

REPUBLIC OF KENYA



OFFICE OF THE AUDITOR-GENERAL

REPORT

OF

THE AUDITOR-GENERAL

ON

**THE FINANCIAL OPERATIONS OF
COUNTY ASSEMBLY OF SAMBURU**

**FOR THE PERIOD
1 JULY 2014 TO 30 JUNE 2015**

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EXECUTIVE SUMMARY

Introduction

The Auditor-General has the mandate to audit and report on the accounts of the National and County Governments under Article 229 of the Constitution of Kenya and the Public Audit Act, 2003. Further, the Constitution and Section 107 of Public Finance Management Act, 2012 requires the County Treasury to adhere to the principles of public finance.

Audit Objectives

The objectives of the audit were to confirm that internal controls for proper accountability of public resources exist and are operating as intended, verify that goods, works and services were procured in accordance with the Public Procurement and Disposal Act, 2005 and related regulations, and that public funds were utilized effectively and in accordance with the law.

Terms of Reference

The terms of reference for the audit included verifying and confirming transactions in respect to but not limited to the following areas:

- i. Budgetary control and performance.
- ii. Annual operational/activity plans.
- iii. Procurement of goods, works and services.
- iv. Allowances including travel and accommodation expenses for local and foreign trips.
- v. Motor vehicle running expenses.
- vi. Imprests and advances.
- vii. Cash and bank balances.
- viii. Human Resource Records.

Key Audit Findings

1.0 Budgetary Performance

The aggregate County Assembly budget for both Development and Recurrent Expenditure amounted to Kshs.403,327,566 but actual expenditure totaled to Kshs.373,178,583, thus resulting in an under-expenditure amounting to Kshs.30,148,982 or 7.4% of the aggregate budget. The expenditure was mainly incurred under the recurrent vote as highlighted below:

Item	Budget Kshs	Actual Kshs	% of total Expenditure
Employee Cost	204,603,870	195,945,744	52.5%
Domestic Travel	49,372,275	40,478,002	10.8%
Foreign Travel	18,387,475	14,364,861	3.8%
Domestic Loans	30,000,000	29,999,998	8%
Insurance Cost	17,100,000	17,706,038	4.7%
Fuel and Lubricant Costs	13,700,000	13,675,500	3.7%

The highest proportion of the expenditure was incurred on employee costs at 52.5% of the total recurrent budget, followed by domestic travel at 10%. Put together, domestic and foreign travel constituted 14.6% of the total expenditure incurred by the County Assembly during the year.

Evidently, these expenditures should be reduced to release funds for other development needs.

1.1 Re-allocation of funds

1.1.1 Domestic Loans

A sum of Kshs.30,000,000 allocated for domestic loans in the approved annual budget was spent on other activities including remittance of payroll deductions, contrary financial regulations.

1.1.2 Acquisition of Motor Vehicle

The County Assembly incurred expenditure totaling to Kshs.7,480,000 on purchase of a Toyota Land Cruiser vehicle budgeted for purchase in the previous (2013/14) financial year. However, the funds were re-allocated from the rent and rates vote. No evidence for authority to re-allocate the funds was presented for audit.

1.1.3 Development Funds Spent on Recurrent Expenditure

The County Assembly allocated Kshs.70,000,000 for development expenditure out of a sum of Kshs.33,465,388(48%) was reallocated without approval, to other recurrent expenditures which included refurbishment of non-residential buildings and payment of allowances.

2.0 Mortgage Scheme Fund

Twenty four officers applied for and received loans valued at Kshs.3 million each under the Mortgage Scheme Fund. However, they did not comply with the terms of the scheme which stipulate, among other requirements, that borrowers would provide collateral security and written authority for their respective terminal dues to be used to offset any outstanding debt in the event that they vacate office before they repay their respective loan in whole.

3.0 Car Loan Scheme Fund

Each of the twenty seven Members of the County Assembly (MCAs) received a loan Kshs.2 million under the County Assembly car loan scheme but only eleven (11) deposited with the fund administrator logbooks of cars that they reported to have bought. However, the deposited logbooks were not jointly registered in the names of the County Assembly Service Board and the respective MCAs as required by regulations.

4.0 Procurement Irregularities in Construction of Prefab Offices

A firm based in Mararal Town, was awarded a contract for construction of prefab offices intended for use by MCAs and procurement department staff. At the time of audit in January, 2016, construction work had been completed and the offices put to use. However, it was noted that the contract was awarded to the contractor five days after he was issued with the Local Service Order for the works. Further, the contract agreement between the County Assembly and the Board was presented for audit review and as a result it was not clear how the contract sum was varied from Kshs.11,580,000 to Kshs.13,325,633 paid to the contractor finally.

5.0 Procurement Irregularities in Preparation of Strategic Plan

A training consultancy firm was awarded a contract to prepare the County Assembly strategic plan for the period 2015-2019 at a cost of Kshs.4,800,000. The contract terms communicated to the firm on 28.May 2014, stipulated that the document be prepared on or before 30.June 2014.

However, the tender committee meeting held on 28.May 2014 awarded resolved that the contract be awarded to the lowest bidder, who quoted Kshs.1,066,000 relative to the appointed bidder's M quote amounting to Kshs.2,391,250. Further, in spite of having been paid a total of Kshs.4,304,249, the selected bidder had not submitted a final copy of the document as at 31 January 2016, seven months past the due date of submission of 30 June 2015. In addition, it was not clear how the contract sum was varied by 100% from Kshs.2,391,250 to Kshs.4,800,000.

6.0 Payment for Doubtful Training Services

The County Assembly awarded a contract of Kshs.3,347,000 to a consultancy firm, to train MCAs and staff on Parliamentary Standing Orders. The training was to take place in Mombasa. However, the procurement process was done irregularly as the Local Service Order was issued two months before the contract was awarded procedurally. Further, only a proforma invoice supported the payment voucher for the contract, thus raising doubt as to whether the training workshop ever took place.

7.0 Irregular Recruitment of Staff

The County Assembly Service Board recruited 12 Nos. officers to various posts following an advertisement carried in a newspaper with national circulation. However,

the recruits did not meet the qualifications as spelt out in the advertisement. Further, two persons were recruited to posts that were not advertised.

8.0 Ward Office Expense

A meeting of the County Assembly Service Board held on 16 December 2013 resolved to pay Kshs.10,000 per month (or Kshs.1800,000 every financial year) to each of the 15 Wards to lease Ward Offices. However, copies of the tenancy agreements showing details of the landlords owning the Offices leased and the terms applicable to the leases were not presented for audit review. As a result, it has not been possible to confirm the authenticity of the expenditure.

9.0 Payment for Doubtful Legal Services

The County Assembly of Samburu paid Kshs.982,905.00 to a lawyer in Nairobi, to review seven draft bills for the County. A further payment of Kshs.500,000 was made to another lawyer to provide legal interpretation of the Constitution. However, the draft bills reviewed and the legal interpretation sought by the County Assembly were not disclosed and as a result, it was not possible to confirm the propriety of the expenditure totaling to Kshs.1,482,902 incurred on the lawyer.



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15 September 2016

DETAILED REPORT OF THE AUDITOR-GENERAL ON THE FINANCIAL OPERATIONS OF COUNTY ASSEMBLY OF SAMBURU FOR THE PERIOD 1 JULY 2014 TO 30 JUNE 2015

Detailed Audit Findings

Examination of expenditure and other records maintained by the management of the County Assembly of Samburu revealed the following matters in relation to financial operations of the Assembly during the year under review.

1.0 Budgetary Control

Examination of expenditure records revealed that the County Assembly Development and Recurrent Votes budget for the year under review amounted to Kshs.403,327,566. However, the actual expenditure amounted to Kshs.373,178,583, thus resulting in an under-expenditure of Kshs.30,148,982 or 7.4% of the aggregate budget as detailed in **Appendix I** of this report.

In addition, the County Assembly re-allocated funds to meet expenditure in various votes without following procedures outlined in the Public Finance Management Act, 2012, as noted below:

1.1 Re-allocation of funds

1.1.1 Domestic Loans

A sum of Kshs.30,000,000 allocated to domestic loans under the Mortgage and Car Loan Fund was not disbursed to the Fund but was instead spent on operational activities including payment of outstanding payroll deductions. This re-allocation contravened Section 154 (2)(a)(b)(c) of the Public Finance Management Act 2012 which provides that, the County Treasury must authorize all re-allocations of voted funds. Therefore, the Accounting Officer acted in breach of the law and deprived the Domestic Loans Scheme of voted funds.

Recommendation

The Accounting Officer should uphold the requirements of the PFM Act 2012 by seeking requisite authority before reallocating voted funds.

1.1.2 Acquisition of Motor Vehicle

The County Assembly incurred expenditure totaling to Kshs.7,480,000 to purchase a 4x4 Station Wagon Toyota Land Cruiser vehicle, registration KBZ 992D. The vehicle had been budgeted for in the financial year 2013/14 and payment made on 5 September 2014. However, the purchase was made from funds reallocated from the rent and rates vote. Although, the Principal Finance Officer had through a letter dated 16 August 2014 requested the County Clerk to approve the re-allocation as required

under Section 154 (2)(a)(b)(c) of the Public Finance Management Act 2012, the management did not provide any evidence to show that the County Clerk granted the request.. Therefore, the Accounting Officer acted in breach of the law.

Recommendation

The Accounting Officer should uphold the requirements of the PFM Act 2012 by first obtaining permission from the authorized office before re-allocating voted funds.

1.1.3 Use of Development Funds on Recurrent Expenditure

Expenditure records examined revealed that a sum of Kshs.33,465,388 was reallocated, without approval to several recurrent expenditure items which included refurbishment of non-residential buildings and payment of allowances. Although, the Principal Finance Officer in his letter reference No.SBU/CA/CK/VOL.1/037/2015 of 3 June 2015, wrote to the County Treasury to regularize the re-allocation, no evidence has been provided to show that approval was granted as required under Section 154 (2)(a)(b)(c) of the Public Finance Management(PFM) Act 2012. Therefore, the Accounting Officer acted in breach of the law.

Recommendation

The Accounting Officer should uphold the requirements of the PFM Act 2012 by obtaining requisite authority before reallocating voted funds.

2.0 Mortgage Scheme Fund

During the year under review, twenty-four (24) officers were loaned Kshs.3 million each, (or a total of Kshs.72 million) under the Mortgage Scheme Fund. However, the borrowers did not provide requisite securities for the loans. Missing securities and guarantees included original allotment letters of the parcels of land, approved copies of house plans and written authority for their terminal dues to offset any outstanding debt in the event they vacate their positions before their loans are repaid in whole. In the absence of vital records, it was not possible to confirm that the loan amounts were utilized for the intended purposes, and the County Assembly may have no redress in the event of default by the borrowers.

Recommendation

The County Assembly management should compel the borrowers to the Mortgage Scheme Fund to comply with the terms of the Fund **30 Car Loan Scheme Fund** Twenty seven (27) Members of the County Assembly (MCAs) borrowed Kshs.2 million each, (a total of Kshs.54 million) in respect of the car loan scheme facility but only eleven (11) of the borrowers deposited with the fund administrator logbooks for the vehicles they reported to have purchased with the loans. However, the logbooks were not jointly registered in the names of the County Assembly Service Board and the respective borrowers as the lending regulations required. Further, copies of the loan agreements were not provided for verification and there was no evidence that the

vehicles were insured under comprehensive cover as required by Clause 13(1) of the lending regulations. Although the Clerk of the Assembly asserted that the loans were repaid in whole, he did not provide evidence to support his assertion.

Recommendations

The County Assembly management should provide evidence to confirm that all borrowers repaid in whole the respective sums they had borrowed.

3.0 Car Loan Scheme Fund

Each of the twenty seven Members of the County Assembly (MCAs) received a loan Kshs.2 million under the County Assembly car loan scheme but only eleven (11) deposited with the fund administrator logbooks of cars that they reported to have bought. However, the deposited logbooks were not jointly registered in the names of the County Assembly Service Board and the respective MCAs as required by regulations.

4.0 Procurement Irregularities in Construction of Prefab Offices

A company in Maralal, was awarded a contract for construction of prefab offices intended for use by the County Assembly Members and the procurement department staff. A Local Service Order (LSO) was issued to the firm on 3.April 2014 showing that the contract sum was Kshs.11,580,000. However, the meeting of the tender committee that awarded the contract was held on 8.April 2014, five days after the LSO was issued. At the time of the audit in January, 2016, a total of Kshs.13, 325,633 had been paid to the contractor and the construction work had been completed and the offices put to use.

No explanation has been provided as to how the contract sum was varied from Kshs.11,580,000 to Kshs.13,325,633. Further, records on the tendering process were not submitted for audit and as a result, it has not been possible to confirm that the appointment of the contractor was open and competitive as required in public procurement regulations. Under the circumstances, the County Assembly may not have obtained the right value for the contract sum paid.

Recommendations

The County Assembly management should submit the agreement on the contract for construction of pre-fabricated Offices for audit verification. In addition, the management should observe procurement regulations to ensure value for public funds spent.

5.0 Irregularities in Procurement of Strategic Plan Consultancy Services

A training and consultancy firm from Nairobi was awarded a contract to prepare a strategic plan for the period 2015-2019 at a cost of Kshs.4,800,000. The County Assembly management notified the award winner about the terms of the contract on 28 May 2014 vide Local Service Order (LSO) No 0974573. Among the terms was the

requirement that the winner submit the final copy of the strategic plan to the management on or before 30 June 2014.

However, the tender committee meeting held on 28 May 2014 resolved that the contract be awarded to the lowest bidder, who had quoted Kshs.1,066,000. No explanation has been provided for the award of the contract to the second lowest bidder, who quoted Kshs.2,391,250 for the services only for the contract sum award to be varied by Kshs.2,408,750 (or 104%) to Kshs.4,800,000 after the award.

As at January 30 2016, the County Assembly management had paid the firm a total of Kshs.4,304,249 in relation to the contract but the firm had only submitted a draft of the strategic plan to the management. However, the firm had only submitted a draft copy of the strategic plan. Therefore, by awarding the contract to the second highest bidder, the County Assembly will pay Kshs.3,734,000 more than the sum quoted by the lowest bidder. In the absence of explanation why the contract was not awarded to the lowest bidder and why it was varied afterwards, the propriety of the additional expenditure cannot be confirmed.

Recommendation

The County Assembly management should explain why the lowest bidder was not awarded the contract and why the contract sum was increased after the award. In addition, the management should always uphold public procurement regulations to achieve economic use of public resources put at its disposal.

6.0 Payment for Doubtful Training Services

The County Assembly management awarded a contract for training services to a consultancy firm in Nairobi at a cost of Kshs.3,347,000. The training was intended to sensitize Members of the County Assembly and staff on Assembly Standing Orders and was to be held in Mombasa. Although the meeting of the tender committee that awarded the contract was held on 7 October 2014, while the Local Service Order (LSO No. 1065535) was issued to the firm about two months earlier on 12 August 2014.

Further, the contract sum (Kshs.3,347,000) was paid to the firm on 14 January 2015 through a voucher which was supported by proforma invoice , No. FDI/AGC/2014/005 of 21 August 2014. No evidence has been presented to show that the training workshop was ever held, and therefore the firm may have been paid for services that it did not render.

Recommendation

The County Assembly management should present evidence to confirm that that the workshop for which the consultancy firm was paid Kshs.3,347,000 was held as planned. In addition, the management should explain why the firm was appointed to conduct the workshop before the tendering process was completed. Further, the management should uphold procurement regulations and only pay for goods and services after they are delivered to its stores by vendors.

7.0 Irregular Recruitment of Staff

During the period under audit, the County Assembly Service Board recruited 12 officers to various management and clerical posts. The advertisement for the positions, was carried in a newspaper with national circulation and outlined qualifications for each position. However, the persons appointed to the posts did not meet the qualifications, as shown in **Appendix II** of this report. . Further, two persons were recruited to the posts of Administrative Officer and Accounts Clerk although the two posts were not among those advertised. The action was contrary to Section B.6 (2) of County Public Service Human Resource Manual which requires the County Government to appoint into the County Public Service persons with relevant skills, knowledge and attitude to deliver efficient and effective services.

Without relevant skills, the 12 officers whose , aggregate monthly salaries amounted to Kshs.879,750 may not provide the desired level of service to the residents of Samburu County.

Recommendations

The County Assembly Service Board should explain why requirements specified in the advertisement were not adhered to in the recruitment of staff. Further, the Board should on all occasions uphold the provisions of the County Public Service Human Resource Manual and conduct recruitment of staff in a transparent manner.

8.0 Ward Offices Expenses

A meeting of the County Assembly Service Board held on 16.December 2013 resolved to pay Kshs.10,000 per month(or Kshs1800,000 every financial year) to each of the 15 wards to lease office space in the County.. The rent payable was equal in all areas of the County and was paid directly to the landlords. Copies of tenancy agreements showing details of the parties involved and the terms agreed with the landlords were not presented for audit. Under the circumstances, it was not possible to confirm the propriety of the expenditure on Ward office rent.

Recommendation

The County Assembly management should present copies of the agreements entered into with landlords for lease of Ward Offices to confirm the propriety of expenditure of Kshs.1,800,000 due to be incurred annually on the leases. .

9.0 Unexplained Payments for Legal Services

The County Assembly management paid a sum of Kshs.982,905.00 to a law firm located in Nairobi, to review seven draft bills for the County Assembly. A sum of Kshs.500,000 was similarly paid to another Nairobi law firm to provide legal interpretation of the Constitution. However, details on the draft bills reviewed or the circumstances under which the County Assembly sought legal interpretation have not

been provided and further no explanation has been provided as to how the fees paid to the lawyers were arrived at. Under the circumstances, it has not been possible to confirm the propriety of the expenditure totaling to Kshs.1,482,905 paid to the two law firms.

Recommendation

The County Assembly management should provide proof that the expenditure totaling to Kshs.1,482,905 incurred on two law firms was a proper charge on public funds.

Conclusion

The County Assembly of Samburu should address the anomalies noted in order to facilitate effective delivery of services to the people of Samburu. Government procedures and processes should be adhered to in the operations of the County Assembly management so as to ensure that public resources are used for the purposes for which they are intended.



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15 September 2016