

COUNTY GOVERNMENT OF NAIROBI CITY



NAIROBI CITY COUNTY ASSEMBLY

FIRST ASSEMBLY –FOURTH SESSION

*Paper laid on the Floor
of the Assembly by Hon.
Mr. Ogamba Chairman
Budget Committee on
Tue 19/4/2016.
X
P/O 2/16*

REPORT OF THE SELECT COMMITTEE ON BUDGET AND
APPROPRIATIONS

ON

THE CONSIDERATION OF THE REPORT OF THE CONTROLLER OF
BUDGET ON THE COUNTY BUDGET IMPLEMENTATION FOR THE FY
2014/2015 AND THE FULL YEAR EXPENDITURE AND REVENUE REPORT
FROM THE COUNTY TREASURY

CLERK
NAIROBI CITY
COUNTY ASSEMBLY
P. O. Box 45844-00100
NAIROBI

APRIL 2016

Mr. Speaker Sir, the Office of the Controller of Budget (COB) is an independent office created by the Constitution of Kenya 2010. Article 228 of the Constitution sets up the Office and mandates it to oversee implementation of National and County budgets with the obligation of the Office being to ensure prudent utilization of public resources. From this background and in line with the provisions of the Public Finance Management Act, the Office prepares quarterly reports to highlight to the public the status of budget implementation in the counties. Further, the provisions of Section 166 of the PFM Act, 2012 require that the County Treasury prepares reports at the end of each quarter documenting the status of budget operationalization. These are reinforced by the provisions of Section 165 of the same Act which require that the County Treasury consolidates financial statements for the County Government at the end of the financial year. Standing Order 187 establishes the Budget & Appropriations Committee with a specific mandate, which is to:

- a) *Investigate, inquire into and report on all matters related to coordination, control and monitoring of the of the county budget;*
- b) *Discuss and review the estimates and make recommendations to the County Assembly;*
- c) *Examine the County Fiscal Strategy Paper presented to the County Assembly;*
- d) *Examine Bills related to the county budget, including Appropriations Bills; and*
- e) *Evaluate tax estimates, economic and budgetary policies and programs with direct budget outlay*

Mr. Speaker Sir,

Based on the provisions of Article 228 (6) of the Constitution, Sections 39 (8), 165 and 166 of the Public Finance Management Act 2012, the Annual County Government Budget Implementation Review for the Financial Year 2014/15 and the County Government end of year Expenditure and Revenue report were submitted to the County Assembly and committed to the Budget Committee for consideration and reporting.

Mr. Speaker Sir, the County Assembly Budget & Appropriations Committee comprises of the following 19 Members:

- | | |
|------------------------------------|----------------------|
| 1. Hon. Michael Okumu, MCA | Chairman |
| 2. Hon. George Ochola, MCA. | Vice Chairman |
| 3. Hon. Fredrick Obenge, MCA. | |
| 4. Hon. Maurice Akuk, MCA | |
| 5. Hon. Alexina Mudi, MCA | |
| 6. Hon. Osman Ibrahim, MCA. | |
| 7. Hon. Jackson Kiama, MCA. | |

8. Hon. Kenneth Thugi, MCA
9. Hon. David Kairu, MCA
10. Hon. Helen Katangie, MCA
11. Hon. Herman Azangu, MCA
12. Hon. Emmaculate Musya, MCA
13. Hon. Joash Omwenga, MCA
14. Hon. Kennedy Oduru, MCA
15. Hon. Isaac Ngige, MCA
16. Hon. Ngaruiya Chege, MCA
17. Hon. Samuel Irungu, MCA
18. Hon. Benedette Wangui, MCA
19. Hon. Victoria Alali, MCA

Mr. Speaker Sir, the end year reports are crucial documents for the County Assembly as they are useful in helping keep track how far the County has been able to roll out the resolutions of this Assembly. Given that both the reports from the County Treasury and the Office of the Controller of Budget refer to similar periods the Committee saw it wise to consider it side by side in order to discern any possible disparities in the various reports. The reports address the second full fiscal year that the County Government has been working and in this period major strides have been made to improve compliance with Article 201 of the Constitution. It is indeed commendable that the report from the Controller of Budget has taken notice of these very many strides that the County Government has managed to take towards full maturity.

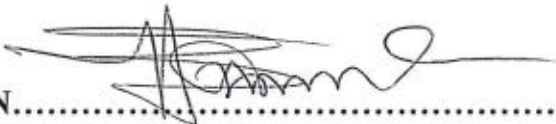
Mr. Speaker Sir,

In the course of the deliberations on the Report from the Controller of Budget and the Full Year Revenue and Expenditure Report from the County Treasury, the Budget Committee held six sittings. During this undertaking, the Committee took time and received submissions from the Office of the Controller of Budget, the County Treasury and the Clerk of the County Assembly. These submissions helped the Committee understand the contents of the reports as well as arrive at independent conclusions that would form part of this report.

Mr. Speaker, I would like to thank the dedicated Members of the Budget and Appropriations Committee for their due diligence in scrutinizing the reports.. The Committee would also wish to recognize the critical input that it received from the County Assembly Fiscal Analysts and Legal Counsels as it deliberated on the two budget documents.

Mr. Speaker Sir, the Committee is grateful to the Offices of the Speaker and the Clerk to the County Assembly for the support received during this exercise.

Mr. Speaker Sir, It is therefore my pleasant duty and privilege, on behalf of the Budget & Appropriations Committee to table this report and recommend it to this Assembly for adoption.

SIGN.......... DATE.....*19/4/18*.....

Hon. Michael Okumu, MCA

Chair, Budget & Appropriations Committee

SCRUTINY OF THE REPORTS

A. Introduction

1. **Mr. Speaker Sir**, the reports review the budget performance for the FY 2014/2015, a budget that equaled Kshs. 25.59billion out of which Kshs.18.74billion was allocated to recurrent expenditure and Kshs.6.85billion to development expenditure. The budget was to be financed through National Government transfers totaling Kshs. 11.34billion, internal revenues of Kshs.13.32billion as well as conditional grants from DANIDA of Kshs.24.92million.

B. Overview of Budget Performance

2. **Mr. Speaker Sir**, the reports highlight how the budget performed and how the revenue realization translated to the expenditure figures. During the period the County racked in Kshs. 11.5billion in local revenues and Kshs. 11.34billion from the National Treasury. The returns on local revenues represented an underperformance of about Kshs. 3billion leading to a reserved development expenditure of Kshs. 2.3 billion.
3. **Mr. Speaker Sir**, as has been canvassed the development budget bore the burden when the revenue shortfalls within the County only managing to spend 10.9 percent of the total budget for development. The amounts were way below the 30% PFM threshold, a fact that was further worsened given that the development consumption represented only 34% of the budgeted development totals. On the amounts spent for recurrent expenditures, the Committee notes that bulk of the resources at 66% went on remuneration of employees. These are indeed huge numbers and if nothing is done to change the annual trend of Kshs. 2.61billion increase in compensation expenses then the County may very well end up being an employment bureau in the very early stages of devolution.
4. **Mr. Speaker Sir**, on a positive note though, the report of the Controller of Budget noted that the County had addressed a couple of challenges that had previously affected budget implementation. It reported that the County has during the period done well to embrace the use of IFMIS to process financial transactions, comply with budgetary timelines, build capacity of County staff on financial management as well as improve revenue collection.

C. MATERIAL BREACHES RAISED IN THE CONTROLLER OF BUDGET REPORT AND OBSERVATIONS OF THE BUDGET COMMITTEE

5. **Mr. Speaker Sir**, as has already been said, the import of the report of the Office of the Controller of Budget is to enable the public learn how their elected leaders were utilizing the funds at their disposal. The reports are also avenues for the National and County Governments to reexamine themselves and make changes on areas that are flagged out for public attention. This section of the report would therefore attempt to address the specific material breaches that the report alleges that the County had committed in the previous financial year. The conclusions arrived at in this section have been a summary of the assertions of the report of the County Treasury on the FY 2014/15 Expenditure and Revenues, the submissions from the Controller of Budget, the right of reply by the County officials as well good judgment of the Budget Committee.

In the matter of failure by the County to comply with Section 109 (2) of the PFM Act, 2012 on use of local revenues at source.

6. **Mr. Speaker Sir**, the provisions of Section 109 (2) of the PFM Act, 2012 are explicit that the County Treasury for each County Government shall ensure that all money raised or received by or on behalf of the County Government is deposited into the County Revenue Fund.
7. **Mr. Speaker Sir**, the report, as has been the case since the Office started disseminating the quarterly and annual reports, records that Nairobi County has been consistent in its failure to sweep its revenues through the County Revenue Fund. Members will note that the above provision has not given any excuses for not complying with the law. The Budget Committee continues to reiterate that this Assembly must not condone incessant breach of the law by any County Government entity and more so the County Treasury. The provisions of Section 104 of the PFM Act have bestowed the responsibility of ensuring financial discipline and fiscal probity on the County Treasury and therefore it would be ironical if they lead in any financial misdemeanor.
8. **Mr. Speaker Sir**, the Budget Committee confirmed from the County Treasury that there have been cases when there had not been total fidelity to the law with regard to use of collected revenues at source. The Committee has considered the possible sanctions proposed by the Controller of Budget and would therefore wish to record

that the fine proposed would be too hefty to bear as a result of negligence of a few county officials. The Office has reported that continued breach of the laid down procedures would leave it with no option other than to invoke the provisions of Section 96 of the PFM Act and invite the Cabinet Secretary responsible for the National Treasury to stop any further release of funds to the County. Whereas the Committee is through this report requesting the Controller of Budget to defer the implementation of the proposed penalties, the Committee is inviting this Assembly to resolve that any further breach of these provisions would culminate in censure of the responsible officers.

9. **Mr. Speaker Sir**, the last time the Committee considered the report from the Controller of Budget that had raised similar concerns, the County Executive Committee Member for Finance undertook to ensure that the recommendations were implemented without fail. This report by the Office of the Controller of Budget is a direct indictment on the Executive Committee Member for failure to comply with the resolutions of this House as well as giving misleading information to the Budget Committee.
10. Moving forward, **Mr. Speaker**, the Committee would be recommending that the County Treasury periodically submits to this Assembly documentation showing all revenues collected and those swept to the County Revenue Fund.
11. On the flipside, **Mr. Speaker Sir**, there is no lacuna in the law on how to handle areas that may require exemption of revenues from passing through the intricate process involving sweeping of revenues through the County Revenue Fund. The provisions of Section 109 (2) (a) (b) and (c) of the PFM Act, 2012 provide guidelines on how to address revenues that may be required for emergency issues. The Committee has once again persuaded the County Treasury to ensure that proposed legislations on use of money at source for key sectors like health among others are forwarded to this Assembly for consideration.

In the matter of departments spending more than their budgetary allocations

12. **Mr. Speaker Sir**, the law allows the accounting officers to spend more than amounts which have been appropriated for any particular purpose and under the circumstances provided. However, this window does not grant the accounting officers a free hand to go on a spending spree on amounts that have not been approved by this Assembly. Section 135 (7) of the PFM Act, 2012 only allows for expenditure of up to 10% of the

amounts appropriated by the County Assembly for that year. Whereas the Budget Committee noted to a great extent that this provision had been complied with, it was alarmed by the outliers who have sworn perpetual infidelity to the law.

13. Mr. Speaker Sir, the budget estimates as approved by the County Assembly, imposed on the Appropriations Act are cast in stone, and therefore should be complied with without any failure. The provisions of Section 135 (1) of the PFM Act, 2012 as has been enumerated above provide the circumstances under which the County Government may spend above the approved ceilings. In these provisions, the tail end of the process involves the approval of supplementary budget, which should be submitted to the County Assembly not more than two months after the given expenditure. Hon. Members will note that it is over 6 months since the end of the financial year and there has been no such move by the County Executive. It is important to enlighten the County Executive that the Supplementary Budgets are not only instruments for reducing the budget to address revenue shortfalls but also avenues through which such kinds of expenditure may be ratified.

14. Mr. Speaker Sir, once again, the buck stops with the County Treasury, which is responsible for disbursing funds to the various spending units. Mr. Speaker Sir, it should not be lost to the Assembly that whereas the Controller of Budget approves all requisitions and disbursement of funds to the sectors, it is the responsibility of the County Treasury to ensure that the same are wired to the various sectors.

In the matter of low absorption of development budget by the county

15. Mr. Speaker Sir, the import of devolution is to bring services closer to the people. In fact one of the principles of devolution states that “county governments shall have reliable sources of revenue to enable them to govern and deliver services effectively”. The Committee has been in the forefront in ensuring that there is enough budgetary allocation to steer the various development projects in the County. However, there has been a worsening trend whereby development allocations have remained permanent candidates for downward review in the supplementary estimates thereby beating the very logic for budgeting and any attempt to live within the legal thresholds. This, the Committee has insisted on the County Treasury, has to end.

D. RECOMMENDATIONS:




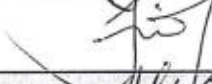
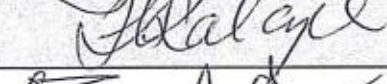

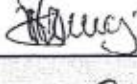
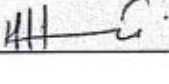
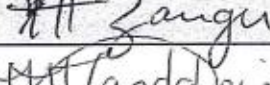
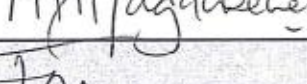

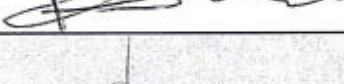
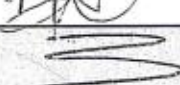

Mr. Speaker, in summary and pursuant to the provisions of Section 149 (3) of the PFM Act, 2012 the Committee recommends that the Assembly resolve as follows:

- ❖ The County Executive Committee Member and the Chief Officer for Finance and Economic Planning desist from failing to sweep all revenues to the County Revenue Fund. In case of any further persistent failure to do this, the Committee will recommend stern action on both officers for this Assembly's approval;
- ❖ To ensure that the County Assembly monitors the implementation of these recommendations, the County Treasury must avail to the Assembly not later than the 10th of the subsequent month, a report together with the bank statements of all the bank accounts maintained by the County Treasury in the previous month indicating how much money has been received by the County Treasury from local sources and how much has been swept into the County Revenue Fund; and
- ❖ That in future, as a befitting sanction for their non-compliance to the law, the budgets for the sectors that overspend be reduced by the excess amounts in the subsequent budgets.

Mr. Speaker Sir, in conclusion and pursuant to the provisions of Sections 39 (8) and 149 (3) of the Public Finance Management Act 2012 the County Assembly Budget and Appropriation Committee recommends that:

This County Assembly adopts the Report of the Budget and Appropriations Committee on the Consideration of the Report of the Controller of Budget on the County Budget Implementation for the FY 2014/15 and the Full Year Expenditures and Revenues report by the County Treasury for the Fiscal Year 2014/15

We the undersigned Members of the Budget and Appropriations Committee affirm that this is the approved report of the Committee on the Expenditure Returns from the Controller of Budget and the County Treasury for the FY 2014/15:

NAME	SIGNATURE
1. Hon. Michael Okumu, MCA	
2. Hon. George Ochola, MCA.	
3. Hon. Fredrick Obenge, MCA.	
4. Hon. Caroline Muga, MCA	
5. Hon. Helen Katangie, MCA	
6. Hon. Osman Ibrahim, MCA	
7. Hon. Jackson Gikandi, MCA	
8. Hon. Kenneth Muroki, MCA	
9. Hon. David Kairu, MCA	
10. Hon. Catherine Akoth, MCA	
11. Hon. Herman Azangu, MCA	
12. Hon. Magdalene Mbogori, MCA	
13. Hon. Jane Muasya, MCA	
14. Hon. Peter Isuha, MCA	
15. Hon. Isaac Ngige, MCA	
16. Hon. Ngaruiya Chege, MCA	
17. Hon. Samuel Irungu, MCA	
18. Hon. Bernadette Wangui, MCA	
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