

COUNTY ASSEMBLY OF SAMBURU



THE HANSARD

Wednesday, 12th May, 2021

The Assembly met at the County Assembly chambers at 2.30 pm

Temporary Speaker, (Hon. Doris Lenkirasi) in the Chair

PRAYER

MOTION

Chair, Public Investment and Accounts Committee, (Hon. Benjamin Leitore): Thank you Madam Speaker. I beg to move the following Motion THAT, that this House debates and approves the Report of the Committee on Public Investment and Accounts on the enquiry into financial operations of Samburu County Executive, County Assembly of Samburu and Samburu Water and Sanitation Company limited for the financial year 2013/2014, starting from 1st July 2013 to 30th June 2014. Madam Speaker. I beg to move and call upon Hon. Silapia Lenamatiyio to second the Motion.

Specially Elected MCA, (Hon. Silapia Lenamatiyio): Thank you Madam Speaker, I stand to second the motion and also take this opportunity to thank the Committee for doing such a great work and come up with a comprehensive report.

Temporary Speaker, (Hon. Doris Lenkirasi): Hon. Leitore, do you have anything to say before...

Chair, Public Investment and Accounts Committee, (Hon. Benjamin Leitore): Thank you Madam Speaker. Madam Speaker, I stand guided and I would wish appreciate that the question was proposed in the morning and we will move by that.

So Madam Speaker, allow me to give a brief of this Report to Members so that they can understand that this is our first report as an Assembly. So today Madam Speaker, we are making a milestone as pertains to our oversight duty as provided in the Kenyan constitution. Oversight to us pertains to expenditures by the County government, by the County Assembly as well. So today we are proposing to the House, we are presenting the final report, and we are proposing to the House to adapt this report so that appropriate measures can be undertaken as pertains to individuals concerned.

Madam Speaker, the Committee wishes to record its appreciation to the office of the Speaker and office of the Clerk, County Assembly of Samburu, for facilitating the operations of the Committee. Further, the Committee is indebted to the secretariat of Samburu County Assembly and Kenya National Audit Office (KENAO) for the services rendered. It is their commitment and

dedication to duty that made the work of the Committee and production of this report successful
Madam Speaker.

Madam Speaker, on behalf of the Public Investment and Accounts Committee, and pursuant to provisions of Standing Order 185(7), it is my pleasant privilege and honour to present to this House this report of the Committee on the Appropriations Account, Other Public Accounts and the Accounts for the Funds of the County Government of Samburu for the Financial Year 2013/2014.

Madam Speaker, it is provided under our Standing Order 192(2) the mandate of the Committee, as provided that: -

“The Public Investment and Accounts Committee (PIAC) shall be responsible for the examination of 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”.

Madam Speaker, as guided by the guiding principles as provided in

1. Article 201 of the Kenyan Constitution which enacts fundamental principles that “...shall guide all aspects of public finance in the Republic...” These principles include, inter alia, that:

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.

2. On Direct Personal Liability as provided under Article 226(5) of the Constitution is emphasizes 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*”.

3. Obligations of Accounting Officers

Section 61 (1) of the Public Finance Management Act, 2012 provides, inter alia, that:

“An accounting officer for a county government entity, county assembly Service board and any other devolved agency shall be accountable to the county Assembly for ensuring that the resources of the respective entity for which he or she is the accounting officer are used in a way that is lawful and authorized, and effective, efficient, economical and transparent.”

This provision obligates all accounting officers to appear before the Public Accounts Committee of the county Assembly to respond to audit queries in their respective ministries/departments.

Madam Speaker, the Committee on PIAC consists of the following Members:-

1. Hon. Benjamin Leitore, -Chairperson
2. Hon. Paul Wonyang, - V/Chairperson
3. Hon. Adamson Lanyasunya, Member
4. Hon. Antonela Lobura, Member
5. Hon. Silapia Lenamatiyio, Member
6. Hon. Zamzam Ismail, Member
7. Hon Paul Leshimpiro, Member

Allow me, Madam Speaker, to commend each single Hon. Member of this key Committee for their commitment and exemplary work which made the interrogation of the accounts and production of this report a major success. I applaud you all, Distinguished Colleagues.

Madam Speaker, I will not run away from speaking of challenges that we faced as a Committee because we experienced in the execution of mandate, at some point we failed to raise quorum but we managed, the inability of the Members to be present at sittings till conclusion of business, large work Load since we started the work besides other challenges that we experienced.

Madam Speaker, on behalf of the Committee, I now wish to table the report.

Madam Speaker, I would wish to go direct to the queries that were raised, first;

1. The County Government Executive
 - a. Loss of Revenue On Foreign Currency Exchange

Kenya association of tour operators, the agent engaged by the County Executive to collect revenue at the Samburu Game Reserve. Revenue collected in dollars was converted to Kenya Shilling at an Exchange rate that was lower than that offered by the Central Bank of Kenya (CBK), resulting to exchange losses. The contract agreement entered between the County Executive and the agent was not availed for Audit.

Management response on that; the County Executive had a meeting with the Agent and agreed to do negotiations every Monday before payment. The loss mentioned was insignificant given that the County Government is the seller of dollar currency and the bank is the buyer and it's the bank that makes this profit and not the agent as per the report.

The witness reported that there was no new agreement as the County Government is still using the former County Council contract agreement.

The contract agreement was tabled for verification by the Committee which shows the agreement between Kenya Association of Tour Operators (KATO) and the then County Council of Samburu.

COMMITTEE OBSERVATIONS

The Committee observed that indeed the exchange rate was lower as indicated by the audit report and the exchange was done by the agent on behalf of Samburu County Government.

The Committee observed that there was no agreement between the Samburu County Government and the Kenya Association of Tour Operators (KATO) in that the tabled agreement was between the former Samburu County Council and is invalid since it expired in the year 2010.

The Committee observed that the County Government did not make any effort to have any legal binding document between them and the agent that is collecting revenue on behalf of the County Government.

The Committee noted that the agent was only limited to the ticketing at the point of entry by the foreign tourists and not to collect revenue at national reserve as reported by the witness.

The Committee noted that the County Government of Samburu lost money at the agent through exchange rate.

The Committee observed that there are other documents spelling the terms of agreement that the Department was not willing to avail to the Committee.

COMMITTEE RECOMMENDATIONS

- 1) The loss of revenue resulting from the exchange rate should be recovered from the concerned officers.
- 2) The CEC Finance and the head of revenue should be held accountable for allowing KATO to collect revenue without any legal agreement.
- 3) Section of the law on agreements KATO should stop collection of revenue from the National Reserve and the County Government to immediately procure for the same and establish legal binding agreement.
- 4) The terms of agreement should clearly spell out the limitation of the agency in terms of ticketing.
- 5) The agent that will be identified by the Samburu County must be approved by the Assembly.

QUESTION 2: UNACCOUNTED RECEIPT BOOK

Several revenue collection receipt books with receipts nominal value of US\$245,000 or approximately Kshs.22, 050,000 were not recorded in the counterfoil receipt book register (CRBR). It was not possible to trace their movements. Further, issue notes (S12) which should show how and to whom the books were issued and subsequently used to collect revenue were not availed for audit. Failure to keep proper records could lead to fraudulent use of receipt books and deliberate loss of cash.

The CECM informed the Committee that the County treasury has always maintained a CRB account where all official documents are recorded and signed out at the point of issuance. The County treasury regrets that the CRB was not presented to the auditors at the time of audit.

During interrogation the witness admitted that there were challenges in the recording of receipt books that time.

The witness tabled document for Committee verification.

COMMITTEE OBSERVATIONS

- 1) The Committee observed that there were a lot of discrepancies in the receipt books in that the document tabled still showed a mismatch of about 10 books.
- 2) The Committee observed that the CBR was filled after audit and this indicates inefficiency in the recording of receipt books.
- 3) The Committee observed that there was a possibility of fraudulent use of receipt books leading to loss of public money.
- 4) The Committee observed that it was not possible to verify whether these amount was deposited in the revenue account as all receipt books were returned in one day which should reflect in the account statement.

COMMITTEE RECOMMENDATIONS

- 1) The County revenue should maintain proper record of CRBR for accounting and transparency as required by laws.
- 2) Since the unrecorded receipt books could not be accounted for, the total sum should be recovered from the responsible officers.
- 3) The County Government should consider installing a computerized revenue collection system.

QUESTION 3: CASH AND BANK

UNCREDITED CHEQUES

The bank reconciliation statement for the County standing imprest for the month of February 2014 reflected uncredited cheques of Kshs.14, 505,768.20 received between the month of May, 2013 and February, 2014. There is a risk of loss of public funds due to omission and errors.

MANAGEMENT RESPONSE

- 1) It can be confirmed that the bank reconciliations statements and updating of cash books have been done.
- 2) During interrogation the CECM Finance reported that during inception of the County Government the staffing was low and this resulted in challenges in terms of reconciliations of bank statements and other operations of the County Government.
- 3) The witness tabled documents for verification by the Committee and reported that the cheque have now been credited and bank statement balanced.

COMMITTEE OBSERVATIONS

- 1) The Committee observed that the cheques have been credited and bank statement tabled showed the credit.
- 2) The Committee observed that the cheques are credited to the imprest's account instead of the revenue account as it should have been.

COMMITTEE RECOMMENDATIONS

Cheques should be credited to the revenue accounts.

QUESTION 4: UNSURRENDERED TEMPORARY IMPREST

AUDIT FINDING.

Temporary imprest totaling KSHs. 75,144,527 had been surrendered or accounted as at 30th June, 2014. Failure to surrender imprests when they fall due is a pointer of weak financial controls which could lead to unauthorized loans and loss of public funds.

MANAGEMENT RESPONSE.

The Committee was informed that this was close of financial year and staffs concentrated more on payments and less on clearance of imprests surrendered. The County treasury embarked on

clearance of imprests and the outstanding imprests as per now is KSHs. 21,864,478.00 as of today, and a directive have been issued to payroll office to begin recovery from the salaries of the responsible staff from this month October, 2015.

The CECM reported that they have already written to the payroll Department to start recovery from the responsible persons.

The witness also reported that the management have explore all possible means for the clearance of imprests by the responsible office and now resolved to recover from member's salaries.

COMMITTEE OBSERVATIONS

- 1) The Committee observed that the clearance of imprest was going more than 48 hours stipulated and the management was reluctant in ensuring that the accounting officers adhere to this guideline.
- 2) The Committee observed that a junior staff may have more than KSHs. 1.5 million standing imprest and therefore raising the question of how will the treasury recover from the officers.
- 3) The Committee observed that giving lower cadre staff imprests of such amount is inappropriate and needs to be discouraged.

COMMITTEE RECOMMENDATIONS

- 1) The Committee recommends that the Chief Officer of the County Government should ensure that imprests is recovered within period stipulated in the financial regulations.
- 2) Accounting Officer should institute measures to ensure that Government financial regulations and procedures on imprests including the requirement that imprest should be surrendered within 48 hours after completion of the assignment, be strictly adhered to.

QUESTION 5: PROCUREMENT

SINGLE SOURCING

The County procured motor vehicle insurance cover at a cost of KSH. 2,493,756, uniforms and other accessories at a cost of KSHS. 3,964,764 without competitive bidding as required by the Public Procurement and Disposal Act, 2013. There were no details indicating the specific

vehicles which were insured, their values and how the respective premium amounts were arrived at. The uniforms purchased were not taken on charge in the stores records as required and there was no acknowledgement from the beneficiaries of the receipts of uniforms.

MANAGEMENT RESPONSE.

Management Executive informed the Committee that due process was followed where bids were sought from different vendors and tender awarded to the fairest bidder for this transaction.

The management reported that the supportive documents were unavailable and requested for more time to allocate time.

COMMITTEE OBSERVATIONS

- 1) The Committee observed that there was lack of seriousness by the Department in that the Department was given enough time to produce the necessary documents.
- 2) The Committee observed that the double speak by the witness points out some mischief in the whole process.
- 3) The Committee observed that despite the oral submission by the CECM Finance that it was an open letter, the Department did single sourcing and they should be held liable for the contravention of the procurement laws and social justice.
- 4) The Committee observed that there was concealing and/withholding critical details of the expenditure, contrary to Article 201 of the Constitution which requires openness, accountability, prudence and responsibility in the management of public funds and further in violation of section 149 of PFM Act which provides as follows:

149 (1) 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:

(a) Lawful and authorized; and

(b) Effective, efficient, economical and transparent.

(2) in carrying out a responsibility imposed by subsection (1), an accounting officer shall. In respect of entity concerned –

(a) Ensure that all expenditures made by the entity complies with subsection (1);

(b) Ensure that the entity keeps financial and accounting records that comply with this Act;

(c) Ensure that all the financial and accounting records that the entity keeps in any form including in electronic form are adequately protected and backed up:

(d) Ensure that all contracts entered into by the entity are lawful and are complied with;

(e) Ensure that all applicable accounting procedures are followed when acquiring or disposing of goods and services and that, in the case of goods, adequate arrangements are made for their custody safe.

COMMITTEE RECOMMENDATION

The Committee recommends that since the Department did a single sourcing instead of open tendering they should they should be held liable for the contravention of the procurement laws and social justice.

Question 6: PROCUREMENT OF UNIFORMS

The Department of Tourism, Trade and Co-operatives procured uniforms and other accessories at a cost of KSHS. 3,964.764 from suppliers based in Nairobi through various Local Purchase Order in December 2013 and April 2014 without competitive bidding as required by the Public Procurement and Disposal Act,2005. It was therefore not possible to confirm that County received value for money on this procurement.

Further, the uniforms were not taken on charge in the stores records as required and there was no acknowledgement from beneficiaries of the uniforms. Therefore, the propriety of the expenditure could not be confirmed.

MANAGEMENT RESPONSE

The witness informed that a competitive bidding was done in which the service was advertised and only three bidders responded from which forces equipment was the lowest bidder and hence the winning.

COMMITTEE OBSERVATIONS

The Committee observed that there was concealing and/withholding critical details of the expenditure, contrary to Article 201 of the Constitution which requires openness, accountability, prudence and responsibility in the management of public funds; and further in violation of section 149 of the Public Finance Management Act.

COMMITTEE RECOMMENDATION

The Committee recommends that since the Department did a single sourcing instead of open tendering they should be held liable for the contravention of procurement laws and social justice.

Question 7: PAYMENT OF UNDELIVERED MOTOR VEHICLE

A Toyota 4 × 4 double cabin pick up purchased at a cost of KSHs. 4,200,00 on 13th March, 2014 had not been delivered as at 30th June, 2014. Payment before delivery is contrary to procurement rules and could led to loss of funds.

MANAGEMENT RESPONSE

The vehicle was delivered but referred to the dealer for change of color, equipment installation and frame enhancement during the time of audit.

COMMITTEE OBSERVATIONS

- 1) The Committee observed that the vehicle was delivered but the Department failed to respond to the audit queries promptly.
- 2) The Committee observed that had the Accounting officer acted in time on the Auditor General's management letter, this audit query would have been avoided.

COMMITTEE RECOMMENDATION

The management should ensure prompt response to audit queries in future.

RECURRENT AND DEVELOPMENT EXPENDITURE

UNCONFIRMED FUEL EXPENDITURE

The County Executive purchased bulk fuel but did not maintain a fuel register to record the quantity of fuel bought and utilized by the Government vehicles and the balance left after consumption. Other control documents such as detail orders and work tickets where the fuel drawn recorded were not used. Failure to maintain proper fuel records could lead to theft of fuel and loss of funds.

MANAGEMENT RESPONSE

No response.

COMMITTEE OBSERVATIONS

- 1) During interrogation the witness told the Committee that they had responded to the auditors and they did not see that it was also appearing in the audit report.
- 2) The Committee observed that there is a serious indiscipline by the accounting officer.

COMMITTEE RECOMMENDATIONS

- 1) The Committee recommends that there is need to reprimand and hold the accounting officer personally liable Pursuant to section 68 (1) and (2) of Public Finance Management Act,2012.
- 2) The Committee also holds the view that there is a need to hold the accounting officer under whose actions the query arose personally responsible Pursuant to section 226 (5) of the Constitution of Kenya and recommends that he be surcharged for the loss of public funds.

on the repair of motor vehicles, the County Government paid Ksh665, 967 to a mechanic garage based in Maralal for the repair of a motor vehicle GKA 861F. Similarly, the County Government paid Ksh585, 800 to MS Francis Richard Lepupuya garage for the repair of another vehicle registration number GKA 963D. The motor repairs were supposedly carried out in two days. The repairs were not entered in the respective motor vehicle repair log books under the circumstances the propriety of the expenditure could not be confirmed. Failure to keep proper motor vehicle repair records could lead to false repair claims and misuse of public funds. There was no management response and the management was put to task to give reason why this query was not recorded again and they were also asked to give information on practicability of the repair of the

motor vehicle to a tune of Ksh600, 000 in one day, the CECM Finance told the Committee that until the physical documents they are not in a position to respond to the position. The Committee observations on this are that; there was concealing or withholding critical details of information contrary to article 201 of the Constitution which requires openness, accountability and prudence as I had read before. The Committee recommends that there is need to reprimand and hold the accounting officer personally liable pursuant to Section 68 sub section 1 and 2 of the Public Finance Act of 2012.

On query number 8 that is unsupported grants to self-help groups; the County paid Ksh250,000 and Ksh650, 000 to Naidimwa Self Help Group and SHERP Rehabilitation Center respectively to support their activities. However, there was no evidence that the groups were registered legal entities. Further there were no acknowledgements letters from the groups to confirm that they received the funds. Therefore, there is a risk that the money may have not reached the intended beneficiaries and may not have been used for the intended purpose. The management response was that the beneficiaries of the funds have furnished registration documents and letters confirming receipt of money. The Committee observations on this was that this matter had been resolved as all the required documents are submitted and the accounting officers have accounted for the expenditure. The Committee observed that had the accounting officers acted in time when the auditor general's management letter this audit query would have been avoided.

The Committee recommendations were that the accounting officer should institute measures to ensure that their departments always acts promptly on the auditor general's response management's letter for a stall auditor queries. On number nine on the unsupported expenditure on peace meetings; on May 9th 2014 the County advanced cash imprests of Ksh1,484,000 and Ksh.1,861,200 separate to two officers to facilitate holding of community meetings on peace buildings. However, the surrender vouchers did not have any supporting documents such as attendance list, minutes, cash receipts or schedules of payments paid to the participants as evidence that the funds were used for the intended purposes. Failure to support the expenditure could lead to loss of funds. Management response was that the Committee was informed that the meeting was called off just before the dates and the staff went ahead to refund the entire amount.

The department tabled documents for the Committee verification on the matter. The Committee observation on this was that the matter had been answered satisfactorily and that the accounting officers had tabled the documents during the case. The Committee also observed that the accounting officers are not responsible accordingly for the audit queries brought during queries and management letter as these issues needs to have been brought up by the auditor general's office. The Committee recommends that the accounting officers should respond to audit queries promptly.

On the 10th query on the unsupported expenditure on community conservancies; The County Executive paid Ksh.1, 851,000 to three community conservancies organizations to support their activities however the examination of payments vouchers indicate that there were no supporting documents to show how the money was spent and the organization did not acknowledge receipt of the funds hence the property of the expenditure could not be confirmed. The management's response on this was that the said amounts were transferred to three conservancies Ndoto, Baragoi and Malaso and that the department ensures that no subsequent disbursement are processed before the previous payout is surrendered and meet the criteria as per the County Government regulations. The Committee observed that the matter had been answered satisfactorily and that the accounting officers have tabled the documents are showing the same. The Committee also observed that the accounting officers are not responding accordingly to the audit queries both during audit and management letters as these issues need to have been dropped by the auditor general's office. The Committee recommends that the accounting officers should respond to audit queries promptly.

On query number 11 on failure to maintain asset register; Section 149(1) of the Public Management Finance Act 2012 which requires the County Executive entities to keep asset registers that is current and accurate. The County Executive did not maintain an asset register and without an asset register there is a risk of loss or misuse of valuable assets. The management did not have a response on this. The Committee observed that the department was not serious on the audit issues as raised by the office of the auditor general. The Committee noted that the tendency of the executive to not respond to issues raised a serious violation of Constitution and laws of Kenya. The Committee recommended that the executive should be serious to ensure that

the asset register is kept and updated as per the Section 149(1) of the Public Management Finance Act 2012.

On query number 12 on the motor vehicle donation; the department of Cooperative, Trade and Tourism procured four 4*4 Toyota Land Cruiser pickups at a cost of Ksh.4.650.000 each to bring the total to Ksh.18.600.000 through open tender. The vehicles were subsequently donated to four groups that are involved in conservancy work in the County. However, the MOU between the County Executive and the beneficiaries to outline the terms of use of vehicles was not made available without a memorandum detailing the use of motor vehicles, there is likely to misuse or loss of the vehicles. Management response the vehicle are still property of the County Government as per the attached log books and the County Government is only in partnership with the Conservancy. The witness further informed the Committee that the drivers driving those vehicles are not the staff of the County Government but they are persons hired by the conservancies management committees.

The Committee observed the vehicles belonged to the County Government and therefore the vehicles were not donated to the conservancies but only to the partnership. The Committee observed that those vehicles were driven by drivers who are not authorized to drive since this are County vehicles and should only be driven by the County Government drivers. The Committee also observed that there were no guidelines on the operations and other management of these vehicles by the County Government and the respective conservancies.

The Committee recommended that County Government should fully own or relinquish the vehicles to the conservancies. The Committee recommended that those vehicles should be driven by the County Government officers and confirmed (**inaudible**) donations. Madam Speaker I see that the report is too long I do not know if the time allows us and if not then every Member has received a copy and they can go through the report and in your own discretion we adopt it today or suspend part of it for tomorrow session.

Temporary Speaker, (hon. Dorcas Lenkirasi): I think that the report is very long and critical, it is my discretion that we stop here and continue tomorrow. I defer to put the question until

tomorrow when we have the quorum and the Members have gone through it for them to contribute accordingly.

Hon. Members the time being eight minutes past four o'clock and there being no other business this Assembly now adjourns until Thursday 13th May 2021 at 2:30 pm.