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 BURSARY FUND FOR THE YEAR ENDED 30TH JUNE, 2022

JUNE, 2024

Hon. Speaker
You may approve
for tabling
Kipsaat
28/08/2024

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

28/08/2024

JUNE, 2024

Tabled on 28/08/2024

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Abbreviations and Acronyms

CECM	**-**	County Executive Committee Member
IFMIS	**-**	Integrated Financial Management Information System
IPSAS	-	International Public Sector Accounting Standards
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 the Bomet County Bursary Fund for the period ended 30th June 2022.

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 Bursary Fund for the year ended 30th June, 2022 for debate and consideration.

Signed .... Date ....

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-Chairperson	
3.	Hon. Leonard Rotich	Member	
4.	Hon. Olivia Koskei	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 BURSARY 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 and other witnesses to respond to all the audit queries raised in respect of the Financial Operations of the Bomet County Bursary Fund for the Year ended 30th June 2022.

2.2 Committee Proceedings

The Committee held a total of two sittings to deliberate on the issues raised by the Auditor-General. On 15th May, 2024, the management 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 Company 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 Bursary 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 Inaccuracies in Financial Statements

The statement of financial performance reflects surplus for the year Ksh.557, 022 whereas the statement of changes in net assets reflects NIL surplus for the year resulting to un-reconciled variance of Kshs.557, 022.

In the circumstances, the accuracy and fair statement of surplus of Ksh.557, 022 could not be confirmed.

Management Response

The Accounting Officer submitted that the un-reconciled variance arose when amendments were made on the financial statements. This has been corrected in subsequent financial year 2022-23 and figures restated and a copy has been shared to auditor under Annex 1.

Committee Observation

The Committee noted that: -

i) The statement of changes in net assets reflects comparative total net assets of Kshs.2,496,688 compared to reporting previous year balance of Kshs.1,939,664 resulting to an unexplained and unreconciled variance of Kshs.557,022.

ii) The revised statement shows surplus of Kshs.8,128,840 which differs from the reported amount of Kshs.557,022.

iii) The corrections have not been supported by Journal entries and statement of financial position to show the reporting of the disclosure to net assets.

The issue was marked as unresolved.

Committee Recommendation

The Committee recommends that the accounting officer must ensure that the financial statements are prepared in line the requirement of IPSAS accounting standards and the Gazette Notice dated 27th June ,2023.

3.2 Report on other Matters

3.2.1 Unresolved Prior Year Matters

In the audit report of the previous years, two issues were raised under other matters. However, the Management had not resolved the issues under explanation or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standard Board templates.

Management response

Management agreed to the observations saying the issues as per the audit observation were noted and the management commits itself to ensuring that the public sector accounting standards board's templates are adhered to going forward in subsequent financial statements.

Further the management said that it will ensure that the recommendations that this honorable committee proposes will be implemented in due time.

Committee Observation

The Committee observed that the Management has not documented action taken to resolve prior year audit issues under Annexes to the financial statements for the Financial year 2022/23 in respect to progress on follow-up of prior year auditor's recommendations.

The issue was marked as unresolved.

Committee Recommendation

The recommends that CECM must ensure that the public sector accounting standards board's templates are fully adhered to. Further, all recommendations made and adopted by the County Assembly must be fully implemented to avoid the same queries arising in future audit reports.

3.3 Report of Lawfulness and effectiveness of Public Resources

3.3.1 Unapproved and unbalanced budget

The statement of comparison of budget and actual amounts reflects final total budget income of Kshs. 91,358,983 against final total expenditure of Kshs. 93,760,905 resulting in an unbalanced budget of Kshs. 2,401,922. This is contrary to the provisions of Section 31(c) of the Public Finance Management (County Governments) Regulations, 2015 that requires all budgets to be balanced.

Further the management did not provide for audit an approved budget for the fund. This is contrary to section 29 of the Public Finance Management (County Governments) Regulations, 2015 which stipulates that the Accounting Officer is responsible for ensuring that all services which can be reasonable foreseen are included in the estimates and that they are within the capacity of the County Government entity during the financial year. In addition, the Accounting Officer is required to make sure that the estimates prepared are complete and accurate as possible and the requisite authority has been obtained, where necessary, before the provision is made in the estimates.

Management Response

The issue in the financial statement was noted. This did not factor the balances brought forward in bank balances. However, the issue has been corrected in the subsequent financial statements and a copy has been attached for audit verification as Annex 2. The fund provided an approved budget of the Department of Education and Vocational Training within which the Bursary Fund operates.

Committee Observation

The Committee made the following observations: -

i) The unbalanced budget by Kshs.2,401,922 has not been supported by evidence showing the cause of the variance.

ii) In addition, the budget of previous year cannot be corrected in subsequent year since budgets are prepared and reported annually.

iii) Further, the budget for the Department of Education and Vocational Training is not Bursary Fund budget. The department budget has not been provided for audit review.

The matter was marked as unresolved.

Committee Recommendation

The Committee recommends that the Accounting Officer must always ensure compliance with the provisions of Section 31(c) of the Public Finance Management (County Governments) Regulations, 2015 that requires all budgets to be balanced.

3.3.2 Lack of Risk Management Policy

The Fund did not have in place a customized risk management policy and risk register during the year under review. Therefore, there were no approved processes and guidelines on how to mitigate operational, legal and financial risks.

Management response

It is true that the Fund currently doesn't have a risk management policy in place. However, the fund is using County Risk Management Policy currently 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.