

Papers laid by Hon. Chege Mwangi on 19/9/24

Office: PCA (CSP) 19/09/2024

GOVERNMENT OF NAIROBI CITY COUNTY



THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

THIRD ASSEMBLY
(THIRD SESSION)

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19/09/2024

NCCA/TJ/PL/2023(49)

19TH SEPTEMBER 2024

PAPER LAID

SUBJECT: REPORT OF A COMMITTEE

Pursuant to Article 229 (8) of the Constitution of Kenya, 2010 and Standing Order 196, I beg to lay the following Papers on the Table of this Assembly, today Thursday 19th September 2024:

- THE REPORT OF SELECT COMMITTEE ON PUBLIC ACCOUNTS ON CONSIDERATION OF THE SPECIAL REPORT OF AUDITOR GENERAL ON PUBLIC PARTICIPATION IN NAIROBI CITY COUNTY BUDGET MAKING PROCESS FOR FINANCIAL YEAR 2021/2022.

(The Chairperson, Select Committee on Public Accounts)

Copies to:
The Speaker
The Clerk
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The Nairobi City County Government

Report tabled by
Hon. Chege Mwaaura
on 19/09/2024
Mhe:
PCA (ChSP)



Nairobi City County Assembly
Third Assembly – Third Session

The Report of the Select Committee on Public Accounts

on

Consideration of the Special Report of the Auditor-General on
Public Participation in Nairobi City County Budget Making
Process for the Financial Year 2021/2022.

Clerks Chambers
Nairobi City County Assembly
City Hall Buildings
Nairobi

September, 2024

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1.0. PREFACE

Hon. Speaker,

On behalf of the Public Accounts Committee (PAC) and pursuant to the provision of Standing Order 196(6), it is my pleasant privilege and honor to present to this Assembly this report of the Public Accounts Committee on the consideration of the *“the Special Report of the Auditor General on Public Participation in Nairobi City County Budget Making Process for the Financial year 2021/2022”*.

1.1. Mandate of the Public Accounts Committee

The Public Accounts Committee derives its mandate from Standing Order 203 (2) of the Nairobi City County Assembly, which provides that: -

“The Public Accounts Committee 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”.

The primary mandate of the Committee is therefore to oversight the expenditure of public funds by Nairobi City County entities, to ensure value for money and adherence to government financial regulations and procedures. The Committee further aims at ensuring that Nairobi City County public funds are prudently and efficiently utilized. The Committee executes its mandate on the basis of annual and audit reports prepared by the Office of the Auditor General (OAG).

Article 229 (8) of the Constitution provides that within three months after receiving the report of the Auditor General, Parliament or the County Assembly shall debate and consider the report and take appropriate action. It is on this basis that this report has been produced by the Committee for consideration and adoption by the County Assembly.

1.2. Guiding principles

In the execution of its mandate, the Committee is guided by core constitutional and statutory principles on public finance management, as well as established customs, traditions, practices and usages. These principles include the following: -

(a) Constitutional Principles on Public Finance

Article 201 enacts fundamental principles aimed at guiding all aspects of public finance in the Republic. It states that the principles are, *inter alia, openness and accountability, including public participation in financial matters; public money shall be used in a prudent and responsible way; and financial management shall be responsible, and*

fiscal reporting shall be clear. The Committee places high regard on these principles, among others, and has been guided by them in the entire process that has led to this report.

(b) Direct Personal Liability

Article 226(5) of the Constitution is unequivocal 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”.* Consequently, Section 203(1) of the PFM Act, 2012 enacts that: - *“A public Officer is personally liable for any loss sustained by a county government that is attributable to-*

- (a) the fraudulent or corrupt conduct, or negligence, of the officer; or*
- (b) the officer’s having done any act prohibited by sections 196, 197 and 198”*

The Committee considers this Constitutional and legal provisions as the basis for holding Accounting Officers and other Public Officers directly and personally liable for any loss of public funds that may occur under their watch.

1.3. Obligations of the Accounting Officer

Article 226(2) of the Constitution provides, inter alia, 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”.* Subsequently, Section 149(1) of the Public Finance Management (PFM) 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—*

- (a) lawful and authorized; and*
- (b) Effective, efficient, economical and transparent.”*

These provisions obligate the Clerk of the County Assembly who is the Accounting Officer and the administrator of fund to appear before the Public Accounts Committee to respond to audit queries raised by the Auditor General.

1.4. Committee Membership

The Committee comprises of the following Members: -

- 1. Hon. Chege Mwaura, MCA** - Chairperson
- 2. Hon. Abel Osumba Atito, MCA** - Vice-Chairperson
3. Hon. Benter Juma Obiero, MCA
4. Hon. Patrick Karani Said, MCA
5. Hon. John Rex Omolleh, MCA
6. Hon. Stazo Omung’ala Ang’ila, MCA

7. Hon. Richardo Nyantika Billy, MCA
8. Hon. John Ndile Musila, MCA
9. Hon. Cyrus Mugo Mubea, MCA
10. Hon. Jane Musangi Muthembwa, MCA
11. Hon. Emmy Khatemeshi Isalambo, MCA
12. Hon. Fuad Hussein Mohamed, MCA
13. Hon. Fatuma Abduwahid Abey, MCA
14. Hon. Eutychus Mukiri Muriuki, MCA
15. Hon. Fredrick Njoroge Njogu, MCA
16. Hon. Rachel Wanjiru Maina, MCA
17. Hon. Aaron Kangara Wangare, MCA
18. Hon. Carrington Gichunji Heho, MCA
19. Hon. Mark Thiga Ruyi, MCA
20. Hon. Simon Maina Mugo, MCA
21. Hon. Paul Wachira Kariuki, MCA
22. Hon. Martin Mbugua Mwangi, MCA
23. Hon. Mary Wanjiru Kariuki, MCA

The Committee comprises of the following Secretariat;

1. Mr. Kevin Wasike - Senior Clerk Assistant
2. Mr. Benedict Ochieng - Second Clerk Assistant
3. Mr. Klinsmann Munase - Legal Counsel
4. Mr. Anthony Nyandiere - Hansard Editor
5. Mr. Melvin Wachira - Research Officer

Allow me **Hon. Speaker** to thank the entire membership of this Committee for its hard work and commitment which made the taking of evidence and production of this Report a success.

1.5. Background

Public Participation in the Budget Making Process, at the National and County Governments levels, is governed by Chapter 12 of the Constitution of Kenya, 2010 on Public Finance, the Public Finance Management Act, 2012 and the County Governments Act, 2012.

1.6. Motivation of the Audit

The following factors motivated the Office of the Auditor-General to carry out the audit;

The Constitution of Kenya, 2010 gave way to a new legal regime centered on transparent, participatory and accountable use of public resources. Citizen's participation is an integral part of Kenya's governance process, including planning and budgeting. Citizen's participation in the budget process is anchored on the Citizenry exercising the sovereign power of the people which may be exercised either directly or indirectly through their democratically elected representatives.

INTOSAI P-12 on the Value and Benefits of Supreme Audit Institutions in making a difference to the lives of Citizens requires Supreme Audit Institutions (SAIs) to conduct audits that promote the efficiency, accountability, effectiveness and transparency of public administration.

The budget process has been a subject of Citizens concern as is evidenced by various court cases challenging County budget formulation processes. For instance, Petition 187 of 2018 filed in Mombasa County and Petition No. 415 of 2014 filed in Bomet County.

The Republic of Kenya, being a signatory to the Sustainable Development Goals (SDGs) 2030, is committed through Goal 16 that seeks to promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels. This is specifically embodied in target 16.6 To develop effective, accountable and transparent institutions at all levels, and target 16.7 To ensure responsive, inclusive, participatory and representative decision-making at all levels.

Overview of the County Budget Making Process

The budget making process in Kenya is an integral part of government planning and decision making, where Citizen's participation is mandatory in both the National and County Governments level. The budget making process in Kenya includes formulation, approval, implementation and audit or evaluation. The Public Finance Management Act Regulations, 2015 Section 6 (2) provides that the County Treasury shall arrange for effective public participation during the development of the Annual Budget Estimate, including the publication of Citizens' budget which shall explain and summarize the budget proposals.

Key Dates for the Budget Process in Kenya

The budget making process begins from the month of August in each financial year to the month of June in the next calendar year. The key dates in the process are detailed below.

- i. August 30: The County Executive Committee Member (CECM) for Finance at the County must issue a circular to all County Departments advising them on how to prepare their budget requests

for the year. The circular should also contain the budget formulation calendar for the year, including opportunities for public participation.

- ii. September 1: Counties must prepare and table the Annual Development Plan in the County Assembly by this date. The plan must also be made public within 7 days and is the key planning document that guides the budget-making process for the next year.
- iii. October 21: After the Cabinet approval, the County Budget Review and Outlook Paper (CBROP) must be tabled in the County Assembly.
- iv. February 28: County Governments are expected to organize sector hearings which give various sectors an opportunity to discuss and decide on their priorities for the coming year, and to bid for additional resources from the budget. The public is expected to participate in these discussions and give its views on which sectors should receive more funding and for which purpose. The final decision about the total size of the budget and the distribution of funds across each sector is set in the County Fiscal Strategy Paper and it should be tabled in the County Assemblies by February 28, to be approved within two weeks.
- v. April 30: The County budget estimates are tabled in the Assembly. This is the detailed budget at program level. At this stage, the total budget and sector distribution should not be changed, but funds may be moved around between programs. The assemblies have two months to make these changes.
- vi. Month of May: This is when the County Assembly budget committees will begin to hold public hearings on the budget estimates, as a legal requirement.
- vii. June 30: End of the financial year. By this date, the County Appropriation Bills should be approved by the Assembly. This bill authorizes the government to spend against the budget from July 1, once enacted.

1.7. Evidence taken

The Committee held sittings of which it interrogated the County Executive Committee Member for Finance and Economic Affairs and Clerk Nairobi City County Assembly on key findings raised by the Auditor General. Similarly, the Committee received written responses to the special audit findings.

While taking evidence, the Committee was guided by the existing procedures and modalities of operations of the Nairobi City County Assembly derived from the Constitution of the Republic of Kenya, Acts of National Parliament, Acts of Nairobi City County Assembly and Nairobi City County Assembly Standing Orders, conventions, usages, practices and rulings and directives of the Chairperson.

1.8. Appreciation

Hon. Speaker,

The Committee would like to thank the **Accounting Officer** for appearing before it and subsequently submitting written responses which provided valuable insights into the issues raised by the Auditor General.

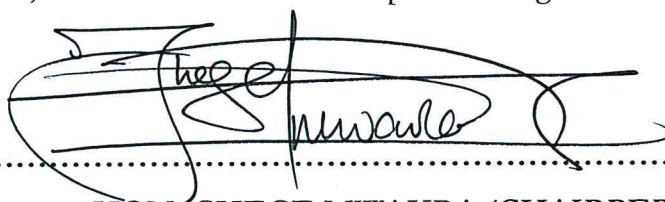
Hon. Speaker,

The Committee also wishes to sincerely thank the Offices of the Speaker and the Clerk for the services extended to the Committee while considering this matter. The Committee further wishes to appreciate the Officers from the Office of the Auditor General and the Committee secretariat for their exemplary advisory services that enabled Members effectively execute their mandate.

Hon. Speaker,

On behalf of the Committee, I now wish to table this report and urge the Assembly to adopt it and the recommendations therein.

SIGNED



HON. CHEGE MWAURA (CHAIRPERSON)

DATE

19 Sep 2024

2.0. CONSIDERATION OF THE AUDIT REPORT OF THE AUDITOR GENERAL

2.1. Audit Query 3.6

That the Executive had not uploaded Finance Act 2021, budget circular and the Mwananchi Popular Version. It was noted that although the County had developed the budget circular, there was no evidence of publishing and publicizing the document.

Management Response

The County prepared and gazetted the Finance bill 2021 on 22nd October 2021 and which was approved and assented to in 25th February 2022 and gazzeted on 8th March 2022 and later on uploaded in the County website after the conclusion of the audit.

Further, the County prepared the budget circular in accordance with Section 128 of the Public Finance Management Act 2012 and although the budget circular was not uploaded in the county website immediately the circular was circulated and disseminated to all the Sector Working Groups for implementation. Additionally, the Citizen Budget for the financial year 2021/2022 was prepared and it is confirmed to have been uploaded as the time of audit. In order to ensure there are no delays in uploading of key budget documents, the County Treasury has assigned that role to one officer to act in liaison with the ICT department in ensuring all budget documents where necessary are uploaded in the website in good time.

Committee Observation(s)

The Committee noted the following observations;

- That the County Executive prepared and gazette the bill after the audit. The County Executive to avail the enacted Finance Act for verification.
- That the County Executive to avail appointment/assignment letter for the liaison officer and for the sign language interpreter for verification. That the verification was done.
- That Section 95 (1) of the County Governments Act, 2012 provides that a County Government shall establish mechanisms to facilitate public communication and access to information in the form of media with the widest public outreach in the county, which may include; television stations, information communication technology centers, websites, community radio stations, public meetings, and traditional media. Further, Section 95 (2) of the County Government Act, 2012 provides that County Governments shall encourage and facilitate other means of mass communication, including traditional media.

Committee Recommendation(s)

- **The County Executive should undertake the policy reforms to ensure full operationalization of the Nairobi City County Public Participation Act 2015 by developing regulations as**

provided for in Section 26 of the Act and report to the Assembly within ninety (90) days of adoption of this Report.

2.2. Audit Query 3.7

The County Executive did not facilitate special groups to access budget information as there was no braille version for visually impaired and sign language interpreters for the deaf.

Management Response

Further, during the public participation on the County Fiscal Strategy Paper 2021 the County engaged sign language interpreters to assist persons with hearing disability to participate in the deliberations. To improve the participation of all people living with disabilities, the County ensured that in every sub-county all people living disabilities were grouped together to ensure their inputs were well captured. In order to ensure that all persons with visual impairments are not excluded from participating in all public participation forums, the County through the new Sector on Inclusivity and Public Participation will be considering to partner with the Kenya Society for the blind to find ways of converting any document requiring public engagement to braille version for ease of access by the visually impaired.

Committee Observation(s)

The Committee noted the following observations;

- The County has engaged sign language interpreters to assist persons with hearing disability to participate in the deliberations. However, the County has not facilitated the blind participants with visual aids during public participation.

Committee Recommendation(s)

The County Executive Committee Member for Inclusivity and Public Participation engage the Kenya Society for the Blind to find ways of converting any document requiring public engagement to braille version for ease of access by the visually impaired and report progress of such engagements to the Assembly within ninety (90) days after the adoption of this report.

2.3. Audit Query 3.8

The Assembly had received all the budget documents from the Executive and had uploaded budget document to the official website for public access. However, the County Budget Review and Outlook Paper (CBROP), Appropriation Act, approved County Budget Estimates and the Mwananchi popular budget version had not been uploaded on the official website which denied Citizen's access budget information.

Management Response

The documents have been uploaded.

Committee Observation(s)

The Committee made the following observations;

- The documents were uploaded on the County Assembly website.

Committee Recommendation(s)

- The County Government should adhere to the provisions of the Laws governing availing of relevant documents to the public such as timely uploading of documents in the respective websites for the public notice.

2.4. Audit Query 3.12

The County Executive had invited Citizens for public participation during formulation of the County Fiscal Strategy Paper (CFSP) through a notice published on the County's website. The County Executive also used local administrative units, the Sub-County and the Ward Administrator's offices to mobilize Citizens to attend the public participation forums. However, it was noted that no register of records was maintained to show Citizen's participation in the formulation of budget documents.

Management Response

There was no response from the Management.

Committee Observation(s)

The Committee made the following observations;

- That Section 125 (2) of the PFM Act, 2012 provides that the County Executive Committee Member for Finance should ensure Citizen's participation in planning and budgeting.

Committee Recommendation(s)

- The County Executive and the County Assembly should establish and maintain registers of documents detaining public engagements in budget making process including public submissions and reports of citizens' engagements as best practice.

2.5. Audit Query 3.13

That the County Assembly had invited Citizens to submit memorandum on County Fiscal Strategy Paper for the financial year 2021/2022. However, it was observed that the County did not maintain register for submitted memorandum by the Citizens.

It was further observed that Citizens were not involved during the approval for the Annual Development Plan, the County Budget Review Outlook Paper and the Budget Estimates. This denied Citizen's opportunity to participate in the budget making process.

Management Response

As rightly observed the Assembly placed an advertisement inviting the public to submit their memorandum on Nairobi County Fiscal Strategy Paper for the financial year 2021-22.

Committee Observation(s)

The Committee made the following observations;

- That the County Assembly management did not respond to the issue.

Committee Recommendation(s)

- The County Assembly and the Executive should improve in the process of public participation by availing in time all mandatory budget documents using accessible media, giving timely appropriate information on agenda, venue, date and time during the budget making process.

2.6. Audit Query 3.15

The audit observed that the County Government had developed and enacted the Public Participation Act, 2015 to guide Public Participation. However, it had not been made operational by the time of the audit.

Management Response

The County Assembly enacted "The Nairobi City County Public Participation Act, 2015" that has given guidelines on how to conduct public participation.

Committee Observation(s)

The Committee made the following observations;

- That the management to avail the regulations guiding the operationalization of the Act.
- That the Issue was not resolved.

Committee Recommendation(s)

- The County Executive Committee for inclusivity and public participation to submit to the County Assembly the draft Regulations on public Participation pursuant to the provisions of Section 26 of the Nairobi City County Public Participation Act, 2015 for approval by the County Assembly within sixty (60) days after adoption of this report.

2.7. Audit Query 3.19

The audit observed that the County appointed members of the Nairobi County Budget and Economic Forum (CBEF) through a notice in 2014. It was however noted that CBEF was constituted without a representative from Persons with Disabilities and that CBEF members were not involved during formulation of the County Fiscal Strategy Paper and the Budget Review and Outlook Paper. In addition,

CBEF members had not held consultative meetings in contravention to Section 209 (2) of Public Finance Management (County Governments) Regulations, 2015 that provides that the forum shall meet at least twice a year and the Governor shall decide the time and the agenda for the meeting of the forum in consultation with other members of the forum.

Management Response

The management informed the Committee that the current members of the County Budget Economic Forum (Non-State Actors) were appointed during the first devolution cycle and in order to ensure continuity and minimize any possible disruptions, the members were subsequently retained by the second administration and to this date. To cure the inadequacies that has affected the effectiveness of the County, the County is undertaking a process of reorganizing the workings of the County Budget Economic Forum and this will include meetings.

Committee Observation(s)

The Committee made the following observations;

- That the management have not indicated how to address the inadequacies.
- That the Issue was not resolved.
- That Section 137 (2) (c), of the Public Finance Management Act, 2012, require Counties to establish the County Budget Economic Forum, whose composition includes professionals, business people, labour issues, women, Persons living with Disabilities, the elderly and Faith Based Groups.

Committee Recommendation(s)

- **The Committee recommends that the County Executive Committee Member for Finance and Economic Planning to publish and publicize the current membership of the County Budget and Economic Forum in line with Section 137(2) within thirty (30) days after the adoption of this report;**
- **That the County Budget and Economic Forum to develop and implement relevant guidelines, procedure and rules to ensure meetings are held in line with Regulation 209 of the Public Finance Management (County Governments) Regulations 2015. Such guidelines to be submitted to the Assembly within ninety days (90) after the adoption of this report.**
- **That the County Budget and Economic Forum to submit to the County Assembly annual reports on their operations during the period under review.**

2.8. Audit Query 3.21

Two sector-working groups, on Food, Agriculture and Forestry, and the Commerce, Tourism Trade and Co-operatives were engaged during the audit. It was noted that the Food, Agriculture and Forestry SWG

comprised of various stakeholders, Community Based Organizations, Faith Based Organizations, associations, youth, women and farmers' groups, and international partners. It was however noted that there were, no representation of Persons with Disabilities.

Management Response

- The management informed the Committee that paragraph 25 of Circular No.1/2020 didi require all Sector working groups to identify and involve all relevant stakeholders both internal and external in the formulation of all budget documents. The role identifying the relevant stakeholders was bestowed upon very sector working group. That the County Treasury will continuously undertake capacity building across all sector working groups on matters stakeholder involvement in order to enhance inclusivity of all groups during budget formulation.

Committee Observation(s)

The committee made the following observations;

- That Section 128 (2) of the Public Finance Management Act, 2012, on budget making requires that Budget Circular be issued not later than 30th August. The circular provides for the formation of the sector working groups. Nairobi County Government Budget Circular No.1/2021 provides guidelines on the budget process and the formation of sector working groups.
- The management acknowledged lack of involvement of persons with disabilities in the food and Agriculture Sector working group.

Committee Recommendation(s)

- **The Committee recommends that the County Executive should ensure inclusivity of all stakeholders including persons with disabilities in all the sector working groups during the budget formulation.**

2.9. Audit Query 3.23

The audit observed that the County Government had not decentralized units to enhance Citizen's participation in the budget making process at the village levels.

Management Response

- The management informed the Committee that currently the County structure is organized up to Ward level. That the current administration was looking into creation of boroughs which will be the focal points for planning, budgeting and implementation of programmes and projects. That the Boroughs were to be the new administrative where all decisions were to be made from the lowest administrative unit in the borough to enhance equity and inclusivity.

Committee Observation(s)

The Committee made the following observations;

- That the issue has not been resolved
- That Section 48 (1) of the County Governments Act, 2012 requires County Governments to decentralize their functions and provision of services to Urban areas and Cities, Sub-Counties, wards and village units.

Committee Recommendation(s)

- The Committee recommends that the County Executive to provide for the status report on the creation of Boroughs in the County within thirty (30) days after the adoption of this report; and
- The County Executive to decentralize its functions and provisions of services to the village level in line with the provisions of Section 48 of the County Governments Act, 2012.

2.10. Audit Query 3.26

The County Executive had not received any petitions from Citizens for inclusions during budget making process for the financial year 2021/2022. There were no records and reports on memoranda submitted by the Citizens. The audit noted the County did not have a structured feedback mechanism for responding to petitions and challenges from the Citizens.

Management Response

The management informed the Committee that the establishment of a structured feedback mechanism to address petitions and other challenges faced by citizens is affected by the lack of a robust structure to manage citizen engagements. That the new structure that established a unit to manage public participation and customer care will cure the current inadequacy by taking the lead in the management of all public engagements.

Committee Observation(s)

The Committee made the following observations;

- That the Constitution of Kenya, 2010, Article 201(a) provides that there shall be openness and accountability, including public participation in financial matters. Section 89 of the County Governments Act, 2012, states that the County Government authorities, agencies and agents have a duty to respond expeditiously to petitions and challenges from Citizens.

Committee Recommendation(s)

- The County Executive Committee Member responsible for public participation to develop regulations on effective structured feedback mechanism on public issues including public

participations in budget formulation and report progress to the Assembly within ninety (90) days after the adoption of this report.

2.11. Audit Query 3.28

At the time of the audit, it was noted that County Executive Committee Member for Finance had not submitted a responsibility statement on public participation to the County Assembly.

Management Response

The County Executive management responded by acknowledging the provisions of Regulation 7(4) of the Public Finance Management (County Governments) Regulations 2015 which require the head of County Treasury to indicate whether the public involvement was undertaken in the formulation of the County Fiscal Strategy Paper. That the main body of the County Fiscal Strategy Paper 2021 included an analysis of the inputs collected during the public participation in the formulation of the paper. That further under the acknowledgement, the document acknowledges the formulation of the CFSP 2021 was highly participatory and included inputs from all stakeholders.

Committee Observation(s)

The Committee made the following observation;

- That Regulation 7 (4) of the Public Finance Management (County Governments) Regulations, 2015 required CECM for Finance to submit responsibility statements confirming the extent to which the general public was consulted particularly on the County Fiscal Strategy Paper and Sector Working Groups.

Committee Recommendation(s)

- **The County Executive Committee Member for Finance to adhere to the provisions of Regulation 7(4) of the Public Finance Management (County Governments) Regulations 2015 on submission of responsibility statements.**

2.12. Audit Query 3.29

The audit observed that the Governor had not submitted the Annual Report to the County Assembly.

Management Response

The Management informed the Committee that indeed the County has been undertaking various forms public participation including planning and budget. However, all these reports have not been collated and consolidated into one annual report for consumption by the various stakeholders.

Committee Observation(s)

The Committee made the following observations;

- That the County Executive was in concurrence with the outcome of the audit query.

- That Section 92 (2) of County Governments Act, 2012 further requires the Governor to submit an Annual Report to the County Assembly on Citizens participation in the affairs of the County.

Committee Recommendation(s)

- The County Executive should adhere to the provisions of Section 92 (2) of County Governments Act, 2012 which requires the Governor to submit an Annual Report to the County Assembly on Citizens participation in the affairs of the County.

2.13. Audit Query 3.32

The audit observed that there were low level of Citizens awareness and accessibility of budget information in the County.

The following observations were from Citizens on the levels of awareness, accessibility and usefulness of budget documents: -

- (a) The low levels of awareness and accessibility of the documents was due to lack of timely information, inappropriate communication channels and lack of interest.
- (b) Citizens who reported to have found the documents not useful indicated that the documents were bulky and complex to be understood by the public.

Management Response

The management informed the Committee that the public participation report on CFSP 2021 identified several challenges that affected public participation such as lack of ward forums to provide feedback on previous years' activities, inadequate or delayed facilitation that affects mobilization, gender imbalance, and majorly lack of civic education on budget documents. That the County has singled out robust civic education prior to any public participation as a key ingredient in upscaling the effectiveness in public participation in future.

Committee Observation(s)

The Committee made the following observations;

- That in agreement with query.
- That Out of 200 Citizens interviewed, it was observed that 42 respondents were aware of the mandatory budget documents and 5 out of 42 Citizens had indicated they were aware.

Committee Recommendation(s)

- The County Executive to develop mechanisms of undertaking civic education on the mandatory budget documents prior to public participation;
- The County Assembly to move with speed and enact the Nairobi City County Civic Education Bill, 2023 which will provide guidelines for effective civic education within the County.

- **The County Executive should partner and collaborate with the relevant agencies and Organizations such as Civic Society Organizations in undertaking civic educations and simplification of budget documents.**

2.14. Audit Query 3.34

The audit observed that there was low level of Citizens participating in the budget process.

The following were the respondent's reasons for the low public participation: -

- a) Lack of timely information on the timelines, venues and agendas for public participation meetings and inadequate mode of communication such as online submissions were not easily accessible.
- b) Covid-19 restrictions and precautions and that the County had not established structure at the village/estate levels;

Management Response

The management informed the Committee that the notices for public participation were usually put in the local dailies and the County website include the dates, venues, main agenda and timelines for public participation. That in addition, mobilization was done through sub-County administration with the assistance of Community Based Organizations. However, the County was exploring other means to expand the reach to citizens.

Committee Observation(s)

The Committee made the following observations;

- That the management did not responded to the issue adequately.
- That Out of the 200 Citizens interviewed, 170 were aware of the need to participate in the budget making process, with only 18 respondents indicating they had participated in the budget process. Only 2 Citizens were satisfied with the mechanism used for public participation.

Committee Recommendation(s)

- **That the County Executive and Assembly should use alternative channels of communication such as social media to disseminate information to the public during the budget making process.**

2.15. Audit Query 3.35

The audit further noted that the County Government did not provide adequate and alternative mechanisms for public participation during the COVID-19 restriction period.

Management Response

The management informed the Committee that indeed the Covid-19 restrictions and the lack of clear and existing structures to aid in public participation was a factor in affecting the effectiveness of public participation.

Committee Observation(s)

The Committee made the following observations;

- That the management had responded to the issue.

Committee Recommendation(s)

- That the County Executive and Assembly should develop alternative channels of communication such as social media to disseminate information to the public during the budget making process when there is restriction for physical meeting such as during Covid-19 pandemic.

2.16. Audit Query 3.37

The audit observed that there was low level of Citizens contribution to the budget process and lack of feedback mechanism to Citizen's submissions on the budget. Failure by the Citizens to give submissions was due to;

- (i) Lack of interest due to failure get feedback from the County in the previous years and lack of awareness on the feedback mechanisms;
- (ii) The County did not engage special groups through the appropriate channels.

Management Response

The management informed the Committee that the County has endeavored to conduct effective public participation and progressively the process has undergone major improvement. That indeed the aspiration towards having an effective public participation has been elusive due to inexistence of a specialized structure to deliver the same. That influencing the consumption of both civic education and public participation by the residents of Nairobi has remained a challenge, exacerbated by the lack of a customized approach that can manage the diverse expectations of participants. That deliberate efforts have been made to ensure there is extensive civic education, improved reach to the target population on their civic duty to participate and improved feedback mechanisms to the participants.

Committee Observation(s)

The Committee made the following observations;

- That Out of the 200 Citizens interviewed only 14 participated and shared petitions during the budget making process. Two (2) respondents received feedback on their petitions and challenges. It was observed that 186 Citizens did not contribute during the budget making process.

Committee Recommendation(s)

- The County Executive to develop mechanisms of undertaking civic education on the mandatory budget documents prior to public participation;

-
- The County Assembly to move with speed and enact the Nairobi City County Civic Education Bill, 2023 which will provide guidelines for effective civic education within the County.
 - The County Executive should partner and collaborate with the relevant agencies and Organizations such as Civic Society Organizations in undertaking civic educations and simplification of budget documents.
 - The County Executive Committee Member responsible for public participation to develop regulations on effective structured feedback mechanism on public issues including public participations in budget formulation and report progress to the Assembly within ninety (90) days after the adoption of this report.

3.0 SUMMARY OF ALL RECOMMENDATIONS

Following the Committee's consideration of the "Special Report of the Auditor General on Public Participation in Nairobi City County Budget Making Process for the Financial year 2021/2022" and having considered responses from the Accounting Officers, the Committee urges the County Assembly to resolve as follows THAT: -

1. The County Executive should undertake the policy reforms to ensure full operationalization of the Nairobi City County Public Participation Act 2015 by developing regulations as provided for in Section 26 of the Act and report to the Assembly within ninety (90) days of adoption of this Report;
2. The County Executive Committee Member for Inclusivity and Public Participation engage the Kenya Society for the Blind to find ways of converting any document requiring public engagement to braille version for ease of access by the visually impaired and report progress of such engagements to the Assembly within ninety (90) days after the adoption of this report;
3. The County Government should adhere to the provisions of the Laws governing availing of relevant documents to the public such as timely uploading of documents in the respective websites for the public notice;
4. The County Executive and the County Assembly should establish and maintain registers of documents detaining public engagements in budget making process including public submissions and reports of citizens' engagements as best practice;
5. The County Assembly and the Executive should improve in the process of public participation by availing in time all mandatory budget documents using accessible media, giving timely appropriate information on agenda, venue, date and time during the budget making process;
6. The Committee recommends that the County Executive Committee Member for Finance and Economic Planning to publish and publicize the current membership of the County Budget and Economic Forum in line with Section 137(2) within thirty (30) days after the adoption of this report;
7. That the County Budget and Economic Forum to develop and implement relevant guidelines, procedure and rules to ensure meetings are held in line with Regulation 209 of the Public Finance Management (County Governments) Regulations 2015. Such guidelines to be submitted to the Assembly within ninety days (90) after the adoption of this report;
8. That the County Budget and Economic Forum to submit to the County Assembly annual reports on their operations during the period under review;
9. The Committee recommends that the County Executive should ensure inclusivity of all stakeholders including persons with disabilities in all the sector working groups during the budget formulation;

10. The Committee recommends that the County Executive to provide for the status report on the creation of Boroughs in the County within thirty (30) days after the adoption of this report;
11. The County Executive to decentralize its functions and provisions of services to the village level in line with the provisions of Section 48 of the County Governments Act, 2012;
12. The County Executive Committee Member for Finance to adhere to the provisions of Regulation 7(4) of the Public Finance Management (County Governments) Regulations 2015 on submission of responsibility statements;
13. The County Executive should adhere to the provisions of Section 92 (2) of County Governments Act, 2012 which requires the Governor to submit an Annual Report to the County Assembly on Citizens participation in the affairs of the County;
14. The County Executive Committee Member responsible for public participation to develop regulations on effective structured feedback mechanism on public issues including public participations in budget formulation and report progress to the Assembly within ninety (90) days after the adoption of this report;
15. That the County Executive and Assembly should develop alternative channels of communication such as social media to disseminate information to the public during the budget making process when there is restriction for physical meeting such as during Covid-19 pandemic;
16. The County Executive to develop mechanisms of undertaking civic education on the mandatory budget documents prior to public participation;
17. The County Assembly to move with speed and enact the Nairobi City County Civic Education Bill, 2023 which will provide guidelines for effective civic education within the County.
18. The County Executive should partner and collaborate with the relevant agencies and Organizations such as Civic Society Organizations in undertaking civic educations and simplification of budget documents.
19. The County Executive Committee Member responsible for public participation to develop regulations on effective structured feedback mechanism on public issues including public participations in budget formulation and report progress to the Assembly within ninety (90) days after the adoption of this report.

4.0 ANNEXURES

Annex	Title
Annex 1	Minutes of the Sittings
Annex 2	Written Responses to all audit queries

MINUTES OF THE 22ND SITTING OF THE NAIROBI CITY COUNTY ASSEMBLY SELECT COMMITTEE ON COUNTY PUBLIC ACCOUNTS HELD ON FRIDAY, 23RD AUGUST, 2024 AT 9.30 A.M. AT LAKE NAIVASHA RESORT, NAKURU COUNTY.

MEMBERS PRESENT:

1. Hon. Chege Mwaura, MCA – Chairman
2. Hon. Abel Osumba Atito, MCA – Vice-Chairman
3. Hon. Mark Thiga Ruyi, MCA
4. Hon. Emmy Khatemeshi Isalambo, MCA
5. Hon. Jane Musangi Muthembwa, MCA
6. Hon. Rachel Wanjiru Maina, MCA
7. Hon. Eutyclus Mukiri Muriuki, MCA
8. Hon. Paul Wachira Kariuki, MCA
9. Hon. Cyrus Mugo Mubea, MCA
10. Hon. Stazo Elijah Omung'ala Ang'ila, MCA
11. Hon. Fredrick Njoroge Njogu, MCA
12. Hon. Martin Mbugua Mwangi, MCA
13. Hon. Mary Wanjiru Kariuki, MCA
14. Hon. Aaron Kangara Wangare, MCA
15. Hon. Carrington Gichunji Heho, MCA
16. Hon. Simon Maina Mugo, MCA
17. Hon. Billy Richardo Nyantika, MCA
18. Hon. Benta Juma Obiero, MCA
19. Hon. John Ndile Musila, MCA
20. Hon. John Rex Omolleh, MCA
21. Hon. Patrick Karani Said, MCA
22. Hon. Fatuma Abduwahid Abey, MCA
23. Hon. Fuad Hussein Mohamed, MCA

IN-ATTENDANCE

1. Mr. Patrick Muriuki – Office of the Auditor-General

SECRETARIAT

1. Mr. Kevin Wasike - Senior Clerk Assistant
2. Mr. Benedict Ochieng - 2nd Clerk Assistant
3. Mr. Klinsman Munase - Legal Counsel
4. Mr. Anthony Nyandiere - Hansard Officer
5. Mr. Melvin Wachira - Research Officer

MIN.086/NCCA/PAC/AUGUST/2024 – PRELIMINARIES

The Chairman called the meeting to order at Twelve O'clock and said the opening prayers. He then welcomed Members present, the Auditors and the Secretariat to the meeting and took them through the agenda which was adopted for consideration as proposed by Hon. Emmy Khatemeshi, MCA and seconded by Hon. Eutyclus Mukiri, MCA.

MIN.087/NCCA/PAC/AUGUST/2024 – CONSIDERATION AND ADOPTION OF THE DRAFT REPORT ON THE CONSIDERATION OF THE REPORTS OF THE AUDITOR-

GENERAL ON THE FINANCIAL STATEMENTS OF NAIROBI CITY COUNTY EXECUTIVE FOR THE YEARS ENDED 30TH JUNE 2019, 2020 AND 2021 RESPECTIVELY.

The Secretariat tabled and took the Committee through the draft report on the consideration of the report of the Auditor-General on the Financial Statements of Nairobi City County Executive for the years ended 30th June, 2019, 2020 and 2021 respectively. The Committee deliberated on the report and adopted the same for tabling in the Assembly as proposed by Hon. Mark Thiga, MCA and seconded by Hon. Paul Wachira, MCA.

MIN.088/NCCA/PAC/AUGUST/2024 – CONSIDERATION AND ADOPTION OF THE DRAFT REPORT ON THE CONSIDERATION OF THE SPECIAL AUDIT REPORT OF THE AUDITOR-GENERAL ON COVID-19 VACCINE ROLL OUT FOR THE NAIROBI CITY COUNTY GOVERNMENT FOR THE YEAR 31ST MARCH, 2022.

The Secretariat tabled and took the Committee through the draft report on the consideration of the special audit report of the Auditor-General on Covid-19 Vaccine Roll out for the Nairobi City County Government for the year 31st March, 2022. The Committee deliberated on the report and adopted the same for tabling in the Assembly as proposed by Hon. Jane Musangi, MCA and seconded by Hon. Eutyclus Mukiri, MCA.

MIN.089/NCCA/PAC/AUGUST/2024 – CONSIDERATION AND ADOPTION OF THE DRAFT REPORT ON THE CONSIDERATION OF THE SPECIAL REPORT OF THE AUDITOR-GENERAL ON PUBLIC PARTICIPATION IN NAIROBI CITY COUNTY BUDGET MAKING PROCESS FOR THE FINANCIAL YEAR 2021/2022.

The Secretariat tabled and took the Committee through the draft report on the consideration of the Special Report of the Auditor-General on Public Participation in Nairobi City County Budget Making Process for the Financial Year 2021/2022. The Committee deliberated on the report and adopted the same for tabling in the Assembly as proposed by Hon. Cyrus Mugo, MCA and seconded by Hon. Paul Wachira, MCA.

MIN.090/NCCA/PAC/AUGUST/2024 – A.o.B & ADJOURNMENT

The being no other business and the time being fifteen minutes past One O'clock, the Chairman adjourned the meeting. The next meeting was scheduled to be held the Friday, 23rd August, 2024 at 2.30 p.m.

CONFIRMED AS A TRUE RECORD OF THE PROCEEDINGS

CHAIRPERSON  SIGNATURE

DATE
18/Sep/2024

NAIROBI CITY COUNTY



Telephone: +254 20 2224281
Email: info@nairobi.go.ke
Website: www.nairobi.go.ke

City Hall,
P. O. Box 30075-0010,
Nairobi, Kenya.

Handwritten: Dhs
Kindly deal
Clerk
16/3/23

OFFICE OF THE GOVERNOR COUNTY SECRETARY AND HEAD OF COUNTY PUBLIC SERVICE

NCC/CS/JM/214

16th March 2023

Clerk of the County Assembly
Nairobi City County
City Hall Buildings
NAIROBI

RE: RESPONSES TO THE REPORT OF THE AUDITOR GENERAL ON PUBLIC PARTICIPATION IN THE BUDGET MAKING PROCESS FOR FY 2021/2022

The above subject refers.

Please find attached memo ref. CECM (FEP)/CKK/ran/547/2023 dated 13th March 2023 responding to the report of the auditor general for the financial year 2021/2022.

Handwritten signature: J. Musumba
DR. JAIRUS MUSUMBA, PhD
AG. COUNTY SECRETARY & HEAD OF COUNTY PUBLIC SERVICE

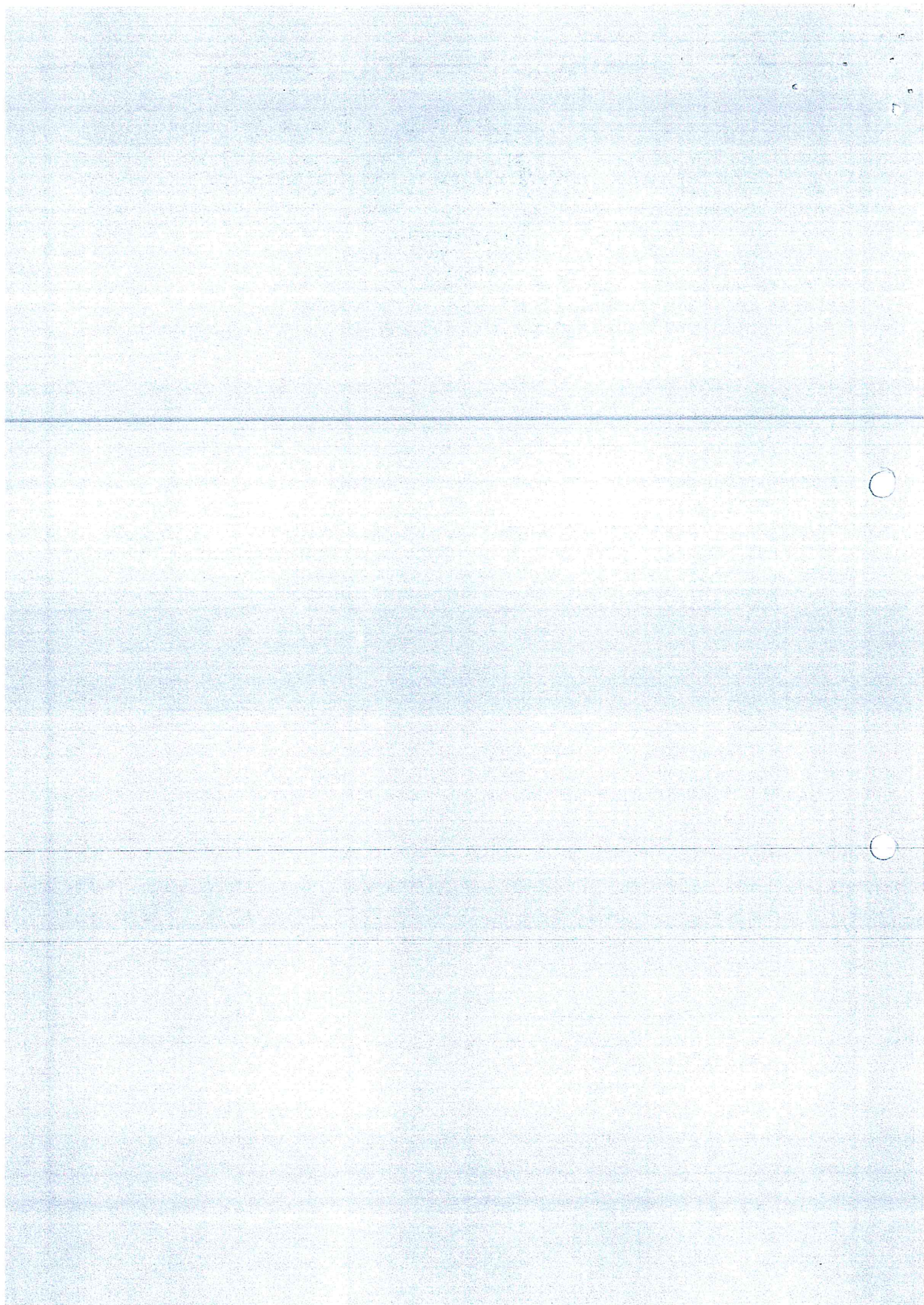
Cc H.E. Governor
Nairobi City County

County Executive Committee Member
Finance and Economic Planning
Nairobi City County

Handwritten: SCA-PAC
Kindly note and deal

Handwritten signature and date:
17/3/2023

Handwritten: Ag PCA(C)
Please table before
the Committee.
Handwritten signature:
for ALS
17-3-2023





NAIROBI CITY COUNTY

Telephone: +254 20 344 194
Email: info@nairobi.go.ke



City Hall,
P.O Box 30075-00100,
Nairobi,
KENYA

FINANCE AND ECONOMIC PLANNING

MEMO

TO : AG.COUNTY SECRETARY & HEAD OF COUNTY PUBLIC SERVICE

REF : CECM (FEP)/CKK/ran/547/2023

DATE : 13TH MARCH, 2023

RE: RESPONSES TO THE REPORT OF THE AUDITOR GENERAL ON PUBLIC PARTICIPATION IN THE BUDGET MAKING PROCESS FOR FY. 2021/2022

Please find attached responses in the above matter for your forwarding to the Nairobi City County Assembly.

CHARLES K. KERICH
CECM - FINANCE & ECONOMIC PLANNING

- Cc. - H. E. the Governor
- H. E. Deputy Governor
- OAG

NAIROBI CITY COUNTY

Telephone: +254 20 344 194
Email: info@nairobi.go.ke
Facebook: NairobiCityCountyOfficial



City Hall,
P.O Box 30075-00100,
Nairobi, KENYA

FINANCE AND ECONOMIC PLANNING

RE: CECM(FEP)/CK/ran/645/2023

13th March, 2023

The Clerk
Nairobi City County Assembly
City Hall Building
NAIROBI

RE: RESPONSES TO THE REPORT OF THE AUDITOR GENERAL ON PUBLIC PARTICIPATION IN THE BUDGET MAKING PROCESS FINANCIAL YEAR 2021/2022

The County Executive have carefully reviewed the audit observations on the extent of public participation in the budget making process for the financial year 2021/2022 and our responses are as hereunder:

PARAGRAPH 3.6

That the Executive had uploaded seven out of the ten budget documents on their official website for public access on budget information. Uploaded budget documents were Finance Act 2021, budget circular and the Mwananchi Popular Version. It was noted that although the County had developed the budget circular, there was no evidence of publishing and publicizing the document.

Further, the County Executive did not facilitate special groups to access budget information as there was no braille version for visually impaired and sign language interpreters for the deaf.

CRITERIA

Section 95 (1) of the County Governments Act, 2012 provides that a County Government shall establish mechanisms to facilitate public communication and access to information in the form of media with the widest public outreach in the county, which may include; television stations, information communication technology centres, websites, community radio stations, public meetings, and traditional media. Further, Section 95 (2) of the County Government Act, 2012 provides that County Governments shall encourage and facilitate other means of mass communication, including traditional media.

MANAGEMENT RESPONSE

The County prepared and gazetted the Finance bill 2021 on 22nd October 2021 and which was approved and assented to in 25th February 2022 and gazzeted on 8th March 2022 and later on uploaded in the County website after the conclusion of the audit.

Further, the County prepared the budget circular in accordance with Section 128 of the Public Finance Management Act 2012 and although the budget circular was not uploaded in the county website immediately the circular was circulated and disseminated to all the Sector Working Groups for implementation. Additionally, the Citizen Budget for the financial year 2021/2022 was prepared and it is confirmed to have been uploaded as the time of audit. In order to ensure there are no delays in uploading of key budget documents, the County Treasury has assigned that role to one officer to act in liaison with the ICT department in ensuring all budget documents where necessary are uploaded in the website in good time.

Further, during the public participation on the County Fiscal Strategy Paper 2021 the County engaged sign language interpreters to assist persons with hearing disability to participate in the deliberations. To improve the participation of all people living with disabilities, the County ensured that in every sub-county all people living disabilities were grouped together to ensure their inputs were well captured. In order to ensure that all persons with visual impairments are not excluded from participating in all public participation forums, the County through the new Sector on Inclusivity and Public Participation will be considering to partner with the Kenya Society for the blind to find ways of converting any document requiring public engagement to braille version for ease of access by the visually impaired.

PARAGRAPH 3.12: The Executive had invited Citizens for public participation during formulation of the County Fiscal Strategy Paper (CFSP) through a notice published on the County's website. The executive also used local administrative units, the Sub-County and the Ward Administrator's offices to mobilize Citizens to attend the public participation forums. **However, it was noted that no register of records was maintained to show Citizens participation in the formulation of budget documents.**

CRITERIA

Section 125 (2) of the PFM Act, 2012 provides that the County Executive Committee Member for Finance should ensure Citizens participation in planning and budgeting.

MANAGEMENT RESPONSE

Ward-Based Sub County public participation forums on the CFSP 2021 was carried out in all 17 sub-counties on 18th February 2021. A public notice inviting members of the public and all interested groups to participate through the physical meetings and also through submission of Memoranda was published on Monday 8th February 2021 on the Standard Newspaper on Friday 12th February 2021 on the Star Newspaper. This was also uploaded on the County Website and disseminated to all levels by the Sub County Administration officers. The County provided a list of attendees to capture the details of the persons attending and every attendee was required to indicate the names, gender,

ward and contact details. Sample signed attendance lists and photographs of the events are available as proof of attendance by the members of the public.

There are however no permanent registers kept at the Sub-County and the information on public participation is kept at the County Treasury, Economic Planning.

PARAGRAPH 3.19: The audit observed that the County appointed members of the Nairobi County Budget and Economic Forum (CBEF) through a notice in 2014. It was however noted that CBEF was constituted without a representative from Persons with Disabilities and that CBEF members were not involved during formulation of the County Fiscal Strategy Paper and the Budget Review and Outlook Paper. In addition, CBEF members had not held consultative meetings in contravention to Section 209 (2) of Public Finance Management (County Governments) Regulations, 2015 that provides that the forum shall meet at least twice a year and the Governor shall decide the time and the agenda for the meeting of the forum in consultation with other members of the forum.

CRITERIA

Section 137 (2) (c), of the Public Finance Management Act, 2012, require Counties to establish the County Budget Economic Forum, whose composition includes professionals, business people, labour issues, women, Persons living with Disabilities, the elderly and Faith Based Groups.

MANAGEMENT RESPONSE

The current members of the County Budget Economic Forum (Non-State Actors) were appointed during the first devolution cycle and in order to ensure continuity and minimize any possible disruptions, the members were subsequently retained by the second administration and to this date. To cure the inadequacies that has affected the effectiveness of the, County is undertaking a process of reorganizing the workings of the County Budget Economic Forum and this will include meetings.

PARAGRAPH 3.21: Two sector-working groups, on Food, Agriculture and Forestry, and the Commerce, Tourism Trade and Co-operatives were engaged during the audit. It was noted that the Food, Agriculture and Forestry SWG comprised of various stakeholders, Community Based Organizations, Faith Based Organizations, associations, youth, women and farmers' groups, and international partners. It was however noted that there were, no representation of Persons with Disabilities.

CRITERIA

Section 128 (2) of the Public Finance Management Act, 2012, on budget making requires that Budget Circular be issued not later than August 30. The circular provides for the formation of the sector working groups. Nairobi County Government Budget Circular No.1/2021 provides guidelines on the budget process and the formation of sector working groups.

MANAGEMENT RESPONSE

Paragraph 25 of Circular No 1/2020 did require all Sector working Groups to identify and involve all relevant stakeholders both internal and external in the formulation of all budget documents. The role of identifying the relevant stakeholders is therefore bestowed upon every sector working group and therefore the Food & Agriculture did not involve the person living with disabilities. The County Treasury will however continuously undertake capacity building across all sector working groups on matters stakeholder involvement in order to enhance inclusivity of all relevant groups during budget formulation.

PARAGRAPH 3.23: The audit observed that the County Government had not decentralized units to enhance Citizens participation in the budget making process at the village levels.

CRITERIA

Section 48 (1) of the County Governments Act, 2012 requires County Governments to decentralize their functions and provision of services to Urban areas and Cities, Sub-Counties, wards and village units.

MANAGEMENT RESPONSE

Currently the County structure is organized upto ward level. The current administration is looking into creation of boroughs which will be the focal points for planning, budgeting and implementation of programmes and projects. The boroughs will be the new administrative where all decisions will be made from the lowest administrative unit in the borough to enhance equity and inclusivity.

PARAGRAPH 3.26: The County Executive had not received any petitions from Citizens for inclusion during budget making process for the financial year 2021/2022. There were no records and reports on memoranda submitted by the Citizens. The audit noted the County did not have a structured feedback mechanism for responding to petitions and challenges from the Citizens.

CRITERIA

The Constitution of Kenya, 2010, Article 201 (a) provides that there shall be openness and accountability, including public participation in financial matters. Section 89 of the County Governments Act, 2012, states that the County Government authorities, agencies and agents have a duty to respond expeditiously to petitions and challenges from Citizens.

MANAGEMENT RESPONSE

The establishment of a structured feedback mechanism to address petitions and other challenges faced by citizens is affected by the lack of a robust structure to manage citizen engagements. It is however our take that the newly created structures that establishes a complete unit to manage public participation and customer care will cure the current inadequacy by taking the lead in the management of all public engagements.

PARAGRAPH 3.28: The Constitution of Kenya, 2010, Article 201(a) provides that there shall be openness and accountability, including public participation in financial matters. Section 89 of the County Governments Act, 2012, states that the County Government authorities, agencies and agents have a duty to respond expeditiously to petitions and challenges from Citizens.

CRITERIA

Section 7 (4) of the Public Finance Management (County Governments) Regulations, 2015 required CECM for Finance to submit responsibility statements confirming the extent to which the general public was consulted particularly on the County Fiscal Strategy Paper and Sector Working Groups.

MANAGEMENT REPOSENSE

It is true that section 7(4) of the Public Finance Management Regulations require the head of county treasury to indicate whether the public involvement was undertaken in the formulation of the county fiscal strategy paper. The main body of the County Fiscal Strategy Paper 2021 includes an analysis of the inputs collected during the Public Participation in the formulation of the County Fiscal Strategy Paper. Further Pursuant under the acknowledgement the document acknowledges the formulation of the CFSP 2021 was highly participatory and included inputs from all stakeholders.

PARAGRAPH 3.29: The audit observed that the Governor had not submitted the Annual Report to the County Assembly

CRITERIA

Section 92 (2) of County Governments Act, 2012 further requires the Governor to submit an Annual Report to the County Assembly on Citizens participation in the affairs of the County.

MANAGEMENT RESPONSE

It is true that the county has been undertaking various forms of public participation at the ward level including planning and budgets and specific reports produced for each public participation exercise. We however concur that all these reports have not been collated and consolidated into one annual report for consumption by the various stakeholders. As the new administration gears up to enhance service delivery, the County government is keen on ensuring that public engagement and civic education will play a significant role in service provision. In this regard, the County will be spearheading various public engagements and is committed to ensuring that an annual report will be submitted by the end of the financial year.

PARAGRAPH 3.32: The audit observed that there were low level of Citizens awareness and accessibility of budget information in the County.

The following observations were from Citizens on the levels of awareness, accessibility and usefulness of budget documents: -

- (a) The low levels of awareness and accessibility of the documents was due to lack of timely information, inappropriate communication channels and lack of interest.
- (b) Citizens who reported to have found the documents not useful indicated that the documents were bulky and complex to be understood by the public.

CRITERIA

Out of 200 Citizens interviewed, it was observed that 42 respondents were aware of the mandatory budget documents and 5 out of 42 Citizens had indicated they were aware.

MANAGEMENT RESPONSE

The public participation report on CFSP 2021 identified several challenges that affected public participation such as lack of ward forums to provide feedback on previous years' activities, inadequate or delayed facilitation that affects mobilization, gender imbalance, and majorly lack of civic education on budget documents. The County has singled out robust civic education prior to any public participation as a key ingredient in upscaling the effectiveness public participation in the future. To this end the newly created department of public participation will be strengthened and resourced to coordinate and undertake civic education on all public participation activities. It is also noteworthy that as much as the county strives to improve on the quality of public participation process, the consumption of both the civic education and public participation is reliant on the perception, willingness and availability of the target population.

PARAGRAPH 3.34: The audit observed that there was low level of Citizens participating in the budget process.

The following were the respondent's reasons for the low public participation: -

- (a) Lack of timely information on the timelines, venues and agendas for public participation meetings and inadequate mode of communication such as online submissions were not easily accessible.
- (b) Covid-19 restrictions and precautions and that the County had not established structure at the village/estate levels;

CRITERIA

Out of the 200 Citizens interviewed, 170 were aware of the need to participate in the budget making process, with only 18 respondents indicating they had participated in the budget process. Only 2 Citizens were satisfied with the mechanism used for public participation

MANAGEMENT RESPONSE

The notices for public participation usually in the local dailies and county website includes the dates, venues, main agenda and timelines for public participation. In addition to the local dailies, mobilization is done through the sub-county administration with the assistance of Community Based Organizations. The County is however keen on exploring other means, and has deployed social media, community radio and digital video clips to expand the reach to citizens.

PARAGRAPH 3.35: The audit further noted that the County Government did not provide adequate and alternative mechanisms for public participation during the COVID-19 restriction period.

MANAGEMENT RESPONSE

It is true that Covid-19 restrictions and the lack of clear and existing structures to aid in public participation was a factor in affecting the effectiveness of public participation. The County majorly relied on the submission of memorandums during the public consultation exercise on Annual Development Plan 2021/2022. Through the public notice, Members of the public were guided how to submit physical memoranda and also how to submit memoranda online.

PARAGRAPH 3.37: The audit observed that there was low level of Citizens contribution to the budget process and lack of feedback mechanism to Citizens submissions on the budget. Failure by the Citizens to give submissions was due to;

(i) Lack of interest due to failure get feedback from the County in the previous years and lack of awareness on the feedback mechanisms;

(ii) The County did not engage special groups through the appropriate channels.

CRITERIA

Out of the 200 Citizens interviewed only 14 participated and shared petitions during the budget making process. Two (2) respondents received feedback on their petitions and challenges. It was observed that 186 Citizens did not contribute during the budget making process.

MANAGEMENT RESPONSE

The county has endeavored to conduct effective public participation and progressively the process has undergone major improvement. It's true that the aspiration towards having an effective public participation has been elusive through the years, majorly due to inexistence of a specialized structure to deliver the same. However, influencing the consumption of both the civic education and public participation by Nairobians has remained a challenge, exacerbated by the lack of a customized approach that can manage the diverse expectations of participants. From lessons learnt over the years, deliberate efforts have been made to ensure there is extensive civic education, improved reach to the target population on their civic duty to participate, and also improved feedback mechanisms to the participants.

CONCLUSION

In conclusion the county holds the opinion that the public participation was largely successful save for the inherent challenges which will be corrected through the establishment of proper structures to manage public participation in the County.



CHARLES K. KERICH
COUNTY EXECUTIVE COMMITTEE MEMBER
FINANCE AND ECONOMIC PLANNING

Cc. Auditor General
Office of the Auditor General
Anniversary Towers
NAIROBI