

Hon Speaker

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COUNTY ASSEMBLY OF BUNGOMA
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**COUNTY ASSEMBLYS OF BUNG OMA
OFFICES OF THE CLERK**

THIRD SESSION

PUBLIC ACCOUNTS AND INVESTMENTS COMMITTEE

REPORT ON THE FINANCIAL STATEMENTS OF THE BUNGOMA COUNTY
REVENUE FUND FOR THE PERIOD ENDED 30TH JUNE 2023

Clerks Chambers
County Assembly Buildings
P.O BOX 1886 – 50200
BUNGOMA, KENYA

September, 2024

COUNTY ASSEMBLY OF BUNGOMA
(LPCS)
17 SEP 2024
TABLED
By: Hon. Ernest Ngunjiri

COUNTY ASSEMBLY OF BUNGOMA
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NOTICE ISSUED
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CHAPTER ONE

1.0 PREFACE

Mr. Speaker Sir, On behalf of the members of the Public Accounts and Investments Committee (PAIC) 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 on the Report of the Auditor General in respect to the financial statements of the County Executive of Bungoma for the period ending 30th June, 2023

This report presents the findings of the Public Accounts and investments Committee on the auditor general's report for the Bungoma County Government Executive. The Public Accounts and investment's Committee is a legislative oversight committee which has meticulously looked at the auditor general's assessments to ensure transparency, accountability and proper use public resources in Bungoma County.

The findings of the committee highlight several areas of concern including instances of non-compliance with financial regulations and lapses in internal controls among others. The findings as outlined in the report not only critiques but serve as a foundation for constructive recommendations aimed at enhancing the governance framework within Bungoma County.

This report was tabled in the house on **21st March 2024** and stood committed to this committee whose mandate is to interrogate and write a report back for adoption by this house with the recommendations therein

2.0. MANDATE OF PUBLIC ACCOUNTS AND INVESTMENTS COMMITTEE

Mr. Speaker Sir,

The Bungoma County Assembly Public Accounts and Investments Committee is a Select Committee established under Standing Order. 209 of the Bungoma County Assembly standing orders. Standing Order 209 (5) provides that, the functions of the Public Accounts and Investments Committee shall be to-

(a) Pursuant to the provisions of **Article 185(3)** of the Constitution, exercise oversight over the County Executive Committee and any other County Executive organ.

(b) Pursuant to **Article 229(7) and (8)** of the Constitution, examine the reports of the Auditor-General on the Annual Accounts of the County Government.

(C) Examine special reports, if any, of the Auditor-General on County Government Funds.

(d) Examine the reports, if any, of the Auditor-General on County Public Investments; and

(e) Exercise oversight over County Public Accounts and Investments.

3.0. COMMITTEE MEMBERSHIP

The committee as currently constituted comprises of the following members;

- | | |
|--------------------------|------------------|
| 1. Hon. Everton Nganga | Chairperson |
| 2. Hon Timothy Chikati | Vice Chairperson |
| 3. Hon Anthony Lusenaka | Member |
| 4. Hon Everlyne Mutiembu | Member |
| 5. Hon. Jerusa Aleu | Member |
| 6. Hon Metrine Nangalama | Member |
| 7. Hon Kennedy Wanyama | Member |
| 8. Hon Stephen Kaiser | Member |
| 9. Hon Alfred Mukhanya | Member |
| 10. Hon Moureen Wafula | Member |
| 11. Hon Everlyne Anyango | Member |

4.0 POWERS

Mr. Speaker Sir, the Committee derives its mandate from Bungoma County Assembly **Standing Order No. 186** which states that ***“there shall be a select committee to be designated the Public Accounts Committee which shall be responsible for the examination of the accounts showing the appropriation of the sums voted by the County Assembly to meet the public expenditure and of such other accounts laid before the house as the committee may think fit.”***

The primary mandate of Public Accounts and Investment’s Committee therefore is to oversight the expenditure of public funds by County Executive Departments, to ensure value for money and adherence to government financial regulations and procedures. The Committee executes its mandate on the basis of annual and special audit reports prepared by the Office of the Auditor-General (OAG).

As a Committee, we are united in the quest for value for money in the expenditure of public funds. This ambition should be shared by politicians in this Honorable House, County Public Servants including County Executive Committee Members and Chief Officers who are tasked with pursuing this goal.

5.0 GUIDING PRINCIPLES

In the execution of its mandate afore-stated, PAC is guided by core constitutional and statutory principles on Public Finance Management, as well as established customs, traditions, best practices and usage. These principles include:

1) 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:

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.

Section 39 of the **Public Audit Act, 2015** states that:

(1) All reports of an Audit shall be submitted to Parliament or the relevant County Assembly.

(2) Within seven days of receiving the report, Parliament or the relevant County Assembly shall publicize it on its official website and other public spaces.

(3) Within fourteen days after the expiry of seven days upon submitting the report to Parliament or the relevant County Assembly, the Auditor-General shall publicize the report on their official website and other public spaces.

2) Audit of Public Accounts

According to Article 229(4) of the Constitution of Kenya 2010, within six months after the end of each financial year, the Auditor General is required to examine, audit and Report in respect of that financial year, on-

- (a) the Accounts of the National and County Governments;
- (b) the accounts of all funds and authorities of the National and County Governments and express an opinion in the report; and ascertain whether money appropriated by Parliament or the relevant County Assembly and disbursed;-
 - i. has been applied for the purpose for which it was appropriated or raised;
 - ii. was expended in conformity with the authority that governs it; and
 - iii. Was expended effectively, efficiently, economically and transparently as provided for under section 149 of the Public Finance Management Act, 2012; and the said Audit reports shall then be submitted to Parliament or the relevant County Assembly.

Article 229(8) of the Constitution provides that, within three months after receiving an audit report, Parliament or the County Assembly shall debate and consider the report and take appropriate action.

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

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

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

(2) Public services shall be equitably delivered in a manner that accords to-

- a) Prudent, economic, efficient, effective and sustainable use of available resources;
- b) Continued improvement of standards and quality;
- c) Appropriate incorporation of the use of information technology; and
- d) Financial and environmental sustainability.

3) Direct Personal Liability

Article 226(5) of the Constitution 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”.

PAC has hoisted high these constitutional provisions as the basis for holding each individual accounting officer and other Public Officers directly and personally liable for any loss or misappropriation of public funds under their watch. The Committee has and will continue to invoke these provisions in its recommendations to hold those responsible personally accountable. This is also intended to serve as a deterrent measure.

4) 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”

Moreover, 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 states 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 **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;
- (b) Undermines any financial management procedures or controls;

- (c) Makes or permits an expenditure that is unlawful or has not been properly authorized by the entity concerned; or
- (d) Fails without reasonable cause to pay eligible and approved bills promptly in circumstances where funds are provided for.

These sections empower the appointing authority to discipline errant accounting officers, which could include revoking their appointment. These provisions have sealed a long standing loophole that has previously seen accounting officers continuously commit or preside over fiscal indiscipline and malpractice in their Departments with impunity without sanction.

Mr. Speaker Sir, Public Accounts and Investments Committee strongly holds the view that these provisions of the law were intended to be fully installed to operationalize and also to enforce the principles provided for in Article 201 of the Constitution stated herein above, to ensure prudent and responsible use of public funds. The Committee accordingly applied these provisions to recommend various disciplinary actions against persons found to bear responsibility for breach of the law and/or responsible for the loss or wastage of public funds.

Mr. Speaker Sir, the report of the Auditor General on the financial statements of the County Executive of Bungoma for the year ended 30th June, 2022 has been produced in accordance with the above cited provisions of the law.

Public Accounts and Investments places a premium on these principles, among others, and has been guided therein by them in the entire process that has capped into the production of this report.

6.0 CONFIDENTIALITY UNDERTAKING BY MEMBERS OF THE COMMITTEE AND ITS SECRETARIAT

Mr. Speaker Sir, to enhance the integrity of the Committee and its work, the Committee members and its Secretariat signed a confidentiality undertaking in accordance with Bungoma County Assembly Standing Order No. 82. Members have undertaken that in relation to the consideration of the Report of the Auditor- General on the County Executive of Bungoma for the year ended 30 June 2019, 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 it is tabled and deliberated on by the County Assembly.

7.0 COMMITTEE SITTINGS

Mr. Speaker Sir, The committee held a sittings on 10th September, 2024 to consider the report of the Auditor-General on the financial statements of the County Executive of Bungoma

However, a major challenge that the committee encountered, from time to time, was the high level of unpreparedness involving late submission of the responses to the office of the auditor general so that the interrogations are held.

7.0 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 **10th September, 2024** 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 reached at by accord through detailed and accurate considerations, taking understanding 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.

8.0 ACKNOWLEDGMENT

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 County Executive of Bungoma for the year ended 30 June, 2023. The Committee further wishes to thank the County Executive Committee Member for finance, Chief Officers and Directors from various departments who appeared for their cooperation

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

Mr. Speaker Sir, on behalf of the Public Accounts and Investments Committee, I now wish to table this report and urge the House to adopt it with the recommendations herein.

SIGNED.....

DATE.....17/9/2024

HON. EVERTON NGANGA (CPA) MCA- EAST SANGALO WARD

(CHAIRMAN, PUBLIC ACCOUNTS AND INVESTMENTS COMMITTEE).

CHAPTER TWO

1. REPORT OF THE AUDITOR GENERAL ON COUNTY REVENUE FUND FOR THE YEAR ENDED 30TH JUNE, 2023-COUNTY GOVERNMENT OF BUNGOMA

Audit Findings

1. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis amounts of Kshs.14,026,308,243 and Kshs.11,247,736,528 respectively, resulting to under-funding of Kshs.2,778,571,715 or 20% of the budget.

Similarly, the statement reflects total actual payments (transfers) of Kshs.11,863,518,430 against approved budget of Kshs.14,026,308,243 resulting to under-performance of Kshs.2,162,789,813 or 15% of the budget.

The under-funding and under-performance affected the planned activities and may have impacted negatively on service delivery to the public.

Management Response

a) Under-funding

The under-funding of ksh 2,778,571,715 includes opening equitable share brought forward of Ksh. 867,288,525. The reporting templates do not provide for opening balances. The County Government did not receive donor funding of Ksh. 1,400,443,818. Failure to achieve of own source revenue targets contributed to the under-funding. The analysis of under-funding is provided in the table below.

Table. 1.

Receipts/Payments	Final Budget	Actual on Comparable Basis	Budget Realization Difference
Receipts	KShs.	KShs.	KShs.
Exchequer releases	11,820,149,621	10,659,435,192	1,160,714,429
Transfer from other government agencies(Donor Funds)	1,657,206,137	256,762,319	1,400,443,818
Own Source Revenue	548,952,485	330,427,054	218,525,431
Return to CRF Issues	-	1,111,963	(1,111,963)
Total Receipts	14,026,308,243	11,247,736,528	2, 778,571,715

The following factors contributed to low revenue realization during the year under review;

- i. Legislative gaps in revenue administration.
- ii. General Elections of August 2022
- iii. The covid-19 after effects.

Measures to Enhance own Source Revenue Receipts

1. The County Government has enacted revenue support legislation to strengthen the legal framework. The County Government has further enacted bills to strengthen the own source revenue legal framework. The bills have been submitted to County Assembly for legislative processing. They include:

- i. Bungoma County Livestock Sale Yard Bill, 2024

- ii. Bungoma County Food Safety Co-ordination Bill, 2024
 - iii. Bungoma Agricultural Institutional Development Bill, 2024
 - iv. Bungoma County Environmental Health and Sanitation Bill, 2024
2. The County Government has rolled out Hospital Management System to all level 4 and 5 health facilities. The system is having robust controls that will minimize revenue leakages in hospitals.
 3. The department of Finance and Economic Planning has introduced measures to enhance and account for own source revenue. The department has mapped and decentralized revenue to the departments. An executive order has been issued to this effect. The respective chief Officers have been appointed as collectors of revenue.
 4. The County Executive committee member for Finance and Economic Planning has issued a Revenue Policy Statement and revenue guideline. Included in the measures are implementation of a cashless payments to minimize cash handling. This will further reduce revenue administrative cost.
 5. The County Government has granted waivers on outstanding interest and penalties as an incentive to property rates defaulters.
 6. The County Government has re-structured most of its revenue streams to stop pilferage and enhance collection efficiency. Restructuring of market entry fees underway.
 7. The County Executive Committee has approved the memorandum from the department of lands, urban physical planning and municipalities to waiver the accrued interest and penalties on land rates on all rateable properties
 8. The department has procured thirty-three motor cycles to enhance field revenue supervision.

c) Leasing of Medical Equipment

Under-performance was further contributed by amounts allocated for leasing of medical equipment which is deducted at source. This amount is not included in the payments.

Action

1. The County Government through the Council of Governors will continue to advocate for timely disbursement of budgeted donor funds,
2. The County Government has instituted aggressive measures to enhance own source revenue. The measures are highlighted in the Revenue Policy Statement and the Decentralization of Revenue Guideline.

Appendix 1a: Revenue Policy Statement

Oral Response

The chief Officer highlighted that during the year under review, The County Government collected own source revenue amounting to 279 million. The underfunding resulted from the failure to attain own source revenue targets and by amounts allocated for leasing of medical equipment which is deducted at source. The county government missed out on the own-source revenue targets as a result of the legislative gaps in revenue administration, and the 2022 general elections and the covid-19 effects. A revenue policy statement has been submitted for review by the finance committee and it highlights aggressive measures put in place to enhance own source revenue.

COMMITTEE OBSERVATIONS

1. A Policy Revenue Statement was submitted to the committee for review
2. Decentralization of Revenue Guideline Executive Order No.1 of 2022 was submitted to the committee.
3. The own source revenue amount of 279million highlighted to have been collected by the chief officer Finance differed with the amounts of 330million highlighted in the financial statements

2. COMMITTEE RECOMMENDATIONS

Committee recommendation

1. The accounting officer should enhance Continuous capacity building of revenue collectors on new strategies and on matters of integrity as provided by the Public Officers Ethics Act of 2003.
2. The sectorial committee on Finance and Economic Planning should pursuant to its mandate follow up on revenue reports and make recommendations on revenue enhancement that will guide the executive to increase revenue collection in the County and undertake trend analysis on quarterly basis.
3. The accounting officer should deploy and equip substantive revenue officers in all sources of streams with a proper work plan and targets for effective revenue collection.
4. The Senate should intervene and provide guidelines and policies to the office of Controller of Budget for expedition of processing exchequer releases to Counties.
5. The Public Accounts and investment's committee finds the query unsatisfactorily addressed. The committee recommends to the finance committee to investigate on the difference between the disclosed local revenue collections against the purported collections and report back to this house within 30 days from the date of adoption of this report.

CONCLUSION

The auditor general's report on Bungoma County revenue fund reveals major challenges in the management and utilization of public funds including in efficiencies in revenue collection, discrepancies in financial reporting and non-compliance with financial regulations

The report highlights a need for improved internal controls, enhanced accountability and full adoption of automation to minimize revenue pilferage. The committee recommends for strict adherence to PFMA and timely reconciliation of accounts and better oversight to ensure the efficient use of County funds for the planned services.

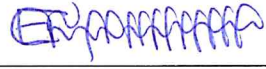
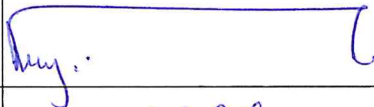
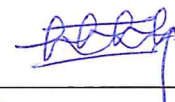




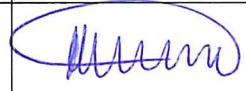

Annexures.

1. Appendix 1 a. Revenue policy statement
2. Appendix 1.b. Revenue guidelines
3. Appendix 1.c . Auditor general's certificate of audit

Adoption schedule

Adoption Schedule

We the members of the Public Accounts and Investment's Committee do hereby append the signatures adopting this report with the recommendations therein

NO	NAME	TITLE	SIGN
1	Hon. Everton Nganga	Chairperson	
2	Hon Timothy Chikati	V/Chairperson	
3	Hon Anthony Lusenaka	Member	
4	Hon Everlyne Mutiembu	Member	
5	Hon Jerusa Aleu	Member	
6	Hon Alfred Mukhanya	Member	
7	Hon Stephen Kaiser	Member	
8	Hon Metrine Nangalama	Member	
9	Hon Kennedy Wanyama	Member	
10	Hon Everlyne Anyango	Member	
11	Hon Moureen Wafula	Member	