mukhongo: You did not get my point my brother. Any way let us leave it at that. Otherwise, as I conclude my submissions, I want to thank the Chairperson, but it's very unfortunate, as we will be coming back we will be in Government and so I do not know who will be the Chair of this committee but we pray we have a good person again who will be the Chair of the Public Accounts committee. Otherwise, I rest my case.

Hon. Stephen Wamalwa: Thank you Honorable Speaker for giving me this opportunity to also make a contribution on this very important report.

First of all I want to laud the Chair Hon. Tony Khaoya for the eloquent presentation of the report on this floor and the entire committee membership assisted by the able secretariat, though I realized that they were using some heavy words that Hon. Tony was getting difficulties in bringing them out to the attention of the House, but all is well.

I also want to really pity with Hon. Mukhongo who he has left out what he was looking forward to advising the County Government of Bungoma because what I know is that the County Government of Bungoma if you choose to advise it, you will be advised instead. So I think Hon. Mukhongo should be aware of that, that if he attempts to advice the County Government instead he will come out as the one being advised and so he should choose carefully what he does.

When the Chairperson was reading this report some sections got my attention. Section two which is about long standing imposts and I want to point out the section where imposts have not been surrendered in a lawful way. Especially when we look at the template there about management response, all imposts have been surrendered; The department has got two imposts with court cases and another one under police investigating as shown. The case of the court case I think is on page 45.

The case file in the court should be brought to the attention of the committee and the attention of this House because there is no way we can verify that indeed the documents were not available because the same was an issue in the court.

We ask the question, whoever gave this, and did he or she provide the case file in that court because as it is, it is just another statement which is not verifiable. In the case of the police, then the police file also has to be provided and indicated in the report that this is a police case and the file number is this so that we get to understand that indeed it is something that is under investigation because we are dealing with a very treacherous Government and they can say anything for as long as they want to jump, evade and run away with the mistake.

The Chairperson of the committee, those are some of the glaring issues that as a committee you should have captured so that we are up to date with what these officers gave us. They are not honest and as it is explained when they are invited they cannot come. It is a trend which we must arrest. As an Honorable House, Members something has to be done because we cannot be summoning and inviting officers who are meant to adhere to the rule of law and this is a very important institution in this County, yet they cannot come forward to give evidence and shed light on what is happening. It is like the officers in the County Government of Bungoma have been taught bad manners and they have been cultured in bad manners and they behave badly. It is a shame to the Government of Bungoma! Shame on you Executive Government of Bungoma!

I also was attracted to section 15 of this report which is on page 15 about the entire Sub County of Tongaren. If there is any Sub county in this County that has been marginalized, forgotten and treated as visitors in this County it is the Sub county of Tongaren. In fact we are not treated as people of Bungoma. The people of Tongaren Sub County are treated as if they are visitors and they sit on the Verandah while the rest of the Sub Counties sit in the bedroom, kitchen and everywhere.

Mr. Speaker: Like Kabuchai.

Hon. Stephen Wamalwa: Honorable Speaker, it is about the Ward offices and the Hon. Chairperson brought to the attention of this House that some offices were not constructed because of the issue of land. I can say without any fear of contradiction that Soysambu Mitua Ward which I represent was mentioned that it had no land when there is about two acres of Land purchased by a former councilor in the Local Government and served in this House. An

Honorable Member by the name of Basil Makokha who served in the County Council of Bungoma.

It is there but the only thing is with the Government of Bungoma if you go to bed with the Executive you are given preference. If you stand firm and stand to be counted as an oversight organ, this is what happens and the officers will give all manner of excuses. Because it is not true! In Soysambu for example there is land, the only problem is that we are not in good books with the Executive and therefore the Department of Administration and Public Service thinks that Soysambu Mitua ward does not deserve an office.

That office does not belong to the MCA; it belongs to the County Government of Bungoma. It saves the County Government of Bungoma from spending money on what we call rent but because an officer somewhere thinks that when you do not do something in a certain Ward, you are punishing area MCA; that's why we are having such problems. I want to say that the officers in the department should come up strongly and try to defend themselves without casting aspersions and trying to make allegations which cannot stand the test of time.

There is also a section that got my attention concerning the Brigadier -Misikhu Road and I was shocked when the Chairperson was reading that the contractor was handed the site to go on with the construction of the road and some 2.5 kilometers earthworks was done. That road was abandoned! This road was started by Hon. Lusaka in 2016.

Tongaren is a very productive Sub County, a basket that feeds this County and so working on the Brigadier- Misikhu road was a very important dream; a vision to open up that Sub County in 2016, but because the current regime felt that since that was a project begun by Hon. Lusaka, it was important for it to be abandoned. That is why you can imagine the dual carriage which was started the other day is almost complete. With a budget higher than the 40 kilometer road from Brigadier to Misikhu as compared to 6.5 kilometer from San'galo junction to Kanduyi; the works is very spirited, there is passion and a lot of zeal, dedication and determination to complete the road so that they can transport a lot of foodstuffs on it as opposed to the 40 kilometer road which is productive in supplying food to this headquarters. There is no contractor on that road.

I want to bring to the attention of this House that the contractor abandoned the Brigadier Misikhu road long time ago. What this County should be preparing to do is to pay the waiting charges because the contractor left the machinery in the yard and what I am sure is that the County Government will be presented with a huge bill whether we like it or not and this is because of poor management. This is a sad story that the County Government is going to lose a lot of money because of poor management, poor priorities, sheer negligence and sleeping on the job. It is a sad story from Tongaren.

In fact if there was a way of trying to distance ourselves with Bungoma then we would do it so that we can move away from this County where Tongaren is not counted as part of this County.

It is a sad story. The road works in Tongaren-Misikhu Brigadier Road is abandoned. There is nothing like a contract which was negotiated between the County Government and the National Government. There was nothing like that! Whatever happened and I want to tell you is that there was a hoax because of the campaigns by the people of Azimio to come and cheat the people of Bungoma. That the Government of Uhuru Kenyatta is trying to hoodwink them and you have to take note Honorable Members that when Uhuru Kenyatta was addressing the people of Central in Kikuyu language not in the national language. A whole president and shame on you Uhuru Kenyatta! A whole president addressing the Nation in mother tongue! It is something that I have never seen, experienced or heard.

He said that in Central Kenya they have made 2600 kilometers of tarmac roads and when they came to Bungoma, to the Brigadier Misikhu road they just launched the air and left. I pity Hon. Mukhongo who travelled from Chwele to Naitiri to witness launching of air in form of making a road. There was nothing like that.

As I finish, I was attracted to a section where the Chairperson was talking about issues health and the management of Funds from the Ministry of Health at the County Referral Hospital and the Webuye County Hospital and the recommendations they gave I think are very lenient. This Chief Officer in charge of health should be in prison. He belongs to prison and not walking scot-free because when you read this report you realize that he has done things with a lot of impunity.

Unfortunately, it is as if in this House we have no teeth to bite. As an entity, we cannot do anything to the existing Government of Bungoma but as the Swahili say, *Ipo siku* (someday) because the Chief Officer referred here as Wandili should not be walking scot-free on the streets of Bungoma.

I want to laud the committee, but I want to say that something has to be done. The County cannot just lose millions of shillings because of mismanagement by someone who is working in the guise of serving the people of Bungoma. I support the report but I want to ask that this time round these officers should be held accountable and if possible other entities should be involved so that we curb this. I support.

Mr. Speaker: Thank you Honorable Stephen Wafula.

Hon. Henry Majimbo: Allow me to start from where the Deputy Speaker has ended. The recommendation here is very clear on page 82 and from the outset I want to support the report with the following submission;

I want to laud the Chairperson and his committee for an above average report and I have the following to say as to why I have awarded above average:

They have come out very strongly that they found the Chief Officer in charge of Health and Sanitation responsible for the questionable borrowing and have highlighted that in their

recommendations. They have gone ahead and said failure to which the Accounting Officer in the department of Health and Sanitation Mr. Patrick Wandili should take responsibility and be surcharged the outstanding amount of Kshs 39, 703,103.

The constitution is very clear on the responsibility of a public officer in regard to public finances; I think it is Article 226. The public officer should take responsibility whether in office or out of office of any ills committed. If this committee finds Mr. Wandili culpable then why do they say that within 30 days upon the adoption of this report, the Chief Officer Health and sanitation should submit a comprehensive report to the County Assembly with the following details.

The reason I gave the committee above average is that in the last bit of this bullet they say; “failure to which the accounting officer to take responsibility.” They could have recommended that this man should be put behind the bars pursuant to the provision of the relevant statutes. Why should they say the Chief Officer should take responsibility and then further say the committee awaits a report from the implementation committee?

When someone is in breach of law, you don’t give him another time, you don’t give him 60 days from the adoption of the report for action to be taken. There are some actions that should be taken in regards to breach of law. You don’t even recommend to the committee on implementation because it is already breach of law. So what is the implementation committee going to do? They should have recommended that because he is in breach of law! The DCI should further investigate, period! When you say another 30 day or another 60 days or committee on implementation, you get an above average you don’t get a distinction. This person is supposed to be behind bars because when you read parts of what the Auditor has said, they have indicated that it is already in breach of law.

I want to go to bullet 5 (ii) on engagement of temporary workers and this is where I want to differ with the committee. The audit said in the circumstances the management is in breach of law and the management responses, the submission by the County Public Service Board is very clear. Someone is supposed to go to *wafwaro huko chini* because the Service Board is saying that it did not agree with the findings and averred as follows; The County Public Service Board as guided by Sections 74 and 75 of the County Governments Act, 2012 has not mandated any County entity, department or organ to hire any staff on its behalf and therefore if there are any workers engaged on temporary or other basis, then the responsible County entities, departments, and organs should be held culpable and the management cannot account and/or support the expenditure of Kshs 235,888,852.

The audit report has said there is a loss of Kshs. 235 Million through irregular recruitment and the County Public Service Board has come out clearly by saying it is irregular because it has not delegated its responsibility and duties to any government entity to recruit; and the audit report here says the management is in breach of the law. The next step is to recommend that officers who are culpable should face the full force of law for making the County Government incur

losses of Kshs. 235 Million. This is not pocket change! The DCI should have even gone deeper and investigate this matter.

Just look at what the audit report says ; that during the year under review, the County Executive spent Kshs. 242,671,993 on the basic wages of temporary employees, an increase of Kshs. 64, 587, 778 from the previous year's expenditure of Kshs.178, 084, 215. The Auditors go ahead and say that however, scrutiny of employees' records reveal that out of the expenditure of Kshs.242, 671, 993 an amount of Ksh. 235, 888,852 was not supported with the following documents. They have listed the documents here, evidence of how the temporary employees were hired. The work for which they were hired and the terms and conditions of their service, the master role showing the attendance of casual workers, approval by the County Public Service Board authorizing the departments to recruit the employees, listing of temporary workers engaged in various departments and then in that circumstance, the Auditor has said they are in breach of the law.

The next step was the chairman and the committee to recommend that because they are in breach of the law, we hand over to the next organ or agency within the national government to proceed with further investigation.

If people have been paid and there are no supporting documents, no vouchers, it has nothing, and then these are thieves! I want to ride on what Honorable Deputy Speaker said that some people are supposed to be behind bars because how can you consume Kshs.235 Million and yet don't have the necessary documents and you have not followed the procedure?

In a nut shell what am trying to say is that the committee has tried to its level best but it left many open ended recommendations that are prone to misunderstanding. The recommendations are supposed to be clear, they give the pathway by saying because of the breach of law; we are recommending that further investigations should be undertaken. But not to say you want the implementation committee which is not an investigating agency...

We want these people to be further investigated like what Mr. Chairman recommended on the Kshs.58 Million that was taken from education department to the dual carriage road project. That was one of the best recommendations and that is why the other day I bought you champagne. But today I am going to buy you a bottle of Guinness which is crude than what you took the other day. I support the report.

Mr. Speaker: Honorable Members, having heard those submissions, it is basically in order to allow Hon. Tony Barasa to reply to the laid motion accordingly.

Hon. Tony Barasa: I want to thank my colleague Honorable Members for their input and spirit to adopt this report the way it is. Starting with the elephant in the room where Hon. Majimbo has just left, the casual workers under page 54. As a committee we interrogated this thing further and there is an issue on page 54 where we were told that the huge sum of this money is what the

County Assembly approved. Some of the money went to CHVs and we were told that under AIA, the ministries of health have autonomy for hiring these casual workers quarterly.

When we called upon the Chief Officer in the department of Health, Agriculture and Finance where they hired those revenue collectors, they told us that indeed, they are allowed to hire without the service board giving them the authority.

We are not saying that money was lost but we are faulting the procedure in which they hired these casual workers including the County Assembly allocating money for CHVs that culminated into these large sums of money. That is why in our wisdom, giving the benefit for fair hearing, we would like for the committee on implementation to take up this matter, to hear from these departments and to give the report to this house.

We were even going to recommend but when they brought us vouchers for paying casual workers quarterly from the referral hospital, they made us not recommend further action. I hear your concerns Hon. Majimbo but because of that clause of fair hearing that is what made us to stick there.

I want also to applaud Hon. Barasa Mukhongo. Remember the committee is the extension of the house, you gave us 18 days to do everything we did an invite one month ahead of their appearance before this committee. Some of the CECMs never came to our committee, including the agriculture CECM. To our astonishment, when we reached Minata Hotel, we met the CECM Agriculture and he left us. A few minutes later he sends his Chief Officer with apologies that he was unable to attend because he was unwell and was going to the referral Hospital for medical attention. Nine minutes later, he has posted on his Facebook page that he is meeting some 1,000 people with the Governor in Ndengelwa. That showed how this Executive is disrespectful to the Committee and to the County Assembly at large.

For us to exhaust all avenues we did summonses and up to date, the CECMs like the CECM of Gender has never appeared before the committee both the invitation and even the summons that we made and more importantly touching on funds and remember the funds report has not reached here you will find the recommendation there. The Chief Officer on Gender never appeared on the report of funds but she appeared on the report on financial statements. She said she will not appear because funds is touching on the report that was drafted when she was not employed by the County Government. Those are the kind of officers we are dealing with.

On issues about imprests, I want to laud Hon. Deputy Speaker for noting that and I think we have done our part in recommending. The issues of lack of land the way they said about Soysambu/Mitua, that land was not bought and that is why in some of our reports of the PAC, we have recommended that this report of Lawrence Sifuna on lands should be availed to this House so that we know how many acres of land the County Government of Bungoma has; so that we can easily build our offices without saying we need to buy land or whatever. If we get that report

that tax payer's money was used on, it can make it easy for us to get information and not necessarily telling us that we don't have land or land was not bought.

There is another issue that was noted by Hon. Deputy Speaker, I think it is answered where you said that there is no contractor on that road, it is true, we noted it under page 85, bullet 3 whereby we have said there is no contractor on site; that is page 76, bullet III. We have noted that there is no contractor on site and on page 78 we are also saying there is no MOU between the County Government of Bungoma and the National Government so they must fast track if there will be any MOU so that we move away from the PR and Azimio campaigns to real issues of implementation of that road.

Lastly, allow me thank all the Committee Members of PAC and all my colleague Hon. Members who have given their input during the debate on adoption of this report and beg that this House adopts this report as it is.

(Applause)

Mr. Speaker: Thank you Hon. Tony for the response to the Hon. Members' issues raised during the debate. Hon. Members, allow me now go ahead and propose a question for this house to make its decision. Hon. Members, a motion was moved and seconded that the House adopts the report by the Public Accounts Committee on the Auditor General's report on the Financial Statements of the County Executive of Bungoma for the year ending 30th of June 2020.

(Question put and agreed to)

Mr. Speaker: The report, its observations and recommendations are hereby adopted by the House. It should be forwarded to the Executive for implementation accordingly.

Looking at our order paper, that was the only item under Motions. We adjourn and resume our sittings tomorrow the 11th of May 2022 for our 9:30 a.m. session.

(House adjourns)