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REPUBLIC OF KENYA

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File Ref: SNY/BMT CAS/2020/2021 **2 November 2021**

The County Assembly Clerk
Bomet County Assembly
P O Box 590 - 20400
BOMET

BOMET COUNTY ASSEMBLY
RECEIVED
05 NOV 2021
P. O. Box 590 - 20400
BOMET

Attention: Mr Isaac K. Kitur

Dear Sir

MANAGEMENT LETTER ON BOMET COUNTY ASSEMBLY FOR YEAR ENDING 30 JUNE 2021

1.0 Introduction

The financial statements of Bomet County Assembly are subject to audit by the Auditor-General in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the *Public Audit Act, 2015.*

The audit of Bomet County Assembly for the year ended 30 June, 2021 was completed and the purpose of this letter is to bring to your attention the findings that were revealed during the audit.

2.0 Scope and Determination of Responsibility

The audit was conducted in accordance with International Standards for Supreme Audit Institutions. These standards require that the audit is planned and performed so as to obtain reasonable assurance that, in all material respects, fair presentation is achieved in the annual financial statements.

An audit includes:

- Examination on a test basis of evidence supporting the amounts and disclosures in the financial statements;

- Assessment of the accounting principles used and significant estimates made by management; and
- Evaluation of the overall financial statements' presentation.

The audit also includes an examination, on a test basis, of evidence supporting compliance, in all material respects, with the relevant laws and regulations which came to our attention and are applicable to financial matters.

The matters mentioned in this letter are therefore those that were identified through tests considered necessary for the purpose of the audit and it is possible that there might be other matters and/or weaknesses that were not identified.

The financial statements, maintenance of effective control measures and compliance with laws and regulations are the responsibility of the Accounting Officer. Our responsibility is to express an opinion on these financial statements.

3.0 Respective Responsibilities of the County Assembly Clerk and the Auditor-General

The management is responsible for the preparation and fair presentation of the Financial Statements in accordance with International Public Sector Accounting Standards and for such internal control as management determines is necessary to enable the preparation of Financial Statements that are free from material misstatement, whether due to fraud or error.

The Responsibility of the Auditor-General is to express an independent opinion on the Financial Statements based on the audit findings.

4.0 Audit Findings

4.1 Budgetary Performance Analysis

Criteria

- Regulation 47 (5) of the Public finance management (county governments) regulations, 2015 states that the reallocations under this regulation shall be approved by the respective Accounting Officer of the entity.

Finding

The following budgetary deviations were note due reallocations that were not supported by any authority from the accounting officer:

Audit Components	Current Year Final Budget Figures	Current Year Actuals Amounts Received	Variance
	Kshs.	Kshs.	Kshs.
Domestic Travel and Subsistence, And Other Transportation Costs	125,898,296	93,550,000	32,348,296
Employer Contributions to Compulsory National Social Security Schemes	374,000	386,700	(12,700)
Fuel Oil and Lubricants	3,032,938	-	3,032,938
Hospitality Supplies and Services	33,859,000	26,359,000	7,500,000
Insurance Costs	18,802,675	18,802,676	(1)
Other Operating Expenses	104,307,624	104,303,904	3,720
Personal Allowances Paid As Part Of Salary	86,981,716	52,605,716	34,376,000
Personal Allowances Paid As Reimbursements	4,992,000	43,224,296	(38,232,296)
Purchase Of Office Furniture And General Equipment	3,899,000	2,672,612	1,226,388
Purchase Of Specialised Plant, Equipment And Machinery	14,539,826.40	15,709,260	(1,169,433.60)
Construction Of Buidings	125,000,000	123,798,644	1,201,356
Pension And Other Social Security Contributions	-	12,993,910	(12,993,910)
Government Pension And Retirement Benefits	-	12,371,752	(12,371,752)
Routine Maintenance - Motor Vehicles	-	5,262,938	(5,262,938)
Utilities Supplies and Services	-	6,273,000	(6,273,000)
Training Expenses	14,556,500	23,598,725	(9,042,225)
Specialized Materials and Services	-	1,515,000	(1,515,000)
Total	**536,243.575.40**	**543,428,133**	**(7,184,557.60)**

Risks

The management was in breach of regulation 47 (5) of the Public finance management (county governments) regulations, 2015

Recommendation

The Assembly should provide an explanation as to why reallocations across the line items was done without authority.

4.2 Misstatements in Financial Statements

Findings

A Comparison of the IFMIS balance of various items and those presented on financial statements revealed unexplained discrepancies as detailed in the table below:

1.Compensation of Employees	**Balances As Per The Financial Statements**	**Balances As Per IFMIS**	**Variance/Discrepancies**
	Kshs	**Kshs**	**Kshs**
Basic salaries of permanent employees	151,493,356	151,493,355	1.00
Basic wages of temporary employees	23,947,222	23,947,222	-
Personal allowances paid as part of salary	52,605,716	119,330,012	(66,724,296)
Personal allowances paid as reimbursements	43,224,296	4,576,000	38,648,296
Employer Contribution to compulsory National Social Schemes	386,700	374,000	12,700
Pension and other social security contributions	12,993,910.00	-	12,993,910
Total	**284,651,200**	**299,720,589**	**(15,069,389)**
2. Use Of Goods And Services			
Utilities, supplies and services	6,273,000	1,281,000	4,992,000

Communication, supplies and services	1,510,000	1,510,000	-
Domestic travel and subsistence	93,550,000	95,484,600	(1,934,600)
Foreign travel and subsistence	1,786,000	1,786,000	-
Training expenses	23,598,725	24,172,225	(573,500)
Hospitality supplies and services	26,359,000	33,489,000	(7,130,000)
Insurance costs	18,802,676	18,802,675	1.00
Specialized materials and services	1,515,000	1,515,000	-
Office and general supplies and services	3,526,716	3,448,716	78,000
Fuel, oil and lubricants	0	3,032,938	(3,032,93)
Other operating expenses	104,303,904	110,298,244	(5,994,340)
Routine maintenance – vehicles and other transport equipment	5,262,938	1,134,100	4,128,838
Routine maintenance – other assets	938,662	538,662	400,00
Total	**292,560,621**	**301,114,780**	**(8,554,159)**
3. Transfers To Other Government Entities			-
Bomet County Assembly Mortgage Scheme Fund	56,000,000	-	56,000,000
TOTAL	**56,000,000**	**-**	**56,000,000**

4. Social Security Benefits			-
Government pension and retirement benefits	12,371,752	25,378,360.45	(13,006,608.45)
Total	12,371,752	25,378,360.45	(13,006,608.45)
5. Acquisition Of Assets			-
Construction of Buildings	123,798,644	6,391,454	117,407,190
Purchase of Vehicles and Other Transport Equipment	15,294,000	15,294,000	-
Purchase of Office Furniture and General Equipment	2,672,612	15,716,894.50	(13,044,282.50)
Purchase of Specialized Plant, Equipment and Machinery	15,709,260	241,234	15,468,026
domestic lending and on-lending	0	25,000,000	(25,000,000)
Total acquisition of non- financial assets	**157,474,516**	**62,643,582.50**	**94,830,933.50**
6. Finance Costs			-
Bank Charges	3,720	10,000	(6,280)
Total	**3,720**	**10,000**	**(6,280)**

Risk

The variances were not reconciled. Consequently, the accuracy and completeness of figures reflected in the financial statements could not be ascertained.

Recommendation

The management should reconcile the variance and adjust the financial statements to reflect the correct amounts.

4.3 Internal Controls Assessment

Criteria

- Section 155 subsection (1) of Public Finance Management (County Governments) Regulations, 2015 provides that the Head of Internal Audit unit in a county government shall enjoy operational independence reporting administratively to the Accounting Officer and functionally to the Audit Committee. Sub section 3 further states that the internal auditor shall have unrestricted, direct and prompt access to all records, officials or personnel holding any contractual status and to all the premises and properties of the entity.

Findings

(i). Lack of Audit committee

The County Assembly did not provide documentary evidence as to the existence of an audit committee neither did their avail minutes of the committee meetings to demonstrate that there were meetings in the year under review as required under section 168 and 172(1) of Public Finance Management (County Governments) Regulation 2015 which stipulate the function of the audit committee and the frequency of committee meetings respectively. It was therefore not possible to ascertain whether County Assembly risks, control and governance were assessed in the year under review.

(ii). Independence and Effectiveness of Internal Audit Department

During the year under review, the internal audit department reported functionally and administratively to the accounting officer as there was no evidence that the audit committee existed during the year. This is contrary to Regulation 155(1) of Public Finance Management (County Governments) Regulations 2015 which requires the head of internal audit to functionally report to audit committee and administratively to accounting officer.

Risks

i. It may not be possible to ascertain the assurance of risks, control and governance in the County Assembly's operation if the audit committee do not convene at least four meeting in a financial year.

ii. The internal audit has not been operating independently and efficiently thereby exposing the public resources to risks of abuse and possible loss.

Recommendation
The management should appoint an audit committee to be able to assess risks appropriately and institute a strong internal control system and governance to guard on fraud and errors.

4.4 Operating without a Risk Management Policy

Criteria

- Section 158 (1a&b) of the PFM Regulations (County Government) states that an Accounting Officer shall ensure that the county government entity develops risk management strategies, which include fraud prevention mechanism; and the county government entity develops a system of risk management and internal control that builds robust business operations.

Findings

During the year under review it was observed that Bomet County Assembly had no Risk Management Policy that would have provided guidance in the Financial and management operations for the County.

Risk
In absence of risk management policy, the Assembly is not able detect errors and fraud in the financial statements on time and not able to mitigate them effectively.

Recommendation
The management should ensure that a Risk Management Policy is developed and put in place for effective Financial and Management operations of the entity.

4.5 Non-Remittance of Tax Dues

Criteria

- Regulation 22 of the Public Finance Management (County Government) Regulations, 2015 subsection (2) states that in addition to the responsibilities of Accounting Officers provided in the Act, an Accounting Officer designated under the Act or any other Act, shall — (a) comply with any tax, levy, duty, pension, commitments and audit commitments as may be provided for by legislation;

Findings

A Review of the I-Tax ledger against ledgers maintained by the assembly revealed un reconciled outstanding tax amount of Kshs.290,978,0 as shown below;

Details	Amounts As Per I-Tax Ledgers Kshs.	Amount As Per The Assembly Ledgers Kshs	Outstanding Amount(Variance) Kshs.
PAYE	399,320,266.16	111,951,927.00	287,368,339.16
INCOME TAX	7,994,473.55	-	7,994,473.55
VAT	4,231,723.60	8,616,461.00	(4,384,737.40)
Total	**411,546,463.30**	**120,568,388.00**	**290,978,075.31**

Risk

Possible loss of funds in terms of interest and penalties prescribed in Income and VAT ACTs.

Recommendation

The Assembly should always observe the set timeframe in payment of tax to avoid penalties and interest on the unremitted amounts. The assembly should engage the KRA office for reconciliation between the two balance.

4.6 Cancellation of Insurance Cover

Criteria

- Section 14.3 of the Contract agreement between Bomet County Assembly and APA insurance states that any dispute, difference or question which may arise between the parties touching upon the construction of the contract/ or rights and liabilities of the parties with respect thereto shall be referred to the decision of the single arbitrator to be agreed upon by the parties or in default of agreement within fourteen days to an arbitrator to be appointed at the at the request of either party by the chairman for the time being of the Kenya Branch of the Chartered Institute of Arbitrators.

Findings

Bomet County Assembly entered into a contract on 6th November 2020 with APA Insurance Limited, P.O BOX 30065-00100, Nairobi for the provision of medical insurance cover for one year commencing 25th November 2020 to 24th November 2021. The contract sum was Kshs.16,964,089 which was paid in two instalments as shown below:

Date	P.V No.	Amount Kshs.
25.11.2020	418	8,482,045
25.11.2020	419	8,482,044

A Scrutiny of the documents availed and in particular a letter dated 7th September 2021 indicated the service provider had cancelled the contract on the grounds that Bomet County Assembly had not submitted staff data as required. The service provider cancelled the contract without due process as stipulated in the contract provisions.

Risk

The members of the scheme might not be benefit from the claims from the insurance firm, hence value for money being not achieved.

Recommendation

Bomet County Assembly should engage the service provider through the right channel comply with the provisions of the agreement.

4.7 Training Expenses

Criteria

- Section 158 of the Public Procurement and Asset Disposal Act 2015 "requires that Procurement of goods, works and services under these Regulations shall be competitive in accordance with the provisions of section 157(3)(b) of the Act".National Treasury circular number 20-2015 dated 4 November 2015 "requires that all trainings/worKshsops and retreats with majority of participants drawn from the duty station are held in the precincts' of the duty station".

- County Assembly Human Resource Manual October 2015, Sections J1, J3 and Section J4 "requires that all trainings be based on identified training needs, Selection of trainees for all training programmes will be based on identified needs and will emphasize on training for performance improvement that address individual, organizational and national goals. There is an effective evaluation and feedback system to assess the impact of training on performance".

Findings

Note 5 to the financial statements, reflects use of goods and services balance of Kshs.292,560,621 out of which Kshs.23,598,725 relates to training expenses. However, an examination of sampled payment documents revealed that;

I. An expenditure of Kshs.4,609,000 relating to hire of conference facilities for training of staff and members of County Assembly was not supported with quotations and or framework contracts agreements for competitive bidding.
II. Some trainees did not sign attendance register as evidence of actual participation. In some cases, uncertified photo copies of attendance registers were attached in support of the expenditure.
III. Training needs assessment reports and approved training procurement plans from the training committee was not availed for audit review.
IV. There was no justification for trainings/worKshsops being held outside the County Assembly's offices more so considering the fact that the trainings were done at the pick of the Covid-19 pandemic contrary to National Treasury circular number 20-2015 dated 4 November 2015.
V. Evaluation and follow up on the progress of trainees and impact of training on the general performance were also not availed for audit contrary to County Assembly Human Resource Manual of October 2015, Sections J1, J3 and Section J4

Risks

(i) Value for money may not be realized if service providers are not competitively identified.

(ii) Copies of attendance register may be recycled and used in irregularly supporting training costs which did not take place.

Recommendations

The management should ensure;

(i) Quotations, framework contracts for the hire of training facilities be availed for audit review

(ii) A training needs assessment report and approved training procurement plans be availed for audit review.

(iii) Evaluation and follow up on the progress of trainees and impact of training on the general performance were also not availed for audit contrary to County Assembly Human Resource Manual of October 2015, Sections J1, J3 and Section J4

4.8 Unsupported Expenditure- Hospitality, Supplies and Services

Criteria

- Paragraph 1.3.27 of International Public Sector Accounting Standard (Financial Reporting Under the Cash Basis of Accounting) requires that, financial statements present information that is a faithful representation of the cash receipts, cash payments and cash balances of the entity and the other information disclosed in the financial statements in that it is complete, free from material error and verifiable.

Findings

Note 5 to the financial statement reflects Kshs.26,359,000 in respect of hospitality, supplies and services. Analysis of the expenditure supporting documents revealed that an amount of Kshs.1,046,400.00 was not properly supported as shown below:

Date	Payee	PV NO.	Details	Amount	Remarks
28.02.2021	Josphat Koech	2459	Games	50,000	There was no approval for the expenditure
22.04.2021	Marcella Chepkirui Towett	2457	Hospitality	50,000	The expenditure was in relation to maternity leave allowance. However, there was no policy or approval supporting the expenditure.
04.02.2021	Nelson Mutai	1228	Performance management training	84,000	No document to support the expenditure
04.02.2021	Korir Benard Cheruiyot	1208	Performance management training	56,000	No document to support the expenditure
04.02.2021	Kipkirui Langat	1209	Performance management training	56,000	No document to support the expenditure
04.02.2021	Charles Chamtany Maritim	1210	Performance management training	56,000	No document to support the expenditure

04.02.2021	Edda Biegon	1223	Performance management training	70,000	No document to support the expenditure
04.02.2021	Nehemiah Lelley	1221	Performance management training	70,000	No document to support the expenditure
18.12.2020	Isaac Kitur	618	Sub Allowances - review of whistle blowing Policy	100,800	The report was not attached
18.12.2020	Nehemia kiplangat	617	Sub Allowances - reviw of whistle blowing Policy	84,000	The report was not attached
18.12.2020	Eddah Biegon	621	Sub Allowances - reviw of whistle blowing Policy	84,000	The report was not attached
18.12.2020	Isaac Kitur	633	Sub Allowances - CASB - Bonding Policy	100,800	The report was not attached
18.12.2020	Alice Chesang	635	Sub Allowances - CASB - Bonding Policy	84,000	The report was not attached
18.12.2020	Nelson Mutai	638	Sub Allowances - CASB - Bonding Policy	100,800	The report was not attached
TOTAL				**1,046,400**	

Risk

The regularity, accuracy, completeness and validity of the expenditure figure could not be ascertained.

Recommendation

The expenditure should be properly supported.

4.9 Understatement of Acquisition of Assets – Construction of Buildings

Criteria

- Public Finance Management – County Governments Regulations Section 99(3) states that 'Every entry in the accounts shall be supported by a voucher or other approved document gazetted by the Cabinet Secretary containing the full details, clear narrations and particulars of the item or items to which it relates'.

Findings

The statement of financial performance reflects Kshs.123,798,644 being construction of buildings paid to two (2). However, examination of payment vouchers and cash book revealed a total of Kshs.162,420,228.99 being construction of buildings paid to two (2) contractors.as follows resulting to understatement of Kshs.38,621,584.99 as analyzed below:

PV.No.	Date	Cheque No.	Payee	Description	Amount (Kshs)
0002	July 2020	0106	Mahathi East Africa Ltd	Construction of Main Chambers	35,331,221.00
0004	November 2020	0115	Mahathi East Africa Ltd	Construction of Main Chambers	53,907,874.17
0011	February 2021	0131	Mahathi East Africa Ltd	Construction of Main Chambers	29,769,064.00
0031	June 2021	0127	Mahathi East Africa Ltd	Construction of Main Chambers	29,769,064.00
0001	July 2020	0104	Kiron Construction Ltd	Construction of Mini Chambers	3,891,544.10
0005	November 2020	0119	Kiron Construction Ltd	Construction of Mini Chambers	9,751,551.72
Total					**162,420,228.99**

Risk

Construction of buildings balance was understated by Kshs.38,621,584.99 and therefore the financial statements does reflect fairly.

Recommendation

The financial statements should be amended to reflect the correct amounts.

4.10 Non-Adherence to One Third Pay Rule

Criteria

- Bomet County Assembly Human Resource Manual D.20 Section 2 states that an officer will be expected to retain a net salary of not less than a third (1/3) of his basic salary per month.

Findings

Scrutiny of the June 2021 monthly payroll revealed that some staff members were earning less than the minimum allowable net pay as per their different job groups contrary to the County Assembly's Human Resource policy manual. **See appendix 1**

Risk

(i) Underpaid Workers risk pecuniary embarrassment that is contrary to Public Officer Ethics Act, 2003.

(ii) Workers earning less than a third of their basic salary or zero net salaries also risk bankruptcy and are prone to corruption practices.

Recommendation

Management should provide an explanation on the circumstances under which the rule was not complied with.

4.11 Ethnic Composition

Criteria

- Section 65(1e) of the County Government Act 2012 and Section B 8 (e) states the need to ensure that at least thirty percent of the vacant post at entry level are filled by candidates who are not from the dominant ethnic community in the county;

Findings

Scrutiny of the payroll revealed that, out of 57 employees at the county assembly, 56 or 99.9% belonged to the dominant community contrary to the provisions of the law.

Risk

The county assembly was in breach of the law.

Recommendation

The management should provide an explanation as to why the county assembly is not in compliance with the law given that over the last 9 (nine) years, recruitments has not been done to promote equity.

4.12 Failure to maintain a Fixed Asset Register

Criteria

- Regulation 170(1) of the Public Procurement and Asset Disposal Regulation, 2020 states that an accounting officer of a procuring entity shall be responsible for maintaining a register of assets under his or her control or possession. Further, regulation 170(3) states that all movable and non-movable assets including furniture and equipment issued for government quarters or office, large tools for government works, plant, equipment, vehicles or launches (large motor boats) shall be recorded in a register.

Findings

Reflected in note 10 of the financial statement is an amount of Kshs.15,294,000 relating to the purchase of vehicles and other transport equipment. During the year under review, it was noted that the entity did not maintain a conventional asset register. The register maintained by the management is a schedule of fixed assets with no cost. Also, the immovable assets like buildings and land are not included in the asset register. In the absence of properly maintained and updated register, the safety, security and valuation of fixed assets cannot be guaranteed.

Further, the management has also not acquired the required log books for the two vehicles that were bought during the year.

Risks

In absence of properly maintained and updated register, the safety, security and valuation of fixed assets cannot be guaranteed.

It also not possible for the management keep track of the assets exposing them to loss.

Recommendation

The management should ensure that an asset register is properly maintained and the log books of the said vehicles are acquired.

4.13 Non-compliance with Public Participation Guidelines on Planning and Budgeting

Criteria

- Article 232(d) of the Constitution of Kenya, 2010, requires involvement of people in the process of policy making as one of the Values and Principles of Public Service; and also, paragraph 42 of the County Public Participation guidelines states that there should be invitations to the public for submission in a public forum and or written memoranda.

Findings

The Bomet County Assembly did not provide any evidence to support that members of the public were invited to participate in public hearing on the annual development plan and budget estimates for the financial year 2020/2021. Reports of such public meetings supposedly held on undisclosed days were also not presented for audit. in view of the aforementioned, it was not possible to ascertain whether the views of the public were considered in the planning and budgeting process.

Risk

Public resources may not have been effectively applied for the benefit of the public.

Recommendation

The management should explain why the public was not involved in the planning and budgeting process.

Management Comments

It would be appreciated if your comments on these findings are submitted within seven (7) days from the date of this letter for incorporation in the audit report.

Conclusion

We would like to express our appreciation for the courtesy and assistance extended to our staff by the staff of the Bomet County Assembly during the audit.

Yours faithfully

Wilson Maiyo
Deputy Direct in Charge – South Nyanza Regional Office
For: AUDITOR- GENERAL

Appendix 1

ONE THIRD PAY RULE

No.	SNO	Names	Basic	One third	Net pay	Difference
1	5	Korir Bernard Cheruiyot	53,720.00	17,906.67	15,634.15	(2,272.52)
2	7	Koech Susan Chepkirui	169,140.00	56,380.00	23,759.90	(32,620.10)
3	10	Kirui Clement Kipkorir	161,330.00	53,776.67	49,818.95	(3,957.72)
4	18	Kirui Isaiah Kiplangat	161,330.00	53,776.67	44,167.10	(9,609.57)
5	20	Makiche Edwin Kiprotich	99,900.00	33,300.00	24,568.05	(8,731.95)
6	22	Chebet Clarah	133,870.00	44,623.33	44,575.55	(47.78)
7	25	Chemutai Stella	161,330.00	53,776.67	25,488.95	(28,287.72)
8	30	Rono Benard Kiprotich	79,740.00	26,580.00	26,540.50	(39.50)
9	32	Cheruiyot Dickson Kipkirui	79,740.00	26,580.00	26,573.50	(6.50)
10	33	Thogori Veronica Waweru	79,740.00	26,580.00	26,398.50	(181.50)
11	34	Maritim Richard Kipkorir	161,330.00	53,776.67	40,885.95	(12,890.72)
12	35	Chesang Emmy	133,870.00	44,623.33	36,609.55	(8,013.78)
13	38	Langat Kenneth Kipkirui	79,740.00	26,580.00	21,266.50	(5,313.50)
14	39	Langat Benjamin K	79,740.00	26,580.00	16,805.50	(9,774.50)
15	42	Chelangat Betty	56,370.00	18,790.00	18,741.55	(48.45)
16	44	Koech Josphat Cheruiyot	65,120.00	21,706.67	21,684.60	(22.07)
17	45	Koros Annebetty Chepngeno	99,900.00	33,300.00	25,616.05	(7,683.95)
18	46	Mitei Joseph Cheruiyot	79,740.00	26,580.00	26,531.50	(48.50)
19	47	Korir Erick Cheruiyot	53,720.00	17,906.67	14,712.15	(3,194.52)
20	50	Rono Hillary	35,340.00	11,780.00	11,740.10	(39.90)
21	53	Langat Wesley Kipsang	42,970.00	14,323.33	14,274.15	(49.18)