THE COUNTY ASSEMBLY OF BOMET

THIRD ASSEMBLY: THIRD SESSION

THE COUNTY PUBLIC INVESTMENTS AND ACCOUNTS COMMITTEE REPORT ON THE EXAMINATION OF THE REPORT OF THE AUDITOR-GENERAL ON BOMET COUNTY EDUCATION REVOLVING FUND FOR THE YEAR ENDED 30TH JUNE, 2022

JUNE, 2024

Hon. Speaker

You may approve for tabling

[illegible]
28/08/2024

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COUNTY ASSEMBLY
SPEAKER
28 AUG 2024
BOMET
P.O BOX 500-20400 BOMET

Approved
28/08/2024

JUNE, 2024

Tabled on 28/08/2024

Table of Contents

Abbreviations and Acronyms

HELB:	**-**	Higher Education Loans Board
IFMIS:	**-**	Integrated Financial Management Information System
PFMA	-	Public Finance Management Act.

1 INTRODUCTION

Pursuant to the mandate of the County Public Investments and Accounts Committee and on behalf of the members of the Committee, I beg to present the Report of the Committee on the issues raised in the Report of the Auditor-General on Bomet County Education Revolving Fund.

The audit objective was to ascertain whether the systems formulated and applied by the Fund Administration Committee were reliable for the management of its resources in delivering its mandate.

The audit covered the Fund's Financial Statements for the period commencing 1st July 2021 to 30th June 2022. Upon concluding the audit the Auditor-General prepared a report touching on the following areas:

a) Report on the Financial Statements

b) Report on the Lawfulness and Effectiveness in use of Public Resources

c) Report on Effectiveness of internal controls, Risk Management and Governance

1.1 Establishment of the Committee

The County Public Investments and Accounts Committee is a select Committee established under the Standing Order No. 198 (1) and is responsible for the examination of the workings of public accounts and investments within the County.

1.2 Committee Membership

The Committee as currently constituted comprises of the following Honourable Members: -

1.	Hon. Charles Langat	-	Chairperson
2.	Hon. Denis Kiplangat	-	Vice Chairperson
3.	Hon. Leonard Rotich	-	Member
4.	Hon. Olivia Koskei	-	Member
5.	Hon. Richard Ruttoh	-	Member
6.	Hon. Denis Busienei	-	Member

7. Hon. Caroline Chelangat - Member

1.3 Mandate and powers of the Committee

Pursuant to Standing Order 198 (2), the Committee is mandated to do the following: -

a) The examination of accounts showing the appropriations of the sum voted by the County Assembly to meet the public expenditure and such other accounts laid before the County Assembly as the Committee may deem fit.

b) The examination of the reports, accounts and workings of the county public investments;

c) The examination, in context of the autonomy and efficiency of the public investments, whether the affairs of the public investments are being managed in accordance with sound financial or business principles and prudent commercial practices.

The Committee, under the provisions of Article 195 of the Constitution of Kenya and Standing Order 184 is mandated to exercise all the powers and privileges bestowed on the County Assembly by the Constitution and relevant statutes, including the power to summon witnesses, examine them on oath, receive evidence and to request for and receive papers and documents from the County Government and the public.

1.4 Guiding Principles

In the execution of its mandate, the Committee is guided by core constitutional and statutory principles on public finance management, as well as established legislative customs, traditions, practices and usages. These principles include:

i. Constitutional Principles on Public Finance

Article 201 provides for the fundamental principles of public finance. Under the said Article, the following principles shall guide all aspects of public finance in the republic;

- *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*."

Therefore, in arriving at its observations and recommendations, the Committee was guided by these principles during the preparation of this report.

ii. 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''. The Committee has relied on this constitutional provision as the basis for holding each Accounting Officer and other Public Officers directly and personally liable for any loss of public funds under their watch. The Committee has and will continue to invoke this provision in its recommendations to hold those responsible personally accountable. It is envisaged that it will serve as a deterrent measure.

iii. Obligations of the Accounting Officers

Section 156 (1) of the Public Finance Management Act, 2012 provides 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 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."*

Section 156 (4):

" For 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 authorised by the entity concerned; or*

d) *fails without reasonable cause to pay eligible and approved bills promptly in circumstances where funds are provided for."*

Section 156 (5):

" Disciplinary measures under this section may not be taken against a public officer or accounting officer under subsection (1) (a) or (2) (a) unless the officer has been given an opportunity to be heard in relation to the alleged improper conduct concerned."

1.5 Acknowledgement

I wish to take this opportunity to thank the Honourable Members for their hard work and commitment which made the taking of evidence and preparation of this report successful.

It is my pleasant duty and privilege, on behalf of the County Public Investment and Accounts Committee, to present this report on the Report of the Auditor-General on Bomet County Education Revolving Fund for the year ended 30th June, 2022 for debate and consideration.

Signed .... Date ...28/08/2028

Hon. Charles Langat

Chairperson, County Public Investment and Accounts Committee

1.6 Committee Ownership

We, Honourable members of the County Public Investments and Accounts Committee do hereby append our signatures to this report to affirm our approval and confirm its accuracy, validity and authenticity: -

NO.	NAME	DESIGNATION	SIGNATURE
1.	Hon. Charles Langat	Chairperson	
2.	Hon. Denis Kiplangat	Vice Chair	
3.	Hon. Leonard Rotich	Member	
4.	Hon. Olivia Koske	Member	
5.	Hon. Caroline Chelangat	Member	
6.	Hon. Denis Busienei	Member	
7.	Hon. Richard Rutoh	Member	

2 THE COMMITTEE REPORT ON THE ISSUES RAISED BY THE AUDITOR GENERAL FOR THE BOMET COUNTY EDUCATION REVOLVING FUND FOR THE YEAR 30TH JUNE 2022

2.1 Introduction

The County Assembly of Bomet received the Auditor-General's report which was subsequently tabled and referred to the County Public Investments and Accounts Committee on 26th April 2023. In dealing with the report, the Committee invited the County Executive Committee Member in charge of Finance and Economic Planning on 16th May 2023.

2.2 Committee Proceedings

The Committee held a total of five sittings to deliberate on the issues raised by the Auditor-General. On 16th May, 2023, the department of finance appeared before the Committee and responded to the audit queries for the year under review. The management was tasked to explain in detail all the measures the department has put in place to ensure that public funds are expended in compliance with the law. During its sittings, the Committee closely examined and heard evidence from the witnesses and also reviewed various relevant documents.

In taking evidence, the Committee was guided by the existing procedures and modalities of operation of the Bomet County Assembly derived from the Constitution of Kenya, the Standing Orders, common practices and rulings and directives.

2.3 General Overview of the Auditor-General Report for the Period Under Review

The committee noted that the Auditor-General upon auditing the Financial Statements of the Bomet County Education Revolving Fund which comprise of the statement of financial position as at 30 June 2022,and the statement of financial performance,statement of changes in net assets,statement of cash flows and statement of comparison of budget and actual amounts of the year ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and section 35 of the Public Audit Act, 2015, was able to express Qualified Opinion.

3 RESPONSES, OBSERVATIONS AND RECOMMENDATIONS ON ISSUES RAISED IN THE AUDIT REPORT

3.1 Report on the Financial Statements

3.1.1 Transfers to HELB

The statement of financial performance reflects transfers to HELB of Ksh.9,700,000. However, student list indicating name, administration/registration numbers and amount awarded to students was not provided for audit.

In the circumstances,the accuracy and propriety transfers to HELB amount of Kshs.9,700,000 for the year ended 30 June 2022, could not be confirmed.

Management Response

In their response, the management explained that schedules had not been received from HELB during the time of audit. However, all loan schedules disbursed during the financial year have been received and have been availed for audit verification and copies were hereby attached for review.

Committee Observation

The Committee was satisfied with the response and the matter was **marked as resolved**.

Committee Recommendation.

The Committee recommends that the accounting officer must at all times ensure that there is proper documentation and that explanations are availed to the Auditor-General on time in order to avoid audit queries.

3.1.2 Current Portion of Long-Term Receivables from Exchange Transactions

The statement of Financial position reflects current portion of long term receivables from exchange transaction of Ksh.38,800,000. However, a detailed schedule showing the repayment dates and amount for all benefecires due within twelve months after the reporting date was not provided for audit. In the circumstances, the accuracy and fair current portipon of long-term receivables from exchange transaction of Kshs. 38,800,000 as at 30th June,2022 could not be confirmed.

Management Response

The Management submitted that Higher Education Loans Board for which the County Government of Bomet has a service charter with is the custodian of details of repayments and is fully in charge of recoveries. However, the Fund receives quarterly and annual reports showing progress of loan repayments. The latest annual report showing repayments was availed for audit verification (as; *Annex 1 Rev and Annex 2 Rev)*

Committee Observation

The Committee noted the management has provided loan reports detailing a list of 2,780 beneficiaries of loans totaling Kshs.37,044,500 which consists of Kshs.35,272,000 in principal amounts and Kshs.1,772,500 as charges (**Annex 1 Rev**). Further, management provided a schedule of principal repayments indicating Kshs.706,883.15 repayments out of beneficiary amounts of Kshs.2,320,000 (**Annex 2 Rev**). The issue was **marked as resolved**. The Committee was however, concerned with the failure by the Accounting Officer to avail documents on time.

Committee Recommendation.

The Committee recommends that the accounting officer must at all times ensure that proper documentation and explanations are given to the Auditor-General on time.

3.2 Report on Other Matters

3.2.1 Unresolved Prior Year Matters

Various prior year audit remained unresolved as at 30 June,2022. Management has not provided progress in resolving the prior year audit issues.This is contrary to the requirements of the Public Sector Accounting Standards Board reporting guidelines. In the circumstances,Management has not complied with the reporting template.

Management Response

Management agreed to the observations saying that the same was due to the changing Financial reporting guidelines and templates from the National Treasury.

Committee Observation

The Committee noted that the Management has not documented action taken to resolve prior year audit issues under Annexes to the financial statements for the fy 2022/23 in respect to progress on follow-up of prior year auditor's recommendations and the matter is **marked as unresolved**.

Committee Recommendation

The Committee recommends that the Accounting Officer must ensure that action taken to resolve prior year audit issues is documented as required under Financial reporting guidelines and modules.

3.3 Report of Lawfullness and effectiveness of Public Resources

3.3.1 Lack of Approved Budget

The statement of comparison of budget and actual amounts reflects a final revenue and expenditure of Ksh. 10,000,000 and Ksh.99,997,740 respectively. However, the Fund's approved budget of revenue and expenditure was not prepared. This is contrary to section 29 (2) of the Public Finance Management (County Governments) Regulations, 2015 which states that the accounting officer shall ensure that the draft estimates to his or her department in conformity with the Constitution, the Act and these regulations. In the circumstances, the management was in breach of the law.

Management Response

The concern in the financial statement was noted and resulted in the adoption of approved budget of the parent department of education. This was a result of omission of the bank balances brought forward from the previous financial year. However, the issue has been noted and rectified in the subsequent financial years.

Committee Observation

The issue was marked resolved.

Committee Recommendation.

The Committee recommends that the Accounting Officer must always ensure compliance with the provisions of the Public Finance Management (County Governments) Regulations, 2015 and ensure that all County Funds have their respective budgets duly approved.

3.4 Report on the effectiveness of Internal Controls, Risk and Management

3.4.1 Risk Management Strategy

The Fund does not have a risk management strategy contrary to Section 158 (1)(a) and (b) of the Public Finance Management (County Government) Regulations,2015 which requires the Accounting Officer to develop risk management strategies which include fraud prevention mechanism and controls that build robust business operations. In the circumstances, Management was not in a position to rank risks and allocate resources matching resources to mitigate them.

Management Response

The management agreed that the county currently does not have fund risk and fraud policy in place. However, the county has service contract with HELB on administration of the fund including loan recovery plan since HELB has enough capacity and adequate legal framework to address the concerns of likelihood of loss of information or data attached as *Annex 4*. Further, the fund utilizes the County Government's Risk Management Policy attached as *Annex 5*.

Committee Observation

The response given was not satisfactory as there was no proper justification as to why the department does not have a Risk Management and Fraud Policy. **The matter was marked as unresolved.**

Committee Recommendation.

The Committee recommends that the County Executive should within **sixty days** put in place a proper Risk Management Policy upon adoption of this report by the County Assembly.