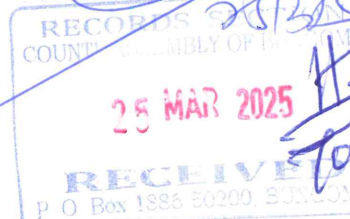


COUNTY GOVERNMENT OF BUNGOMA



COUNTY ASSEMBLY OF BUNGOMA  
OFFICE OF THE CLERK



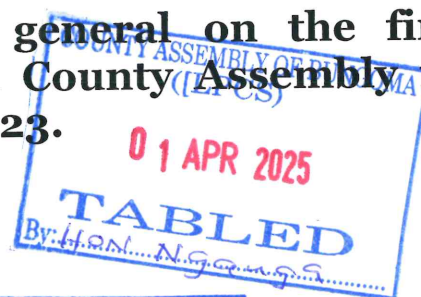
THIRD COUNTY ASSEMBLY, FOURTH SESSION

**PUBLIC ACCOUNTS AND INVESTMENTS  
COMMITTEE**

**REPORT ON**

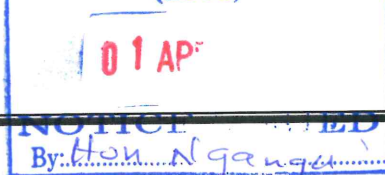
**REPORTS OF THE AUDITOR GENERAL ON:**

1. The Bungoma County Assembly Honorable Members' Car Loan and Mortgage scheme fund for the year ended 30<sup>th</sup> June, 2023,
2. Report of the auditor general on the financial statements of Bungoma County Assembly for the year ended 30th June 2023.



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

COUNTY ASSEMBLY OF BUNGOMA (LPCS) MARCH 2025



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## CHAPTER ONE

### 1.1 Preface

#### Mr. Speaker sir

On behalf of the Members of Public Accounts and Investments Committee and pursuant to the provisions of Standing Order No. 209 and in accordance with Article 227(8) of the Constitution of Kenya, 2010, it is my pleasure and duty to present to this Assembly, the Committee report on the reports of the Auditor General on the Bungoma County Assembly Honorable Members' Car Loan and Mortgage scheme fund for the year ended 30<sup>th</sup> June, 2023 and report of the auditor general on the financial statements of Bungoma county assembly for the year ended 30th June 2023.

### 1.2 Mandate of the Committee

The mandate of Public Accounts and Investments Committee is drawn from Standing Order number, 209 (5) with the functions to:

- a) Pursuant to Article 185 (3) of the Constitution of Kenya to exercise oversight over the County Executive Committee and any other County Executive Organ.
- b) Pursuant to Article 229 (7) and (8) of the Constitution to examine the reports of the Auditor General on the annual accounts of the County Government.
- c) To examine special reports if any, of the Auditor General on County Government Funds.
- d) To examine the reports if any of the Auditor General on the County Public Investments.
- e) To exercise oversight over County Public Accounts and Investments.

### 1.3 Powers

#### Mr. Speaker Sir

The Committee pursuant to the provisions of Article 185(3) is mandated to exercise oversight over the County Executive Committee and any other County organs and also to examine special reports of the Auditor-General on County Government Funds in respect of the appropriation of sums granted by the County Assembly to meet the public expenditure, and to enforce adherence to the fiscal responsibility principles as provided under *Article 201 of the Constitution of Kenya, 2010*. The Committee executes its mandate on the basis of annual and special audit reports prepared by the Office of the Auditor-General (OAG).

## 1.4 Guiding Principles

### AUDIT OF PUBLIC ACCOUNTS

According to Article 229(4) (b) of the Constitution of Kenya, within six months after the end of each financial year, the Auditor General is required to examine the Financial Report on the Accounts of all funds and authorities of the National and County Governments and express an opinion on the report on whether money appropriated by Parliament or the relevant County Assembly and disbursed;

Has been applied for the purpose for which it was appropriated or raised;

Expended in conformity with the authority that governs it; and was expended economically, efficiently and effectively.

The Audit reports shall then be submitted to Parliament or the relevant County Assembly for debate and consideration.

## 1.5 Obligations of accounting officers

**Section 149(1), of the PFM Act, 2012 stipulates 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 lawful and authorized; effective, efficient, economical and transparent.”*

## 1.6 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”.

### Mr. Speaker Sir

Section 116(1) of the Public Finance Management Act provides that, the County Executive Committee Member for Finance may, with the approval of the County Executive Committee and the County Assembly, establish Public Funds.

Section 116 (7)(a) (b) (c) of the same Act directs that “The administrator of a County Public Fund shall prepare accounts for the fund for each financial year and not later than three months after the end of each financial year, submit financial statements relating to those accounts to the Auditor-General and the County Assembly.”

Furthermore, the *Public Audit Act, No. 34 of 2015* stipulates 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 shall publicize it on its official website and other public spaces.
- 3) Within fourteen days after submitting the report to Parliament or the relevant County Assembly, the Auditor-General shall publicize the report on the official website and other public spaces.

Further, Section 35 of the same Act stipulates that, the Auditor-General shall conduct audits of financial statements under Article 229 of the Constitution for State Organs and public entities and report annually to Parliament and the relevant County Assembly.

Section 36(1) states provide, that the Auditor-General shall conduct performance audit to examine the economy, efficiency and effectiveness with which public money has been expended pursuant to Article 229 of the Constitution.

### **Mr. Speaker Sir**

The Public Accounts and Investments Committee strongly holds the view that these provisions of the law were meant to ensure prudent and responsible use of public funds. The Committee has accordingly applied these provisions to recommend varying actions. The committee also places a premium on these principles, among others, and has been guided by them in the entire process that has culminated to this report.

#### **1.7 Confidentiality undertaking by the committee**

To enhance the integrity of the Committee and its work, Members of the Public Accounts and Investments Committee have signed a confidentiality undertaking in accordance with Bungoma County Assembly Standing Order No 98. In relation to the provisions of the said Standing Order; Members have undertaken that in relation to this report, no Member of the Committee shall refer to the substance of the proceedings touching on the subject matter 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 in the County Assembly.

#### **1.8 Methodology**

Hon. Speaker, the Reports of the Auditor General on Bungoma County Assembly Honorable Members' Car Loan and Mortgage scheme fund for the year ended 30<sup>th</sup> June, 2023, and report of the auditor general on the financial statements of Bungoma County Assembly for the year ended 30<sup>th</sup> June 2023 were tabled in the County Assembly on the 4<sup>th</sup> Day of March 2024.

The reports were committed to the Public Accounts and Investments Committee for consideration as under the Committee's mandate.

The Committee carried out the analysis of the queries raised by the Auditor General in the two

reports, wrote to the Accounting officer who provided responses and subsequently appeared before the Committee for interrogation in the presence of officers from the office of the Auditor General - Kakamega.

The Committee hereby provides this report having considered the responses provided by the Accounting Officer of The County Assembly of Bungoma and the guidance provided by the Officers from the Office of the Auditor General who were the prosecutors of the reports during the interrogation exercise.

### **1.9 Members of Public Accounts and Investments Committee**

- |                           |                  |
|---------------------------|------------------|
| 1. Hon. Everton Nganga    | Chairperson      |
| 2. Hon. Timothy Chikati   | Vice Chairperson |
| 3. Hon. Stephen Wamalwa   | Member           |
| 4. Hon. Joseph Juma       | Member           |
| 5. Hon. Anthony Lusenaka  | Member           |
| 6. Hon. Evelyn Mutiembu   | Member           |
| 7. Hon. Alfred Mukhanya   | Member           |
| 8. Hon. Stephen Kaiser    | Member           |
| 9. Hon. Jerusa Aleu       | Member           |
| 10. Hon. Godfrey Mukhwana | Member           |
| 11. Hon. Jeremiah Kuloba  | Member           |

### **1.10 Acknowledgment**

**Honorable Speaker**, the Committee wishes to express its gratitude to your office for allowing us sit outside the precincts of the County Assembly to prepare this report, further our great thanks goes to the office of the Clerk for facilitating the committee to execute its mandate and for appearing before the Committee for interrogations and lastly the secretariat of the committee and the officers from the office of Auditor General for exemplary technical and logistical support that led to the production of this report.

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

**SIGNED**.....**DATE**.....

**HON. EVERTON S NGANGA, MCA- EAST SANGALO WARD**  
**(CHAIRMAN, PUBLIC ACCOUNTS AND INVESTMENT COMMITTEE).**

## **CHAPTER TWO**

### **REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF BUNGOMA COUNTY ASSEMBLY FOR THE YEAR ENDED 30TH JUNE 2023.**

#### **Unqualified Opinion**

#### **Audit query**

##### **2.1 Pending Bills.**

Note 1 and 3 in Other Disclosures reflects a balance of Kshs.34,746,187 and Kshs.91,160,014 in respect of pending accounts payable and other pending payables respectively all totaling Kshs.125,906,201 which were not settled as at 30 June, 2023 but were carried forward to 2023/2024 financial year. No plausible explanation was provided for non-payment of the pending bills before the end of the financial year.

#### **Management response**

##### **The accounting officer in his written response submitted that;**

The Management agrees with the audit findings that at the time of Audit, the total outstanding pending accounts payable were Kshs. 34,746,187. The County Assembly has paid a total of Kshs. 20,046,187. The current pending accounts payable balance was Ksh. 14,700,000 being outstanding subscriptions payable to County Assemblies Forum (CAF) which the Office of the Auditor General and the Public Accounts committee of the Senate has questioned its legality.

On other pending payables totaling to Kshs.91,160,014; the management is working on a plan to reduce the amount.

##### **Oral submission by the accounting officer**

Paying subscriptions to CAF would still result to audit queries since the Senate and the Office of the Auditor General have questioned the legality of County Assemblies Forum (CAF).The accounting officer urges the committee to help ensure its legality since the forum allows discussions on pertinent matters within the County Assemblies. Recommendations from the Senate should be sought with regards to the issue of CAF.

## **Committee observations**

- i. The County Assembly has made payments to the pending Accounts payables of Kshs. 20,046,187 leaving out Kshs. 14,700,000 due to the County Assemblies Forum (CAF). This amount has not been paid since the Office of the Auditor General and the Public Accounts committee of the Senate has questioned the legality of the CAF.
- ii. There is an outstanding amount of other accounts payables of Kshs.91,160,014 due to the Car and Mortgage Funds not yet repaid by the Assembly.

## **Committee Recommendation**

The County Assembly Service Board to budget for the outstanding payables due to the Car and Mortgage funds of Kshs. 91,160,014 and clear within a year from the date of adoption of this report.

The Assembly should make provisions for the amounts payables to CAF to be repaid once the body is legally established since there are ongoing procedures for its legal establishment.

### **2.2. Lack of Ethnic diversity in staff establishment**

Review of the County Assembly's staff records for the month of June, 2023 indicated that out of the one hundred and twenty-five (125) permanent employees, one hundred and ten (110) or 88% were from the same ethnic community contrary to Section 7(2) of the National Cohesion and Integration Act, 2008 which provides that no public entity shall have more than one-third of its staff from the same ethnic community.

## **Management response**

The management disagrees with the Audit findings that at the time of Audit, most employees in the County assembly were from the dominant ethnic community.

It's worth to note that the dominant ethnic group in the county assembly is Bukusu at 84 in number. This translates to 67%. A total of 41 employees translating to 33% are not from the dominant Bukusu ethnic community which is within the provisions of section 65(1) (e) of the County Governments Act 2012.

## **Oral submission**

Job adverts are published in newspapers for accessibility by everyone. However, most applications received are from those that reside in localities close to the County Assembly, of which majority are Luhyas. This makes it difficult to meet with the requirements of section 7 (2) of the National Cohesion and Integration Act, 2008. The County Assembly has, however,

ensured distribution of job opportunities among different sub-tribes. A total of 84 staff are from the Bukusu sub tribe- which is the dominant. This translates to 67%; meaning 33% are not from the dominant sub-tribe.

### **Committee Observations**

- i. Job opportunities in the County Assembly are always advertised by the County Assembly in newspapers/print media for accessibility by everyone and applications are open to all interested individuals.
- ii. The County Assembly failed to comply with requirements of the National Cohesion on employees in service since more than one third are from the local dominant community of Luhya, however the Luhya community has several sub-tribes which were well distributed in the employment.

### **Committee Recommendation**

The County Assembly Service Board should always comply with Section 7(2) of the National Cohesion and Integration Act, 2008 when selecting candidates for appointment.

### **2.3 Failure to adhere to the One-third Basic Pay Rule**

Review of the payroll revealed that employees' salary deductions exceeded two-thirds (2/3) of their basic salary contrary to Section C.I(3) of the Public Service Commission Human Resource Policies, 2016 and Section 19(3) of the Employment Act, 2007 which require that deductions made by an employer from the wages of his employees at any one time shall not exceed two-thirds of such wages.

### **Management response**

The Management agrees with the Audit findings that at the time of audit, some of the employee's salary deductions exceeded two thirds of their basic salary in various months during the year. This was as a result of the affected staff having taken commercial loans that led to deductions exceeding two thirds of their basic salaries.

Currently, the management ensures compliance that no staff can have salary deductions exceed two thirds of their basic salary.

### **Committee Observations**

An Internal Memo from the clerk of county assembly dated 24 June 2024 directing for compliance with Section 19(3) of the Employment Act, 2007 which require that deductions made by an employer from the wages of his employees at any one time shall not exceed two-thirds of such wages was provided to the Committee.

Data concerning the staff payroll was provided to the Committee and it was evident that there is compliance with Section 19(3) of the Employment Act, 2007.

### **Committee Recommendation**

The Audit query is hereby resolved

## **2.4 Poor Information Technology (ICT) Control Environment**

Review of documents provided for audit and physical verification revealed that the server room doors were being opened inwards contrary to the requirements of Section 8.0.2(a) of Government ICT Networks Standards ICTA.2.002:2019 that requires doors of the telecommunication/equipment room to open outward, slide sideways, or be removable. In the circumstances, the internal controls were not up to the standards required for a government entity.

### **Management response**

Management agrees with the audit findings that at the time of audit the server room doors were being opened inwards. The doors have since been rectified to adhere to the requirements of Section 8.0.2(a) of Government ICT Networks Standards ICTA.2.002:2019.

### **Committee Observation**

The management has adhered to the ICT networks standards, the server room doors were being opened outwards and slide sideways as under Paragraph 8.0.2(a) of Government ICT 2019 Networks Standards

### **Committee Recommendation**

The Audit query is hereby resolved.



## **CHAPTER THREE**

### **REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF BUNGOMA COUNTY ASSEMBLY HONORABLE MEMBERS CAR LOAN AND MORTGAGE FUND FOR THE YEAR ENDED 30<sup>TH</sup> JUNE 2023.**

#### **Qualified opinion**

#### **Audit query**

##### **3.1 Unsupported Prior Year Adjustments**

The statement of financial assets and liabilities as at 30 June 2023 reflects a nil balance in respect of prior year adjustment which, as disclosed in Note 7 to the financial statements, comprises of a balance brought forward of Kshs.45,625,458 and two negative balances of Kshs.36,6000 and Kshs.9,025,458 relating to reversal of entry of tax on car grant paid by County Assembly Service Board and variations in interest on loans from first assembly. However, no documentary evidences provided to support the amounts. In the circumstances, the accuracy and completeness of the nil prior year adjustment balance could not be confirmed.

#### **Management response**

The management agrees with the audit findings as at the time of audit, prior year adjustments had not been properly supported but the same has been done.

#### **Committee Observations**

Prior year adjustments were done and journals provided as under Regulation 42(1) of the PFM (County Government) regulation, 2015 on ensuring correctness of the Financial Statements before being signed by the Accounting officer.

#### **Committee Recommendation**

The Audit query is hereby resolved.

##### **3.2 Doubtful Long-term Receivable**

The statement of financial position reflects a balance of Kshs.292,379,746 in respect of current portion of long-term receivables from exchange transactions which, as disclosed in Note 4B to the financial statements includes Kshs.21,457,620 relating to loans advanced to members of the first and Second County Assemblies who were not subsequently re-elected. No explanation was provided on why the former Members were advance loans that were not confined to the lives of their respective terms of five years. In addition, the log books and title deeds were not

jointly registered between the Members and the County Assembly as required by Regulation 8(2) of the Public Finance Management (Bungoma County Assembly Member's Car Loan Scheme Fund) Regulation, 2022 that requires that logbooks of the motor vehicles financed by the Fund be registered jointly between the County Assembly and the Member. Further, the beneficiaries received cash instead of settlement of property price being directly with the vendor. In the circumstances, Management was in breach of the law and the recoverability of the long outstanding loans of Kshs.21,457,620 issued to the former Members of County Assembly is doubtful.

### **Management Response**

The management agrees with the Audit findings that as at the time of Audit, some honorable Members of 1st and 2nd Assembly had not serviced their loans. The Assembly has initiated a recovery plan by issuing demand notices to defaulting members of the first and Second Assembly whose securities were submitted. Currently loans are issued and repaid within the term of service of Hon. Members as per the approved amended regulations.

### **Oral Submission**

That first Assembly Members did not serve all the full term, there was a court case but the case was not ruled in favor of the Members and the management has ensured that a caution has been put on the properties acquired via the Assembly loan and mortgage scheme; therefore the properties cannot be transferred.

Demand notices have been issued and the management is in the process of recovery.

Currently, the regulations were amended and approved for Members to clear their loans at the end of their terms of service as opposed to the previously stipulated five years. The accounting officer requested for support from the committee to ensure compliance to the regulations, for prosperity of the fund.

### **Committee Observation**

The management is in the process of recovering the loans as initiated via demand notices.

Charges for core ownership of property acquired through the car loan and mortgage scheme have been initiated with those who already submitted the ownership documents.

### **Committee Recommendation**

Regulation 8(2) of the Public Finance Management (Bungoma County Assembly Member's Car Loan Scheme Fund) Regulation, 2022 requires that logbooks of the motor vehicles and title deeds financed by the Fund be registered jointly between the County Assembly and the Member;

Therefore within 90 days after adoption of this report ,Hon. Members who are yet to abide by the regulation as approved by the County Assembly should purpose to make the process seamless by providing the tittle deeds and log books for property acquired through the fund for joint ownership registration.

### **3.3 Budgetary Control and Performance**

The statement of comparison of budget and actual amounts reflects final receipts budget and actual amounts on comparable basis of Kshs. 5,000,000 and Kshs. 3,144,956 respectively, resulting to underfunding of Kshs.1,855,044, or 37% of the budget. Similarly, the fund expended Kshs. 1,144,640 against an approved budget of Kshs. 4,000,000 resulting to underperformance of Kshs. 2,855,360 or 71% of the budget. The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

#### **Management Response**

The interest was not fully earned because most of the Honorable members received their loans towards the end of the financial year hence the loans did not earn maximum interest. Included in the budget amount are legal expenses towards charging of the log books and title deeds which was not done during the financial year leading to underperformance.

#### **Oral Submission**

Delayed exchequer releases resulted to some members receiving their loans towards the end of the Fiscal period resulting to minimal interest earned.

Legal expenses towards charging of the log books and title deeds which was not done during the financial year also resulted to underperformance.

#### **Committee Observation**

There was underfunding and underperformance of the budgeted expenditures which affected implementation of planned activities.

#### **Committee Recommendation**

Management should reinforce Regulation 41.(1) (b) of the Public Finance Management (County Governments) Regulations, 2015 in overall control of budget execution through strict application of rules, which apply to all transactions with the specific exception of debt service payments , total payments for a detailed budget line in a given fiscal year should not exceed the reallocations issued against the budget line.

### **3.4 Failure to Provide Jointly Registered Ownership Documents**

The statement of financial position reflects a balance of Kshs. 292,379,747 in respect of long term receivables from exchange transactions which, as disclosed in Note 4B to the financial statements, includes Kshs.128,000,000 and Kshs.169,560,000 totaling to Kshs.297,560,000 relating to car loan and mortgage disbursements respectively, during the year. However, Management did not produce logbooks and title deeds jointly registered between the County Assembly and the loanee as required by Regulation 8(2) of the Public Finance Management (Bungoma County Assembly Member's Car Loan Scheme Fund) Regulation, 2022 which provides that jointly registered ownership documents of property financed by the Fund should be kept in custody of the officer administering the fund. In the circumstances, Management was in breach of the law.

#### **Management Response**

The management agrees with the Audit findings. Currently the log books and title deeds have been submitted and are in the process of being jointly co-owned between the beneficiary and County Assembly. Attached is the forwarding letter to Ndalila & company Advocates securities to be charged.

#### **Oral Submission**

That Charges for co-ownership of property acquired through the car loan and mortgage scheme have been initiated with those who already submitted the ownership documents as evidenced by the forwarding letter to Ndalila & company Advocates for securities to be charged.

#### **Committee Observation**

The regulations governing the Bungoma County Assembly Member's Car Loan Scheme Fund as approved by the County Assembly require the beneficiaries to submit the title deeds and Logbooks for property acquired within the timelines of ninety (90) days after loan advancement.

Some Honorable Members are yet to submit the ownership documents for joint-ownership registration for security purposes of the fund by management.

#### **Committee Recommendation**

Regulation 8(2) of the Public Finance Management (Bungoma County Assembly Member's Car Loan Scheme Fund) Regulation, 2022 requires that logbooks of the motor vehicles financed by the Fund be registered jointly between the County Assembly and the Member to whom the loan is advanced.

Hon. Members who are yet to submit the ownership documents for joint-ownership registration should do so within 90 days from adoption of this report to enable management clear the query and going forward the ninety (90) days timelines should strictly be adhered to as per the approved regulations.

## **CONCLUSION**


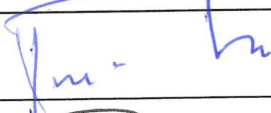



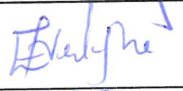
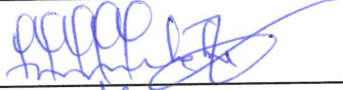
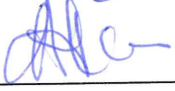

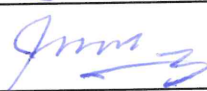
Hon. Speaker , The audit reports on financial statements of the Bungoma County Assembly Honorable Members' Car Loan and Mortgage scheme fund for the year ended 30<sup>th</sup> June, 2023 achieved a qualified opinion and currently with only one unresolved issue and two partially resolved issues. Report of the auditor general on the financial statements of Bungoma county assembly for the year ended 30th June 2023 achieved an unqualified opinion from the Auditor General, representing a fair position of financial performance for the County Assembly of Bungoma, and an improvement which saw the County Assembly of Bungoma emerge Position one during the 2024 Financial Reporting (FiRe) awards.

Hon. Speaker, I urge this honorable House to adopt this report with the contents therein.

**Thank you.**

### ADOPTION SCHEDULE

We the undersigned members of the Public Accounts and Investments Committee do affix our signatures adopting this report with the contents therein.

	MEMBERS NAME	DESIGNATION	SIGN
1	Hon. Everton Nganga	Chairperson	
2	Hon. Timothy Chikati	Vice Chairperson	
3	Hon. Joseph Juma	Member	
4	Hon. Stephen Wamalwa	Member	
5	Hon. Anthony Lusenaka	Member	
6	Hon. Everlyn Mutiembu	Member	
7	Hon. Jeremiah Kuloba	Member	
8	Hon. Jerusa Aleu	Member	
9	Hon. Stephen Kaiser	Member	
10	Hon. Alfred Mukhanya	Member	
11	Hon. Godfrey Mukhwana	Member	