

REPUBLIC OF KENYA



COUNTY ASSEMBLY OF WAJIR

THIRD ASSEMBLY-THIRD SESSION

PUBLIC ACCOUNTS & INVESTMENTS COMMITTEE

COMMITTEE REPORT ON:

THE EXAMINATION OF THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF WAJIR COUNTY CLIMATE CHANGE FUND FOR THE YEAR ENDED 30TH JUNE 2021.

MARCH, 2024

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LIST OF ABBREVIATIONS

AG	- Auditor General
FY	- Financial Year
PFM Act	- Public Finance Management Act
PICPAC	- Public Investment and Accounts Committee
PSASB	- Public Sector Accounting Standards Board
COK	- Constitution of Kenya
CECM	- County Executive Committee Member

1.0 CHAIRPERSON FORWARD

Hon. Speaker,

On behalf of the Public Accounts and Investments Committee (PICPAC), and Pursuant to Wajir County Assembly Standing Order 188, I wish to present to this House the report of the Committee on the audited financial statements of Wajir County Climate Change Fund for the financial year 2020/2021.

The County Assembly exercises oversight over County Government entities/investments and their expenditure Pursuant to Article 185(3) of the Constitution of Kenya 2010, through the Public Accounts and Investments Committee which, in turn, derives its mandate from the County Assembly Standing Orders.

It's instructive that Article 229 (8) of the Constitution of Kenya, 2010, requires the County Assembly, within three months after receiving an audit report, to debate, consider the report and take appropriate action.

The Committee held 3 sittings during which it received both written and oral evidence from the Accounting Officer on audit queries raised by the Auditor-General on the financial statements of Wajir County Climate Change Fund.

Honorable Speaker, I wish to register my appreciation to fellow Honorable Members of the Committee, the Offices of the Speaker and the Clerk of the Assembly, Committee Secretariat and the Office of the Auditor General for facilitation and technical support that made the production of this report possible.

I also thank the County Executive Committee Member for honoring committee invitations and timely submission of responses.

Special appreciation goes to the Hansard department for ensuring that all our meetings with Accounting Officers are broadcasted live.

Honorable Speaker, on behalf of the Public Accounts and Investments Committee, I

now wish to table the report on the consideration of the Auditor General's report on the Financial Statements of the Wajir County Climate Change Fund for the year ended 30th, June 2021 and urge this Honorable House to adopt it.

1.1 Establishment and Mandate of the Public Accounts and Investments Committee

Hon. Speaker,

The Public Accounts and Investments Committee is established under Standing Order No. 193 of the Wajir County Assembly Standing Orders and is mandated to undertake the following functions;

- i. 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 House as the committee may think fit;
- ii. Examination of the reports, accounts working of the county Public Investments
- iii. Examination of the reports of the Auditor General on the annual accounts of the County Governments and examination of special reports, if any, of the Auditor General on the County Government Expenditure.
- iv. Oversight over management and performance of County Public Investments.

Hon. Speaker Sir,

1.2 Composition of the Public Accounts and Investments Committee

The Committee as currently constituted comprises of the following Honorable Members,

- | | |
|------------------------------|--------------------|
| 1. Hon. Abdi Mohamed Abdi | -Chairperson |
| 2. Hon. Ibrahim Hussein Abdi | -Vice- Chairperson |
| 3. Hon. Adan Hussein Ali | -Member |
| 4. Hon. Abdisalan Mohamed | -Member |
| 5. Hon. Abdikarim Salat | -Member |
| 6. Hon. Shamsa Issa Jimale | -Member |
| 7. Hon. Maryan Abdullahi | -Member |

2.0 LEGAL FRAMEWORK & GUIDING PRINCIPLES

2.1 Legal Framework

Hon. Speaker,

The Committee was guided by the following legal instruments;

1. **Constitution of Kenya 2010:** Article 229 (4) of the Constitution of Kenya, 2010 requires the Auditor General, within a period of six months after the end of each financial year, to audit and report, in respect of that financial year, on;
 - i. The accounts of the National and County governments,
 - ii. The accounts of all funds and authorities of the National and County governments,
 - iii. Accounts of all courts,
 - iv. The accounts of every commission and independent office established by this constitution,
 - v. The accounts of National Assembly, the Senate and the

county assemblies,

VI. The accounts of the political parties funded from the public funds,

vii. The public debt and

viii. The accounts of any other entity that legislation requires the Auditor General to Audit

Article 229(8) further states that *"within three months after receiving an audit report, parliament or county assembly shall debate and consider the report and take appropriate action"*.

2. **The Committee also relied on Article 226(5) of the Constitution of Kenya, 2010** which provides 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. **Public Audit Act 2015;** Section 7 of Public Audit Act 2015 that mandates the Auditor General to:

(i) Give assurance on the effectiveness of internal controls, risk management and overall governance at National and County Government; (ii) Undertake audit activities in state organs and public entities to confirm whether or not public money has been applied lawfully and in an effective way

4. **Public Finance Management Act, 2012:** Section 149 (1) of the Public Finance Management Act, 2012 which states that "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"

2.2 Guiding Principles

Hon. Speaker,

In the execution of its mandate, the Committee was guided by core Constitutional and statutory principles on Public Finance Management.

These principles include the following;

5. **Constitutional Principles on Public Finance:** Article 201 of the Constitution of Kenya 2010 provides for fundamental principles aimed at guiding all aspects of Public Finance. It states that the principles are; inter alia;
 - i). Openness and Accountability including public participation in financial matters;
 - ii). Public money shall be used in a prudent and responsible way; and
 - iii). Financial management shall be responsible and fiscal reporting shall be clear.
6. **Obligations of the Accounting officer;**
 - i). **Article 262(2) of the Constitution of Kenya 2010** which provides that; The Accounting officer of a national public entity is accountable to the national assembly for its financial management, and the accounting officer of a county public entity is accountable to the county assembly for its financial management.
 - ii). **Section 149(1) of the Public Finance Management Act 2012** provides that; 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; (i) Lawful and authorized and; and (ii) Effective, efficient and transparent

7. **Direct Personal Liability:** Article 226(5) of the Constitution is unequivocal that, if the holder of a Public Office or a political office, directs or approves the use of Public Funds contrary to the law or instruction, the person is liable for any loss arising from that use and shall make good, the loss, whether the person remains the office holder or not.

8. **Section 203(1)** of the Public Finance Management Act, 2012 enacts that; a public officer is personally liable for any loss sustained by a County Government and is attributed to; (i) The fraudulent or corrupt conduct, or negligence of the officer or,
(ii) The officer's having done any act prohibited by Sections 196, 197, and 198

The Committee considered these legal provisions as the basis for holding accounting and public officers directly and personally liable for any loss of Public Funds that may occur under their watch.

Hon. Speaker,

Mr. Khalif Abdi Ali , CECM Environment, Energy and Climate Change and the Accounting Officer appeared before the Committee on 6th June, 2023 at 10.00am to adduce evidence on the Audited Financial Statements of the Wajir County Climate Change Fund for the year ended 30th June, 2020 (The minutes and the submissions from the Accounting Officer are annexed to this report). The following officials accompanied him;

1. Dakane Shimoy – Chief Officer -Environment
2. Yahya Dahir - Fund Manager-Climate Change

3.0 Basis for Disclaimer Opinion

3.1 Non-Submission of Prior Years Financial Statements

The Fund's financial operations started in December, 2013. However, Management did not submit to the Auditor-General financial statements for the financial years ended 30 June, 2014, 2015, 2016, 2017, 2018, and 2019. This was contrary to Section 116(7) of the Public Finance Management Act, 2012 which states that the administrator of a county public fund shall prepare accounts for the fund for each financial year and not later than three months after the end of each financial year, submit financial statements relating to those accounts to the Auditor-General.

In the circumstances, the accuracy and completeness of opening balances reflected in the financial statements could not be confirmed and the financial statements are not fairly stated.

Management Response:

The Wajir county climate change fund act was established by an act of the county assembly of Wajir passed on 24th May 2016 and later amended on June 2019. The fund started its operations on the fiscal year 2017-2018. Fund for climate change projects received fiscal transfers twice for the periods 2019-2020 and 2020-2021 and the management has prepared and submitted for audit both financial years.

The management of the funds has not submitted the financial statements of the fund on time to the office of the auditor general since there was no established financial reporting unit for coordination which has since been established.

The management gives the assurance that going forward all financial reports will be prepared and submitted before statutory deadlines.

Committee deliberation and Recommendation

The Committee having considered and deliberated on the audit query is satisfied that the matter has been resolved but cautions the County Government that going forward, they should strictly adhere to the provisions of Section 116 (7) of Public Finance Management Act, 2012 and the Public Audit Act 2015.

3.2 Errors in Presentation of the Financial Statements

Review of the financial statements submitted for audit revealed the following anomalies:

- i) Information about the Fund Administration Committee and Management team does not contain passport-size photographs as required by the Financial Reporting Template.
- ii) A schedule of inter-entity transfers has not been attached under notes to the financial statements
- iii) The narration in the financial statements does not indicate the actual name of the fund but repeatedly refers to the name as 'entity'.
- iv) The pages containing the statement of changes in net assets and the statement of comparison of budget and actual amounts do not have page numbers.
- v) Referencing of notes in the financial statements and notes to the financial statements is not consistent.

In view of the above observations, the financial statements are not compliant with the format prescribed by the Public Sector Accounting Standards Board.

Management response:

The anomalies in the financial statement have been corrected, amended and submitted for review and verification.

Committee deliberation and Recommendation

The Committee, having heard the oral submissions of the management and analysing the amended financial statement were satisfied with the management response thus clearing the matter. The matter was therefore agreeably resolved.

3.3 Inaccuracy of Cash and Cash Equivalents

The statement of financial position reflects cash and cash equivalents of Kshs.433, 806. However, the bank reconciliation statement as at 30 June, 2021 reflects a balance of Kshs.463, 212 resulting in neither reconciled nor explained variance of Kshs.29, 406.

In the circumstances, the accuracy and completeness of cash and cash equivalents of Kshs.433, 806, could not be confirmed.

Management Response:

The management informed the Committee that the error in the reconciliation statement was as a result of a clerical error which has since been corrected and availed to the auditor for review and verification.

Committee deliberation and Recommendation

The committee observed that the documents submitted were adequate and the Concerns raised by the auditor were addressed.

The Committee recommends that going forward documents and information should be submitted in time as at the time of audit. This is an essential requirement during the audit process and failure to do it has legal consequences.

The committee further recommends that the County Government employ competent staff and regularly update them through capacity building.

3.4 Inaccuracy in the Statement of Comparison of Budget and Actual Amounts

The statement of comparison of budget and actual amounts reflects total income budget of Kshs.75, 000,000 and total expenditure budget of Kshs.74, 992,598 implying unbalanced budget which resulted in an unexplained variance of Kshs.7, 402. Further, there was no evidence that the budget was submitted for approval. This was contrary to Regulation 50(2) of the Public Finance Management (County Governments) Regulations, 2015 which states that expenditure commitments for goods and services shall be controlled against spending and procurement plans approved by the responsible Accounting Officer, based on allocations and allotments from approved budgets.

In the circumstances, Management was in breach of the law and the accuracy of budget could not be confirmed.

Management Response:

The management has prepared the estimates of expenditure for the financial years under review as required by section 149(2) (h&i) of the Public Finance Management Act 2012.

Committee deliberation and Recommendation

The Committee was satisfied with the explanation provided and further directs the Management to inculcate fiscal prudence in their management.

3.5 Wrong Disclosure of Expenditure

The statement of financial performance reflects expenditure on climate change projects of Kshs.72,702,688 being expenditure for projects initiated and completed in the financial year 2019/2020 as per the examined tender documents and projects implementation records. However, the amounts should have been reported in the financial year 2019/2020 since the Fund's financial statements have been prepared in accordance with International Public Sector Accounting Standards (Accrual Basis). In addition, the amounts should have been disclosed as current liabilities as at 30 June, 2020.

In the circumstances, the accuracy, presentation, and disclosure of climate change projects of Kshs.72,702,688 could not be confirmed.

Management Response:

It is true the expenditure should have been disclosed in the financial year 2019/2020. However, since the expenditures were not disclosed in the financial year 2019/2020 the fund disclosed the expenditure in the subsequent financial year for accountability purposes to correct the error for the prior year.

Committee deliberation and recommendation

The Committee observed that the anomalies had been corrected and the matter is agreeably resolved. It recommends that the County maintains up to date and proper financial records at all times.

3.6 Irregularities in Procurement of Goods and Works.

Review of sampled projects procurement records revealed the following anomalies for contracts awarded in the year worthy Kshs.54,027,688:

- i. Contract agreements were signed before the lapse of the mandatory fourteen (14) days from the date of tender award notification. This was contrary to Section 135(3) of the Public Procurement and Assets Disposal Act, 2015.
- ii. Notification letters of regrets were not sent to unsuccessful bidders as required by Section 126(4) of the Public Procurement and Assets Disposal Act, 2015.
- iii. The tender evaluation documents and minutes did not have engineers' estimates to guide the evaluation committees in determining whether the prices quoted by the bidders were reasonable.

In the circumstances, Management was in breach of the law.

Management Response:

- i) Pursuant to Section 135 (3) of the Public Procurement and Assets Disposal Act, 2015 both winning and losing bidder were notified and agreement signed after lapsed of 14 days. Agreement forms were signed in triplicate inclusive of the main agreement copy in the project bidding file (BQs).
- ii) The unsuccessful bidders were contacted as stipulated in line with Section 87(3) and 126(4) of Public Procurement and Asset Disposal Act, 2015. Regret Letters were issued accordingly and submitted for audit review and verification.
- iii) The evaluation committee was guided by a list of proposed climate change projects list with the tentative amounts and reflected an engineer's estimate which was prepared at the Fund level and approved by County Executive Committee Member for finance.

Committee deliberation and recommendation

The Committee having considered and deliberated on the audit query noted that though no money was lost, the Public Procurement and Disposal Act, 2015 was breached. The committee therefore recommends that the Public Procurement and

oversight Authority to investigate the County Government of Wajir for not respecting procurement laws and procedures and using the set laws to their advantage.

3.7 Unauthorized Payments

Examination of sampled payment vouchers revealed payments totalling to Kshs. 11,000,000 which were made without authorization by the accounting officer. This was contrary to Regulation 104(1) of the Public Finance Management (County Governments) Regulations, 2015 which states that all receipts and payments vouchers of public moneys shall be properly supported by pre-numbered receipt and payment vouchers and shall be supported by the appropriate authority and documentation.

In the circumstance, Management was in breach of the law and the effectiveness of internal controls could not be confirmed.

Management Response:

The Management of the Fund acknowledges there are lapses in internal controls that need strengthening of internal control systems going forwards. The payment vouchers were authorized and submitted to the auditor for review and verification.

Committee Deliberation and Recommendation.

The Committee urges the County to continue improving their systems so as to limit possible misuse of public funds and disciplinary action be taken against the Officers Responsible.

4.0 GENERAL OBSERVATIONS

Hon. Speaker,

The following general observations were made.

- That during the FYs 2017/2018, 2018/2019, 2019/2020 and 2020/2021, the management has not complied with the format prescribed by the Public Sector Accounting Standards Board.
- That during the FY 2020/2021 Contract Agreement worth Kshs 54,027,688 were signed before the lapse of the mandatory fourteen (14) days from the date of the date of tender award notification. In this regard, the management has not complied with section 135(3) of the Public Procurement and Assets Disposal Act, 2015.
- That during the FY 2020/2021 the management has breached the law and the effectiveness of the internal control could not be confirmed.

5.0 GENERAL RECOMMENDATIONS

Hon. Speaker

The Committee recommends as follows;

- That going forward, the management must submit prior financial statements and adhere section 116(7) of the Public Finance Management Act, 2012 which states that the Administrator of

County Public Fund shall prepare accounts for the fund for each financial year; and not later than three months after the end of each Financial Year.

- That going forward, the management must adhere with the format prescribed by the Public Sector Accounting Standard Board and the Financial Reporting Template.
- That going forward, the management must adhere to section 135(3) of the Public Procurement and Assets Disposal Act, 2015.
- The internal Audit department must be strengthened to improve internal controls, risk management and Governance. This will also improve efficiency to audit queries.

6.0 Conclusion

Hon. Speaker,

I hereby request that this House adopts this report of the Public Accounts and Investments Committee on the consideration of the Auditor General's Report on the Financial Statements of the Wajir County Climate Change Fund for the year ended 30th, June 2021.