

COUNTY GOVERNMENT OF BUNGOMA



COUNTY ASSEMBLY OF BUNGOMA

THIRD ASSEMBLY, SECOND SESSION

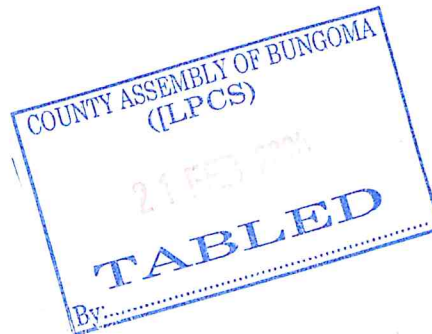
**REPORT BY THE SECTORAL COMMITTEE
ON PUBLIC ADMINISTRATION AND ICT ON 4TH QUARTER
FINANCIAL STATEMENTS FOR THE PERIOD ENDED JUNE,
30TH 2023,**

Clerk's Chambers

County Assembly Buildings

PO BOX 1886,

BUNGOMA, KENYA



November, 2023

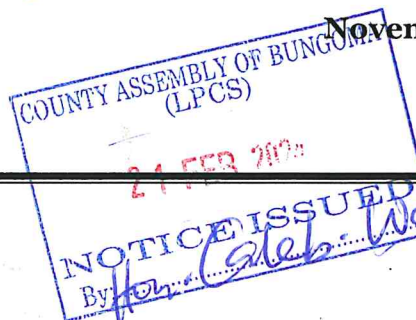


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ACRONYMS

LREB	Lake Region Economic Bloc
ICT	Information Communication Technology
AIA	Appropriation in Aid
CRF	County Revenue fund
PFMA	Public Finance Management Act
IFMIS	Integrated Finance Management Information System
KDSP	Kenya Devolution Support Programme
FY	Financial Year
ALFCO	Agriculture, Livestock, Fisheries and Cooperative
CEO	Chief Executive Officer
KRA	Kenya Revenue Authority
MDAs	Ministries, Departments and Agencies
NARIGP	National Agricultural and Rural Inclusive Growth Project
CBROP	County Budget Review and Outlook Paper

1.0. CHAPTER ONE

1.1 Preamble

Mr. Speaker Sir,

Pursuant to section 166(4) of the PFM Act 2012, the County Treasury is mandated to prepare quarterly reports on all county departments and submit the same to the County Assembly not later than 30 days of the succeeding month after the end of each quarter. It is in this regard that the County Executive Committee Member for Finance and Economic Planning submitted the Bungoma County quarterly report and financial statements for the period ended 30th June 2023.

The report was subsequently tabled in this House on 26th October 2023. The Hon speaker directed that the report be committed to all sector committees for legislative processing and reporting.

Mr. Speaker Sir, the quarterly reports and financial statements presents budget execution status covering the period 1st April 2023 to 30th June 2023 with comparative actual achievements and budget amounts for the previous financial year. Further, it contains the revenue performance both locally generated and an equitable share from the National Government.

Finally, the Committee has herein comprehensively considered the Bungoma County quarterly report and Financial statements for the period ended 30th June 2023 and presents this as the committee report for consideration by this House.

It is my pleasant duty to present the Bungoma County Government report on the 4th Quarter financial statements for the period ended 30th June 2023; in respect to the Offices of the Governor, Deputy Governor, County Secretary/Attorney, Public Service Management and ICT.

1.2 The Committee Membership

Mr. Speaker Sir,

The following are the current Members of the Committee on Public Administration and ICT:

1. Hon. Tony Barasa	Chairperson
2. Hon. Caleb Wanjala	Vice chair
3. Hon. Stephen Wamalwa	Member
4. Hon. Joseph Nyongesa	Member
5. Hon. Jackson Wambulwa	Member
6. Hon. Busolo Sudi	Member
7. Hon. Francis Chemion	Member
8. Hon. Simotwo Franklin	Member
9. Hon. Grace Sundukwa	Member
10. Hon. Cornelius Makhanu	Member
11. Hon. Timothy Chikati	Member
12. Hon. Stephen Kaiser	Member
13. Hon. Jeremiah Kuloba	Member
14. Hon. Job Mukoyandali	Member
15. Hon. Brigid Katasi	Member

1.3. Mandate of the Committee

Mr. Speaker Sir,

The Sectoral Committee on Public Administration & ICT committee was established on 26th October; 2022 in accordance with the Standing Order No.179.

The mandate of the Committee is derived from the Standing Order No.217 (5) and matters assigned under the Second Schedule which shall be exercised within the limits contemplated under Part 2 of the Fourth Schedule of the Constitution of Kenya, 2010.

The functions of a Sectoral Committee shall be to;

- (a) Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;
- (b) Consider quarterly reports of the assigned departments and report to the house within twenty one sitting days upon being laid
- (c) Study the programme and policy objectives of departments and the effectiveness of the implementation;
- (d) Study and review all county legislation referred to it;
- (e) Study, access and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;
- (f) Investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly;
- (g) To vet and report on all appointments where the constitution or any law requires the County Assembly to approve, except those under Standing Order 208 (Committee on Appointments); and
- (h) Make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

1.4. Acknowledgment


Mr. Speaker Sir,

I take this opportunity to thank your Office and that of the Clerk of the County Assembly of Bungoma for the support received as the committee discharged its mandate.

I also appreciate committee members for dedicating their time to examine and analyze the Bungoma County Government 4th Quarter financial statements and report for the periods ended 30th June 2023, Further, I would also like to appreciate the secretariat who worked with us for their commitment.

Mr. Speaker Sir,

It is therefore my pleasant duty and privilege, on behalf of the Hon. Members of the Sectoral Committee on Public Administration and ICT, to table this report and recommend it to the Assembly for consideration and adoption.

Signed  Date. 5/12/2023

(Hon. Tony Khaoya Barasa, MCA- Lwandanyi Ward)

Chairperson, Sectoral Committee on Public Administration and ICT

2.0. CHAPTER TWO

2.1. Guiding principles in the Examination of the Bungoma County Government Quarterly Reports and Financial statements

Mr. Speaker Sir,

In the execution of its mandate, the Committee is guided by core constitutional and statutory principles on Public Finance Management, as well as established customs, traditions, practices and usages. These principles include the following:

Constitutional Principles on Public Finance

Article 201 of the Constitution of Kenya, 2010 enacts fundamental principles that ***“...shall guide all aspects of public finance in the Republic...”*** These principles include, *inter alia*, that: **201(a)** *there shall be openness and accountability, including public participation in financial matters;* **201(d)** *Public money shall be used in a prudent and responsible way;* and **201(e)** *financial management shall be responsible, and fiscal reporting shall be clear.*

Direct Personal Liability

Article 226(5) of the Constitution of Kenya, 2010 is emphatic that *“If the holder of a public office, including a political office, directs or approves the use of public funds contrary to law or instructions, the person is liable for any loss arising from that use and shall make good the loss, whether the person remains the holder of the office or not”*.

Obligations of Accounting Officers

The Public Finance Management Act, 2012 section 149 **(1), (2), (a), (f) and (q)** states as follows;

Section 149 (1) *an accounting officer is accountable to the County Assembly for ensuring that resources of the entity for which the officer is designated are used in a way that is;*

- *Lawful and authorized*
- *Effective, efficient, economical and transparent*

Section 149 (2) *in carrying out a responsibility imposed by subsection (1), an accounting officer shall, in respect of the entity concerned;*

Section 149 (2)(a) ensure that all expenditure made by the entity complies with subsection 1

Section 149 (2) (f) bring a matter to the attention of the Executive Committee member responsible for the entity if, in the accounting officer's opinion a decision or policy or proposed decision or policy of the entity may result in resources being used in a way that is contrary to subsection (1)

Section 149 (2)(q) provide information on any fraud, losses, or any violations of subsection (1) and provide explanations for the actions taken to prevent similar conduct in future.

The Public Finance Management Act, 2012 section 166 states as follows;

1. An accounting officer for a county government entity shall prepare a report for each quarter of the financial year in respect of the entity.
2. In preparing a quarterly report for a county government entity, the accounting officer shall ensure that the report—
 - (a) contains information on the financial and nonfinancial performance of the entity; and
 - (b) is in a form determined by the Accounting Standards Board.
3. Not later, than fifteen days after the end of each quarter, the accounting officer shall submit the quarterly report to the County Treasury.
4. Not later than one month after the end of each quarter, the County Treasury shall—
 - (a) consolidate the quarterly reports and submit them to the county assembly;
 - (b) deliver copies to the Controller of Budget, National Treasury and the Commission on Revenue Allocation; and
 - (c) publish and publicize them

2.2. OVERVIEW OF THE COUNTY BUDGET.

Mr. Speaker Sir,

The committee extracted from the consolidated 4th quarter financial statements the financial reports relating to the Offices of; The Governor and Deputy Governor, County Secretary/County Attorney/ICT and Public Service Management and Administration. The committee further conducted one on one interrogation on 7th October 2023 for the 4th quarter statements to seek clarity on the expenditures and the rate of absorption of the budget.

Mr. Speaker Sir,

The total budget for the County in the financial year 2022/23 was Kshs. **14,821,204,142** as per the approved 2nd supplementary budget with the breakdown of the sources as indicated below:

No.	Source	Amount
1	Equitable share	10,659,435,192.00
2	Equitable share B/f	867,288,525.00
3	Retention	293,425,903.00
4	Conditional grant from Development partner.	1,543,977,937
5	Conditional grants National	113,228,200.00
6	Local revenue as per act	500,000,000.00
7	AIA	847,382,860.00
	Grand Total	14,824,738,616

The financial statement submitted gives an expenditure outlay of Kshs. 14,159,252,597 i.e. Kshs. 661,951,545 less the approved amounts. The difference relates to AIA in the Ministry of Health for facilities.

2.2.1. Financial Performance Revenue

Mr. Speaker Sir,

In the year ending 30 June 2023, the County had projected revenues of Kshs. 14,824,738,616, out of which Kshs 665,486,021 is a projection for level 4 and 5 Hospitals that report and operate outside the County Revenue Fund, hence Kshs.14, 159,252,597.

Out of the projection of Kshs. 14,159,252,597, below is the break down and revenues received within the year:

No	Source	Budgeted Amount	Receipts	Absorption
1	Equitable share including local revenue	14,001,980,319	11,863,518,430	85%
3	Other receipts	157,272,278	27,120,967	15%
	Grand Total	14,159,252,597	11,890,639,396	84%

2.2.2. Analysis of Revenue Payments

The total expenditure budget for the financial year was Kshs 14,159,252,597 and total actual expenditure amounted to Kshs 12,101,536,966 representing 86% budget absorption. Out of the total expenditure, Kshs.2, 788,109,602 was development expenditure while Kshs. 9,313,427,364 was recurrent expenditure. See table below;

Expenditure classification	Expenditure budget (Kshs.)	Actual (Kshs.)	Realization
Recurrent	9,713,369,664	9,313,427,364	96%
Development	4,445,885,438	2,788,109,602	63%
Total	14,159,253,102	12,101,536,966	86%

2.2.3. Expenditure Analysis

Mr. Speaker Sir,

The total Expenditure of Kshs. 11,846,531,615 spread per item expenditure is as follows:

1. Compensation of employees' Kshs. 5,169,412,184
2. Use of goods and services Kshs. 2,116,895,828
3. County Assembly Kshs. 1,256,268,326
4. Scholarships Kshs. 524,000,000
5. Other grants Kshs. 455,566,252
6. Social security benefits Kshs. 46,456,661
7. Acquisition of Assets Kshs. 2,164,943,061
8. Civil contingency reserves Kshs. 104,157,400
9. Other payment Kshs. 8,831,903

The variance between the Programme-Based Budget (PBB) expenditure of Kshs. 12,101,536,966 and appropriation expenditure of Kshs. 11,846,531,615 is due to un-surrendered imprests issued within the financial year of Kshs. 255,005,350.

2.2.4. Outstanding Imprests/Receivables

Mr. Speaker Sir,

At the beginning of the financial year, the balance brought was Kshs. 46,734,065 while at closure of the year un-surrendered imprests stood at Kshs. 288,712,420. The department with the highest un-surrendered imprest is Finance and Economic Planning with Kshs. 126M, Governor's Office Kshs. 34.9M, Public Administration Ksh22.1M and the least is Roads Kshs. 590,000, Kimilili Municipality Kshs. 2.3 Million and Agriculture Ksh. 3.2Million

Pending Bills

The pending bills brought forward was Kshs.1.1 billion, with Kshs. 486. 3 million having been settled in the period, there is an outstanding balance of Kshs. 713.2 million. The table below highlights the pending bills;

Description	Balance B/F 2021/2022	Paid during the Quarter	Balance of 2022/2023 Kshs.
--------------------	------------------------------	--------------------------------	-----------------------------------

		Kshs.	
Construction of Buildings	94,856,915	63,818,503	31,038,411
Construction of civil works	439,014,327	253,325,187	185,689,140
Supply of goods	210,700,006	58,557,790	152,142,216
Supply of services	455,110,069	110,688,017	344,422,052
TOTAL	1,199,681,317	486,389,498	713,291,819

2.2.5. Deposit and Retention

The retention payable and deposits at the beginning of the period was Kshs. 293,425,903 with an additional retention accrued and deposited of Kshs. 142,069,980. A total of Kshs. 167,467,545 was paid during the Financial year leaving a balance of Kshs. 268,028,338 at end of period.

2.2.6. Disclosure of Balances in Revenue Collection Accounts.

The revenue collection account had a closing balance of Kshs. 16,615,839.

Health Facilities (Health Centres and Dispensaries accounts) had a total balance of Kshs. 27,560,363.54.

Vocational training Centres and polytechnics had a total Kshs. 20,012,476

The same figures reported in the FY 2021/22 which can be an anomaly for the individual accounts posting same figures in different years.

2.3. COMMITTEE ANALYSIS OF THE DEPARTMENTAL EXPENDITURES

2.3.1. Public Service Management

Mr. Speaker Sir,

The department of Public Service Management had an approved Budget of Kshs. 547,814,634 comprising of Kshs. 539,392,013 recurrent and Kshs. 8,422,621 for Development expenditure programmes.

The exchequer released to the department was Kshs. 515,477,946 recurrent and Kshs. 8,422,621 development.

General administrative planning and support services utilized a total Ksh.501, 477,946 on the following programmes;

1. Human Resource Management (Personnel budget) had an allocation of Kshs. 237,200,727(11.7 million relate to contracted staff) where they utilized Kshs. 237,106,098. An extract of the payroll submitted for the months of April and May shows a payment of an average of Kshs. 17 million per month for the 509 staff hence a total of Kshs. 214,293,816.65. The payroll extract also shows payment of statutory deductions like NSSF, NHIF, Laptrust/Lapfund, KRA.
2. Administration support services approved allocation of Kshs. 288,191,286 and an absorption of Kshs.264,371,848. The amount includes Kshs. 100 million for medical insurance and Kshs. 64 million for Contracted guards and cleaning services expenditures.
3. Public participation, civic education and outreach services.

Kshs. 14,097,197 allocated on Civic Education was fully utilized as below.

S/NO	DESCRIPTION	PAYEE	AMOUNT
1	Catering Services for Assumption of Office by His Excellency the Governor.	Hotel Itoya	4,520,689
2	Catering Services for Swearing in of HE the Governor.	Hotel Itoya	4,502,508
3	Taskforce Committee Facilitation	Taskforce	3,291,000
4	Madaraka Celebration	Madaraka Day	1,602,000
5	Civic Education	South Bukusu	181,000
	TOTAL		14,097,197

4. Service Delivery and Organizational Transformation.

Infrastructure development had an approved allocation Kshs. 8,422,621 which had 100% absorption.

Pending bills/Accounts payable.

Mr. Speaker Sir,

The approved budget had an allocation of Kshs. 6,769,503 on recurrent and Kshs. 8,422,621 on development. The report submitted by the department shows payment of Kshs. 5,924,185 for the recurrent bills leaving a balance Kshs. 845,318 yet some of the bills were not settled. Scrutiny of the payments by the Committee revealed that some bills paid were not captured in the approved PBB e. g payment for procurement of uniforms for enforcement officers of Kshs. 2,675,190 and cleaning services at Bungoma referral hospital of Kshs. 1,943,335.

The pending bills totaling to Kshs. 8,422,621 settled under development are for construction of Ward offices in:

1. Malakisi/Kulisuru ward Kshs. 5,544,970
2. Bokoli Ward Kshs. 1,109,084
3. Lwandanyi ward Kshs. 1,286,502
4. Maeni ward Kshs. 482,065

Outstanding Imprests/Accounts receivable

The outstanding imprests was Kshs. 22,166,140 as at the end of June 2023. The Committee noted the following on list of imprests:

- Some imprest advanced are overdue for surrender dating back to 2019 and 2021.
- Some staff were advanced imprest before surrender of previously held imprests.
- Some Imprest funding activities were not in the department's approved PBB e. g facilitation to assumption of office H.E the Governor and Deputy Governor which had an allocation under the Governor's budget.

**2.3.2. Office of The County Secretary/ICT /County Attorney
Mr. Speaker Sir,**

The Office had an approved budget of Kshs. 131,817,115 recurrent and Kshs. 52,805,780 Kenya Development Support Program (KDSP) grant on development.

The exchequer release was Kshs. 129,146,684 on recurrent and a grant of Kshs. 40,012,957.

Expenditures.

The following are the expenditures of the Office;

1.General administration, planning and support services

- Human Resource Management had allocation of Kshs. 15,213,886 which was fully utilized.
- Administration support services had allocation Kshs. 116,603,229 and recorded expenditure worth Kshs. 113,932,798. The amount includes allocation for the County Attorney's Office with an allocation of Kshs. 28,923,700. A total of Kshs.21,088,427.35 was paid in legal fees. As shared below: the allocation for the legal fees was Kshs. 10 million and additional 9million as pending bills allocation.

NO.	ADVOCATE	AMOUNT PAID
1.	Makokha, Wattanga & Luyali Associates	10,821,561
2.	Meritad Law Africa LLP	998,000
3.	A.S Kuloba & Wangila Advocates	1,000,000
4.	BS Advocates LLP	345,683.35
5.	J. O Makali & Co. Advocates	715,488
6.	A.W. Kituyi & Co. Advocates	2,001,000
7.	Manyonge Wanyama & Associates Advocates	1,500,000
8.	Ocharo Kebira & Co. Advocates	1,500,000
9.	Payment of costs to Gasper Mufutu Wafubwa	2,206,695
TOTAL		21,088,427.35

N/B more information on the legal fees paid is annexed.

2. KDSP had an allocation of Kshs. 52,805,780 where Kshs. 40,012,957 was utilized leaving a balance of Kshs. 12,792,823. The implemented projects are as highlighted in the table below:

S/N	Project Name	Financial Year	Contractor	Location	Amount paid In FY 2022/23
1	Proposed erection and completion of administration block	2021/2022	Sky Port Logistics Limited	Mt Elgon Sub County Hospital	9,231,491.10
2	Proposed erection and completion of maternity wing	2021/2022	Getrans Solutions Co. Ltd	Bumula Sub County Hospital	20,544,960.60
3	Proposed erection And completion of Maternity wing and Mortuary	2021/2022	Session Blue Company Ltd	Naitiri Sub County Hospital	10,236,505.00
	TOTAL				40,012,956.70

In addition, the department submitted a work plan for FY 2024/25 for the remaining balance of Ksh. 12,792,823.00 in the table below.

S/N	Project Name	Contractor	Location	Amount Paid in FY 2022/23	Outstanding Balances	Purchase of Motor Vehicle	
1.	Erection and Completion of Maternity wing	Getrans Solutions Co, Ltd	Bumula Sub County Hospital	20,544,960.60	6,068,146.63		
2.	Erection and Completion of Maternity wing and mortuary	Session Blue Co. Ltd	Naitiri Sub County Hospital	10,236,505.00	3,743.80		
	Proposed erection of	Sky Port Logistics	Mt. Elgon Sub County	9.231,481.00			

	administration Block		Hospital				
	TOTAL			40,012,956.70	6,071.890.43	6,720,932.57	12,792,823.00

3. ICT management had allocation Kshs. 26,481,800 where there was Kshs. 23,983,800 expenditures. The table below highlights the projects implemented.

S/NO	DESCRIPTION	CONTRACTOR	AMOUNT PAID
1	Upgrading of Records Management System	Vidzapaul Enterprises	4,496,000
2	Server Upgrade F/Y 2021/2022	Flame Tree	4,100,000
3	Server Upgrade F/Y 2022/2023	Quetrek Limited	5,573,800
4	Networking In Mt Elgon, Bumula, Tongaren and Bumula	Trivector Limited	9,814,000
	TOTAL		23,983,800

Outstanding Imprests /Receivables

Mr. Speaker Sir,

The department had a total outstanding imprest worth Kshs. 16,173,190 by the end of June 2023. The Committee noted the following from the list of imprests:

- Some imprest advanced are overdue for surrender dating back to 2016, 2019, 2021
- Staff advanced imprest before surrender of previously held imprests.
- Imprest funding activities not in the departments approved budget e. g facilitation for foreign trips without allocation on the votes.

Pending Bills/Accounts Payable

Mr. Speaker Sir,

The department had a recurrent allocation of Kshs. 6,066,098 under County Secretary and County Attorney's offices. Kshs. 9 million (legal fees) for pending bills. The details provided in the report is settlement of two bills worth Kshs. 1,121,900 under office of the County Secretary and details of legal fees paid has been captured above.

2.3.3. Office of the Governor and the Deputy Governor Office of the Governor

Mr. Speaker Sir,

The office had an approved allocation of Kshs. 540,919,144. The following were the major expenses;

1. General administration planning and support services

- Compensation to employees had allocation Kshs. 384,578,035 which recorded expenditure worth Kshs. 382,000,129 representing 99% absorption.
- Administration support services had an allocation Kshs. 81, 612, 234.Kshs. 80,551,270 (98%) was utilized.

2. County Executive Committee affairs.

- CEC affairs was allocated Kshs. 37,021,324 where Kshs. 37,010,245 was absorbed

4.County strategic and service delivery coordination.

- Government services coordination had an allocation of Kshs. 37,707,551 and absorption of Kshs. 37,706,450.

Office of the Deputy Governor

Mr. Speaker Sir,

The Office of the Deputy Governor was allocated Kshs.13, 391,322. The following were the major expenses;

1.General administration, planning and support services

- Administrative support service was allocated Kshs. 9,321,259. There was 100% utilization of the funds.

2. County strategic and service delivery coordination

- Government service coordination was allocated Kshs. 4,070,063. The funds were fully utilized.

Pending Bills/ Accounts Payable.

The approved budget had an allocation of Kshs. 6,711,299 on recurrent. The report shows payment worth Kshs. 12,515,170 for the recurrent bills way above the approved allocation. The reduction in allocation was done in the 2nd supplementary from Kshs. 11,595,249 to Kshs. 6,711,299.

Outstanding/ Imprest.

The two offices had a total outstanding imprest worth Kshs. 34,954,054 by the end of June 2023. The following was noted from the list of imprests:

- Some imprest advanced are overdue for surrender dating back to December 2022
- Staff advanced imprest before surrender of previously held imprests.
- Staff of contract terms were advanced imprests.

3.0. CHAPTER THREE

3.1 COMMITTEE OBSERVATIONS

Mr. Speaker Sir,

The Committee made the following observations;

1. **THAT** Pending payments were made on some bills which were not captured in the approved PBB e. g payment for procurement of uniform for enforcement officers at Kshs. 2,675,190 and cleaning services at Bungoma referral hospital at Kshs. 1,943,335, facilitation to assumption of office H.E Governor and Deputy Governor which had allocation under the Governor's budget. Further, facilitation for foreign trips was done without allocation on the votes.
2. **THAT**, Officers were advanced imprests without considering whether previously held imprests have been surrendered, resulting in multiple unsurrendered imprests held by an individual. Further, Imprests were advanced to staff on contractual terms which is against the PFM regulations.
3. **THAT**, most imprest activities have resultant reports that should be submitted to the Assembly for consideration by this Honourable House. Apart from the taskforce reports, planning and budgeting documents, other report are yet to be to submitted to this House e.g. Reports emanating from foreign trips and SDU reports.
4. **THAT**, a variation was observed on the work-plan for the KDSP grant where the 100bed capacity maternity wing was varied to a 60bed capacity.
5. **THAT**, the ICT programs implemented were not as per the approved Program Based Budget (PBB).

3.2 COMMITTEE RECOMMENDATIONS

Mr. Speaker Sir,

The Committee made the following recommendations

1. **THAT** Pending bills should be paid by 2nd quarter to avoid litigations and also in line with the County treasury circular that put pending bills a first charge.
2. **THAT**, The Accounting Officers **MUST** comply with the provisions of Regulation 93(5), (6), (7) and (8) of the Public Finance Management Regulations, 2015 in respect to management of Imprest which states that;

(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 of 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/she commits an offence as provided under the Act.






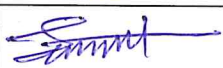
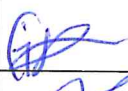


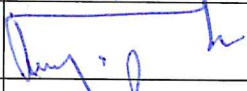





(8) In order to effectively and efficiently manage and control the issue of temporary imprests, an accounting officer or AIE Holder shall ensure that no second imprest is issued to any officer before the first imprest is surrendered or recovered in full from his or her salary”

3. **THAT**, the budgets should be implemented as approved pursuant to PFMA 149 (1).
4. **THAT** Grants should be implemented in accordance with the PFM regulations 71.

Thank you, I move

4.0 ADOPTION SCHEDULE

The Members of the Sectoral Committee on Public Administration and ICT hereby adopt and append the signatures to this report with the contents herein.

S/N	Name	Designation	Signature
1	Hon. Tony Barasa	Chairperson	
2	Hon. Caleb Wanjala	V/Chairperson	
3	Hon. Stephen Wamalwa	Member	
4	Hon. Joseph Juma	Member	
5	Hon. Jack Wambulwa	Member	
6	Hon. Sudi Busolo	Member	
7	Hon. Grace Sundukwa	Member	
8	Hon. Francis Chemion	Member	
9	Hon. Stephen Kaiser	Member	
10	Hon. Timothy Chikati	Member	
11	Hon. Cornelius Makhanu	Member	
12	Hon. Jeremiah Kuloba	Member	
13	Hon. Franklin Simotwo	Member	
14	Hon. Job Mukoyandali	Member	
15	Hon. Bridgid Katasi	Member	

LEGAL FEES PAID BY THE COUNTY GOVERNMENT OF BUNGOMA DURING THE FY 22/23

1. ADVOCATE ON RECORD - MAKOKHA, WATTANGA & LUYALI ASSOCIATES

No.	CASE NUMBER	PARTIES	DPT	NATURE OF CASE	RELIEF SOUGHT	STATUS	FEES
1.	Bgm HC Const. Pet. No. 3 of 2021 (Formerly Const. Pet. No. 24 of 2017)	Hussein Wanyama Mulebo & 5 Others – Vs – The County Public Service Board, County Govt. of Bungoma & The AG	Health	Employment	The Petitioners were previously contracted by PATH as health workers for purposes of implementing the APHIA plus project in Bungoma County. After expiry of the contract, the County Service Board issued the Petitioners appointment letters dated 31 st October, 2017 for a one year renewable contract with a consolidated package of Kshs. 25,000/= for clinical officers and Kshs. 15,000/= for Assistant Counsellors. The six Petitioners filed a petition at the Employment Court challenging the terms of service in the employment contract as offered by the Board. In the Petition the health workers alleged that the new terms offered by the Board amounted to breach of the MoU, Constitution, Labour Laws and County Government laws as the terms contract amounted to discrimination and denied them an opportunity to progress as employees in terms of promotions, salary increment and security of tenure.	Judgement was delivered on 31/03/2022 in favour of the County. The matter was dismissed with costs. The Court held that it had no jurisdiction to hear the Petition because it was filed prematurely as the Petitioners had not exhausted remedy under Section 77 of the County Governments Act.	2,395,980
2.	Bgm HC Petition No. 2 of 2020	Fredrick Musebe & 14 Others – Vs- County Assembly Service Board	Finance & Economic Planning	Constitutional Petition	The 14 petitioners were nominated Members of the County Assembly. The Petitioners claim was that they incur expenses in the course of their county wide work of representation requiring them to employ 3 ward staff, rent an office, meet office operation costs among others but are	Judgment was delivered on 17/11/2021 whereby the Court allowed the petitioner's petition to the extent that they are all entitled to receive allocation for running	2,368,140

No.	CASE NUMBER	PARTIES	DPT	NATURE OF CASE	RELIEF SOUGHT	STATUS	FEES
3.					excluded from being paid the said allowance unlike the elected Members of County Assembly. They sought the Court to issue declaratory orders for payment of Kshs. 75,000/= in order to meet their office operation costs.	their offices as those elected Members of the County Assembly. case no. 1 + case no.2 paid on one voucher	4,764,120 Paid on 26/12/2022
4.	Ksm HC Const. Petition No. 7 of 2018 (Formerly Kisii Const. Pet. No. 6 of 2018)	United Millers Co. Ltd. -Vs -County Government of Bungoma & 27 Others	Finance & Economic Planning	Constitutional Petition	The Petitioner sought to challenge our Bungoma County Trade Licensing Act, 2017 and the Bungoma County Finance Act, 2016 on matters branding, general trade, food processors and businesses to be licensed.	Judgment delivered on 15/4/2020. The petition was dismissed with no order as to costs.	4,739,238 Paid on 13/04/2023
5.	BGM HC ELRC CON. PET. NO. 1 of 2019	Kenya County Govt. Workers Union - Bungoma Branch - Vs- Bungoma County Public Service Board & County Govt. of Bungoma.	Public Service Management & Administration	Employment	The petitioner is a Trade Union. The complaint raised is that the petitioner members were issued letters of appointment on casual terms by the County Government. The petitioners are seeking declaratory orders compelling the County Govt. to place the said employees on the payroll	Judgment was delivered against the County Government on 13 th May, 2020. The County was ordered to employ the casuals on P&P terms and pay the arrears. (The County Govt. filed a Review)	Court costs amounting to 814,203 Paid on 14/04/2023
6.	Bgm ELRC JR. No. E001 of 2022	Republic -V- County Secretary, the County Govt. of Bungoma & 5 Others And Kenya County Govt. Workers Union Bungoma County Branch (Exparte Applicant	Public Service Mngt & Admin	Employment	The petitioner filed judicial review seeking for order of mandamus compelling the County to comply with the decree that was issued in Bungoma HC ELRC Con. Pet. No. 1 of 2019 which issued Orders that the County do employ the casuals on P&P terms and pay the accrued arrears as per the petition.	The court awarded the Ex-parte Applicant/Petitioner Court costs amounting to 814,203/=.	

No.	CASE NUMBER	PARTIES	DPT	NATURE OF CASE	RELIEF SOUGHT	STATUS	FEES
7.	Bungoma E/c No E002/2021	Simon Masika Makokha –Vs - County Government Of Bungoma	Lands	Land and Employment	Dispute over the procedure and payment for compulsory acquisition	Awaiting the Courts decision.	252,000 Paid on 26/06/2023
8.	Bgm E/c No E004 Of 2021	Abdallah Ali Were – Vs- County Government Of Bungoma	Lands	Land and Employment	Dispute over the procedure and payment for compulsory acquisition of Kimilili/Kimilili/2097	Awaiting the Courts decision.	252,000 Paid on 26/06/2023
TOTAL FEES					10,821,561/=		

2. ADVOCATE ON RECORD - MERITAD LAW AFRICA LLP

No.	CASE NUMBER	PARTIES	DPT	NATURE OF CASE	RELIEF SOUGHT	STATUS	FEES
1.	Nrb CMCC No. 5785 of 2018	Kenvah Construction Ltd – Vs – Blue Nile Kenya Ltd & Another And The County Govt. of Bgm & 2 Others	Finance	Garnishee proceeding	The decree holder is seeking the Court to issue an <i>order Nisi</i> for the debt of Kshs. 6,150,000/= owed by the judgment holder owing and accruing from the Garnishees to the judgment debtor. The County Government of Bungoma being the 3 rd Garnishee owed Kshs. 791,033.00/= being 10% retention fee in relation to the tender on maintenance of late Mwanja Mutai Kwena Road.	The Court ordered that the County Government of Bungoma be discharged from the Garnishee proceeding consequently terminating the case against the County Government.	557,000
2.	Bgm CMCC No. 172 of 2020	M'BIG LTD – Vs – The County Government of Bungoma	Health and Sanitation	Contractual	The Plaintiff's claim against the County Government is for a sum of Kshs 3,120,000/= being the price of fuel and lubricants supplied to the department of Health and sanitation during the year 2019 and 2020.	The parties entered a consent judgement where the county agreed to pay Kshs.2,400,739/= being the actual consumption. The county was further ordered to pay costs. Now the plaintiff is demanding Kshs. 3,120,000/= inclusive of interest	441,000
AMOUNT PAID							998,000/=

3. ADVOCATE ON RECORD - A. S. KULOBA & WANGILA ADVOCATES

No.	CASE NUMBER	PARTIES	DEPARTMENT	NATURE OF CASE	RELIEF SOUGHT	STATUS	FEEES	REMARKS
1.	Nairobi HC JR Application NO. 1093 of 2020	Francis Simiyu Tome – Vs – The County Government of Bungoma & 6 Others	Governors	Judicial Review	The Applicant is seeking for orders to remove the High Court for purpose of quashing any decisions to arrest, charge, investigate or summon the Applicant in relating to the possession or stealing of original file reference number CS/CO/VOL.1/2020 CONTAINING BUDGET Responses of 2020-2021 for Public Administration and ICT property of Bungoma County Assembly.	The matter has been concluded. No adverse orders issued against the County Government both in the application filed by applicant for contempt and upon determination of the Judicial Review proceedings.	3,000,000/=	Legal fees of Kshs. 2,000,000/= had been initially paid leaving a balance of Kshs. 1,000,000/=
AMOUNT PAID						1,000,000/=		

4. ADVOCATE ON RECORD – COUNTY ATTORNEY

No.	CASE NUMBER	PARTIES	DEPARTMENT	NATURE OF CASE	RELIEF SOUGHT	STATUS	DECRETAL SUM	REMARKS
1.	BGM CMCC NO. E042 OF 2020	Gasper Muftutu Wafubwa – Vs – The County Govt.	Public Service Management & Administration	Contractual	The Claim is against several County departments who were in occupation of LR No. Bungoma Municipality/376 and failed to pay rent at the point of exit. Summary judgment was entered with costs amounting to Kshs. 2,206,695/=	The matter was closed. Payment of Kshs. 2,206,695/= was made to the decree holder.	2,206,695/=	No legal fees paid as this case was handled by the in house counsel. The amount of Ksh. 2,206,695/= was decretal amount ordered to be paid by the Court.
AMOUNT PAID						2,206,695/=		

5. ADVOCATE ON RECORD – BS ADVOCATES LLP

No.	CASE NUMBER	PARTIES	DEPARTMENT	NATURE OF CASE	RELIEF SOUGHT	STATUS	COURT COSTS	REMARKS
1.	Bgm HC ELRC Cause No. 14 of 2019	Hillary Chongwony -V- County Government of Bungoma	Governor's Office	Employment (House Benefits)	The Claimant served as the Deputy Governor County Government of Bungoma between 2013 and 2017 when his term of service came to an end. The Claim is that during the period of service he was entitled to a housing benefit in the sum of Kshs. 90,000/= per month which amount the County Government did not pay hence the commencement of this suit.	Judgement was delivered in favour of the Claimant. The payment of Kshs. 3,645,000/= was processed and paid to the decree holder as per the SRC circular SRC/TS/CGOVT/3 /6/VOL.IV (45).	345,683.35	The Court costs amounting to Kshs. 345,683.35/= paid to the Plaintiff's advocate.
AMOUNT PAID							345,683.35/=	

6. ADVOCATES ON RECORD - J.O MAKALI & COMPANY ADVOCATES

No.	CASE NUMBER	PARTIES	DEPARTM ENT	NATURE OF CASE	RELIEF SOUGHT	STATUS	FEES
1.	Bgm HC ELC No. 106 of 2013	Job Munyasia – Vs – The County Government of Bungoma	Lands, Urban & Physical Planning	Land & Environment	This is a land ownership dispute on plot No. Bungoma/569. The Plaintiff is seeking for orders that he be given possession and use of the plot, in the alternative the Plaintiff prays that the County Government be made to compensate the Plaintiff for the loss and damages incurred having already started plans to develop the plot.	The suit was withdrawn with no order as to costs.	715,488/=
AMOUNT PAID				715,488/=			

7. ADVOCATES ON RECORD - A.W. KITUYI & CO. ADVOCATES

No.	CASE NUMBER	PARTIES	DEPARTMENT	NATURE OF CASE	RELIEF SOUGHT	STATUS	FEES
1.	Bgm ELC No. 22 of 2019	Hussein Ahmed – Vs – The County Government of Bungoma	Roads, Infrastructure & Public Works	Land and Environment	The Plaintiff owner of land parcel No. E.BUKUSU/ S.KANDUYI/ 184 had a perimeter wall erected on it but the County Govt. demolished the wall citing encroachment. The Plaintiff is seeking compensation for the damage caused.	Judgment was delivered on 27/07/2018 against the County. Damages and costs awarded to the plaintiff totalling to Kshs.1,4001,127.20/=	2,001,000
AMOUNT PAID					2,001,000/=		

9. ADVOCATE ON RECORD - MANYONGE WANYAMA & ASSOCIATES LLP

No.	CASE NO.	PARTIES	DPT	NATURE OF CASE	RELIEF SOUGHT	STATUS	FEES
1.	Bgm H.C ELRC Petition No. E004 of 2023	Joseph Wakoli Wambati –VS- H.E Kenneth Lusaka & 3 Others	Governor's Office	Employment dispute	Declaration that his interdiction is unconstitutional and be allowed to discharge his duties.	The application for preliminary objection was determined in favour of the County and the Petition was struck out/ dismissed.	1,800,000/=
2.	Bgm H.C ELRC Petition No. E003 of 2023	Isaac W. Mukenya – VS- H.E Kenneth Lusaka & 3 Others	Governor's Office	Employment dispute	Declaration that his interdiction is unconstitutional and be allowed to discharge his duties.	The application for preliminary objection was determined in favour of the County and the Petition was struck out/ dismissed.	1,800,000/=
TOTAL FEES					3,600,000/=		
AMOUNT PAID					1,500,000/=		

No.	CASE NO.	PARTIES	DPT	NATURE OF CASE	RELIEF SOUGHT	STATUS	FEES
		Others					
5.	Bgm ELC No. 77 of 2020	Evans Oyoo Soita & Another -v- County Government of Bungoma	Lands, Urban & Physical Planning	Land and Environment	The plaintiff is seeking for orders of cancellation of parcels No. 1008, 1010 and thereafter 1008, 1009 to 1025, 1026, 1027 and 1010 to Original Number North Malakisi/ Central Namwela/ 732 Jackson Walusekhe King'asia.	The matter came up for Ruling on 14 th July 2021, when the same was struck out with costs.	474,400/=
TOTAL FEES					2,560,365/=		
AMOUNT PAID					1,500,000/=		

SUMMARY OF LEGAL FEES AND COURT COSTS PAID IN THE FY 2022/2023

NO.	ADVOCATE	AMOUNT PAID
1.	Makokha, Wattanga & Luyali Associates	10,821,561/=
2.	Meritad Law Africa LLP	998,000/=
3.	A.S Kuloba & Wangila Advocates	1,000,000=
4.	BS Advocates LLP	345,683.35/=
5.	J. O Makali & Co. Advocates	715,488/=
6.	A.W. Kituyi & Co. Advocates	2,001,000/=
7.	Manyonge Wanyama & Associates Advocates	1,500,000/=
8.	Ocharo Kebira & Co. Advocates	1,500,000/=
9.	Payment of costs to Gasper Mufutu Wafubwa	2,206,695/=
	TOTAL	<u>21,088,427.35/=</u>