THE COUNTY ASSEMBLY OF BOMET

THIRD ASSEMBLY: THIRD SESSION

THE COUNTY PUBLIC INVESTMENTS AND ACCOUNTS COMMITTEE REPORT ON THE CONSIDERATION OF THE REPORT OF THE AUDITOR-GENERAL ON BOMET COUNTY CAR LOAN AND MORTGAGE SCHEME FUND FOR THE YEAR ENDED 30TH JUNE 2022

JUNE, 2024

Hon - Speaker
You may approve for tabling
Kirui
28/08/2024

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COUNTY ASSEMBLY
SPEAKER
28 AUG 2024
BOMET
P.O. BOX 590 - 20400, BOMET

Approved
28/08/2024.

JUNE 2024

Tabled on 28/08/2024.

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Abbreviations and Acronyms

CALC	-	County Assets and Liabilities Committee
CECM	-	County Executive Committee Member
IFMIS	-	Integrated Financial Management Information System
IPSASs	-	International Public Sector Accounting Standards
NTSA	-	National Transport and Safety Authority
SRS	-	Salaries and Remuneration Commission

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 the Bomet County Car Loan and Mortgage Fund for the period ended 30th June 2022.

The audit objective was to ascertain whether the Bomet County Car Loan and Mortgage Fund was administered as per the provision of the Public Finance Management Act and the fund regulations. The Audit covered the Bomet County Car Loan and Mortgage Fund expenditure 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 the use of Public Resources

c) Report on the 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 Standing Order No. 198 (1) and is responsible for the examination the accounts showing the appropriations of the sum voted by the County Assembly to meet the public expenditure and of such other accounts laid before the County Assembly as the Committee may think fit. Further, the Committee is responsible for the examination, in the context of autonomy and efficiency of the county public investment, whether the affairs of the county public investments, are being managed in accordance with sound financial or business principles and prudent commercial practices.

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 the Bomet County Car Loan and Mortgage Fund for the financial year ended 30th June 2022 for debate and consideration.

Signed .... Date 28/08/2024.

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 Koskei	Member	
5.	Hon. Caroline Chepkemoi	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 FINANCIAL YEAR 2021/2022

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 (CECM) for Finance and Economic Planning, the Auditor from the Office of the Auditor-General, and other witnesses to respond to all the audit queries raised in respect of the report of the Auditor-General on the Bomet County Car Loan and Mortgage Scheme Fund for the Year ended 30th June 2022.

2.2 Committee Proceedings

The Committee held a total of three sittings to deliberate on the issues raised by the Auditor-General. On 16th May 2024, CECM for Finance and Economic Planning, the Auditor, and other witnesses appeared before the Committee and responded to the audit queries for the year under review.

The County Executive Committee Member (CECM) for Finance and Economic Planning was tasked to explain in detail all the measures the County Executive 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 reviewed various relevant documents including the response by the CECM for Finance and the analysis and comments of the Auditor-General on the response by the CECM.

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, 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 Car Loan and Mortgage Scheme Fund which comprise of the statement of financial assets as at 30th June 2022 and the statement of receipts and payments, the statement of cash flows and the statement of comparison of budget and actual amounts for the year ended and 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 a **Qualified Opinion**. The Committee further observed that the basis for Qualified Opinion was presentations of financial statements that fairly complied with International Public Sector Accounting Standards (Accrual Basis) with the Public Finance Management Act, 2012

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

3.1 Receivables from Exchange Transactions

Note 12 of the financial statements reflects current portion of short-term and long-term receivables from exchange transactions balance of Kshs. 21,845,818 and Kshs. 28,172,500 respectively totalling Kshs. 50,018,317. Management, however, did not provide schedule of loan movements during the year. It was therefore not possible to ascertain the accuracy and fair statement of the receivables from exchange transactions totaling Kshs. 50,018,317 as at 30 June, 2022.

Management response

The CECM in charge of Finance indicated that the current portion of short-term receivables amounting to Kshs. 21,845,818 consisted of Interest receivable amounting to Kshs. 295,544.68, Kshs. 16,098,795.16, Kshs. 3,719,505.81 and Kshs. 1,731,972 as current loans repayment due, pending remittances and pending repayment respectively. The Long-term loan repayments due was Kshs. 28,172,500. The CECM for finance presented a document marked as **Annex 1** which contained the detailed current portion of short-term and long-term receivables from exchange transactions.

Committee Observation

The Committee observed as follows;

i. The fund management provided a detailed loan schedule for the year ending 30th June 2022 which is contained in **Annex 1.**

ii. The CECM could not provide the Committee with the reason(s) as to why the schedule was not provided as part of the audit documentation.

iii. The Committee marked the matter as **resolved**.

Committee Recommendation

The Committee recommends that the CECM in charge of Finance **must** always ensure that all the necessary documentation and information are provided during audit.

3.2 Failure to Prepare Separate Financial Statement for Car and Mortgage Funds

The financial statements prepared and presented for audit relate to Bomet County Car Loan and Mortgage Fund which are essentially two separate Funds operated by the County Executive namely: - Bomet County Car Loan Scheme Fund (State and Public Officers) and Bomet County Mortgage Scheme Fund (State and Public Officers). Section 15(1)(d) and 18(1)(b) Bomet County Car Loan Scheme Fund (State and Public Officers) and Bomet County Mortgage Scheme Fund (State and Public Officers), 2018 respectively requires the Fund Administrator to prepare separate financial statements and submit to the Auditor-General within three (3) months after the end of the financial year.

Management Response

The CECM Finance and Economic Planning submitted that it is a fact that the Fund prepared consolidated Financial Statements whereas the Legal Notice Nos. 2 and 3 of 13th February, 2018 separates the Car Loan and Mortgage. However, the consolidation of the regulations for Car Loan and Mortgage was undertaken as per gazette notice of 27th June, 2023 (Attached as Annex 2) which invalidates the Legal Notice Nos. 2 and 3 of 13th February, 2018

Committee Observations

The Committee as observed as follows;

i. The revised financial statements containing the consolidated financial statements for both car and mortgage funds were provided as **Annex 2**

ii. The information contained in **Annex 2** is the evidence indicating the variances raised by the Auditor General has been addressed.

iii. The Committee marked the **matter resolved**.

Committee Recommendation

The Committee recommends that the CECM in charge of Finance must always ensure that reconciliations are done on time and the complete distinct financial statements are submitted to the Auditor General within three months after the close of the Financial Year as provided for under Section 164 (4)(a) of the Public Finance Management Act 2012.

3.3 Joint Registration of Motor Vehicle

A review of documents revealed that car loans totaling Kshs. 10,700,00 were issued to members during the year. However, logbook for a motor vehicle valued at Kshs. 2,000,000 had not been jointly registered in the name of the member and the County Government of Bomet. This is contrary to Regulation 8(2) of the Bomet County Car Loan (State and Public Officers) Scheme Regulations, 2018 which states that the log-book of a vehicle subject to a loan from the Fund shall be issued jointly between the County Government of Bomet and the member of the Scheme and shall be kept in the custody of the officer administering the Fund until the loan is repaid in full by the member of the Scheme.

Management Response

The CECM for finance submitted that by the time of carrying out audit, the transfer of the Motor Vehicle from the vendor to the members and the County had not been finalized by NTSA. However, the process was completed, and the vehicle is currently registered jointly between the member and the County. The CECM submitted a copy of the Logbook contained in **Annex 3**.

Committee Observations

The Committee as observed as follows;

i. The management contravened Regulation 19(2) of the Bomet County State and Public Officers Car Loan and Mortgage Scheme Fund Regulations, 2023 which states that *"the log-book of a vehicle subject to a loan from the fund shall be issued jointly between the county government of Bomet and the member of the scheme"*. It is evident that the management issued the funds to the beneficiary prior to the fulfilment the requirements of the aforementioned regulations.

ii. Logbook confirming the joint registration of the member and the county has been provided as per the evidence provided in **Annex 3**.

iii. Currently all motor vehicle acquired under the Bomet County car loan and mortgage scheme are jointly registered.

The Committee marked the matter resolved.

Committee Recommendation

The Committee recommends that the County Executive Committee Member (CECM) responsible for Finance, along with the Car Loan and Mortgage Committee, should fully adhere to the provisions outlined in the Public Finance Management Act, the Bomet County State and Public Officers Car Loan and Mortgage Regulations of 2023, and Circular Reference No: SRC/ADM/CIR/1/13 Vol. III (128) dated 17th December 2014, issued by the Salaries and Remuneration Commission (SRC). This compliance is crucial in effectively managing and administering car loans to state and public officers within the Bomet County Public Service.