

**REPUBLIC OF KENYA**



**COUNTY ASSEMBLY OF BUNGOMA**

**FIRST ASSEMBLY, THIRD SESSION.**

**REPORT OF THE**

**COUNTY PUBLIC INVESTMENTS AND ACCOUNTS COMMITTEE**

**ON**

**THE PURCHASE OF WHEELBARROWS AND OTHER SLAUGHTER HOUSE  
EQUIPMENT BY THE COUNTY GOVERNMENT OF BUNGOMA**

**ASSEMBLY BUILDINGS  
BUNGOMA**

**OCTOBER, 2015**

**PREFACE**

**Mr. Speaker Sir,**

The County Public Investments and Accounts Committee is a Select Committee established under Standing Order 186(1), and is responsible for the examination of the reports and accounts

of the working of public investments and accounts under Standing Order 186(2)(b). The Committee derives its mandate from Standing Order 186(2) and the Constitution of Kenya, 2010 Article 195. (1), (2) (a) (b) and (c) Which states that “A County Assembly or any of its committees has the power to summon any person to appear before it for the purpose of giving evidence or providing information.

Also an assembly has the same powers as the High Court to:-

- (a) Enforce the attendance of witnesses and examining them on oath, affirmation or otherwise;
- (b) Compel the production of documents; and
- (c) Issue a commission or request to examine witnesses abroad.

## **Mandate of the Committee**

The Committee is mandated to:

- a. Examine the accounts showing the appropriations sum voted by the County Assembly to meet public expenditure and of such other accounts laid before the County Assembly as the Committee may think fit.
- b. Examine reports, accounts and workings of the County public investments;
- c. Examine, in the context of the autonomy and efficiency of the county public investments, whether the affairs of the County public investments, are being managed in accordance with sound financial or business principles and prudent commercial practices:

The Committee shall however not examine:

- a) Matters of major Government policy as distinct from business or commercial functions of the public investments;
- b) Matters of day-to-day administration; and,
- c) Matters for the consideration of which machinery is established by any special statute under which a particular public investment is established.

The procedure of a Select Committee and other related matters thereto is covered under Standing Order No. 182. The Committee has power, under the provisions of the Constitution Article 195 to summon witnesses, examine them on oath and receive evidence.

## **Guiding Principles**

In the execution of its mandate afore-stated, County Public Investments and Accounts 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:

### **1) Constitutional Principles on Public Finance**

Article 201 enacts fundamental principles that “...*shall guide all aspects of public finance in the Republic...*” These principles include, *inter alia*, that: **201(a)** *There shall be openness and accountability, including public participation in financial matters;* **201(d)** *Public money shall be used in a prudent and responsible way; and* **201(e)** *Financial management shall be responsible, and fiscal reporting shall be clear.*

### **2) Direct Personal Liability**

Article 226(5) of the Constitution is emphatic 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*”.

The County Public Investments and Accounts Committee has hoisted high this constitutional provision as the basis for holding each individual Accounting Officer and other Public Officers directly and personally liable for any loss of public funds under their watch. The Committee has and will continue to invoke this provisions in its recommendations to hold those responsible personally accountable. This is also intended to serve as a deterrent measure.

### **3) Obligations of Accounting Officers**

Section 149.(1), of the same PFM Act stipulates 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 lawful and authorized; and effective, efficient, economical and transparent.

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

This section empowers the appointing authority to discipline errant accounting officers, which could include revoking their appointments. This provision has sealed a longstanding loophole that has previously seen accounting officers continuously commit or preside over fiscal indiscipline and malpractice in their ministries with impunity without sanction.

The County Public Investments and Accounts Committee strongly holds the view that these provisions of the law were intended to be fully deployed to give effect to the high principles in

Article 201 of the Constitution stated hereinabove, to ensure prudent and responsible use of public funds. The Committee has accordingly invoked these provisions and recommended varying disciplinary actions, investigation and surcharging of various persons who bear responsibility for breach of the law and/or responsible for the loss or wastage of public funds.

The County Public Investments and Accounts Committee places a premium on these principles, among others, and has been guided by them in the entire process that has culminated in this report.

The County Public Investment and Accounts Committee is further given legal backing under the Public Finance Management Act, 2012, County Government Act 2012 and the Constitution of Kenya 2010.

**Mr. Speaker Sir,**

On behalf of the Members of the County Public Investments and Accounts Committee, I hereby present to this House, the Committee's Report on how public funds were used in the Purchase of nine wheelbarrows and other slaughterhouse equipment.

### **Current Committee Membership**

The County Public Investments and Accounts Committee as currently constituted comprises of the following:

- |                            |                   |
|----------------------------|-------------------|
| 1. Hon. Joseph Magudah     | Chairperson       |
| 2. Hon. Bethwel Mwambu     | Vice- Chairperson |
| 3. Hon.Tindi Elly Manasseh | Member            |
| 4. Hon.David Fwaro         | Member            |
| 5. Hon.Euventine Kisaka    | Member            |
| 6. Hon.Gentrix Maindi      | Member            |
| 7. Hon. Gerishom Namasake  | Member            |
| 8. Hon. Protus Waswa       | Member            |
| 9. Hon. Margaret Barasa    | Member            |

### **Committee Staff**

1. Evans Mangara - Committee Clerk
2. Mbito Peter – Hansard Reporter
3. Aggrey Makokha- Legal Clerk

4. Absolom Wendoh – Serjeant at Arms
5. Alfred Makokha- Internal Auditor.
6. Angela Nguthu- Records Officer

#### **4.0 CONFIDENTIALITY UNDERTAKING BY MEMBERS OF THE COMMITTEE AND ITS STAFF**

To enhance the integrity of the committee and its work, members of the County public Accounts and investment committee have signed a confidentiality undertaking in accordance with Bungoma County Assembly standing order no 82. Members have undertaken that in relation to the consideration of the report on the purchase of wheelbarrows and other slaughterhouse equipment, they will not disclose any matter relating to the proceedings of the committee that is classified as confidential which shall include any evidence or documents presented to the committee and any information on discussion or deliberations at its meetings before it is tabled in the Assembly as the law requires.

#### **EVIDENCE TAKEN**

The Committee held several sessions, during which it interrogated various officers that in one way or another were deemed involved in the Procurement of Wheelbarrows and other slaughterhouse equipment. All the minutes of the Committee's sittings on evidence taken are annexed to this report.

In its inquiry into how 9 wheelbarrows and other slaughterhouse equipment were procured by the Veterinary Department, the Committee heard and received both oral and written evidence from the following officers: the former County Executive Committee Member for Agriculture, Livestock, Fisheries and Cooperative Development (Mr. Patrick Koyi), Chief Officer Agriculture (Ms. Monicah Fedha), County Director of Veterinary Services (Dr. Wycliffe Wangwe), Transitional Coordinator (Mr. Juma Matsanza), Head of County Supply Chain Management (Mr. Jeremiah Muchembi), Former Head of Supply Chain Management (Mr. Ayub China), Secretary of Evaluation Committee (Ms. Jeddidah Kulundu), Chairman of Tender Award Committee (Mr. Howard Lugadilu) and Secretary to Inspection and Acceptance Committee (Ms. Jane Simiyu).

In this exercise, the Committee was guided by the stated principles as well as the rules, procedures and customs guiding County Assemblies derived from the Constitution of the Republic of Kenya, 2010, Acts of Parliament, Parliamentary Standing Orders, conventions, usages, practices and rulings and directives of the Chair.

#### **Terms of Reference**

The PIC/PAC committee took up the wheelbarrow issue after it was reported in the media that the County Government had purchased 10 wheelbarrows at alleged exorbitant price of Kshs109,320 per wheelbarrow.

The County Public Investments and Accounts Committee was charged to establish;

1. Whether there was value for money during the procurement of the wheelbarrows.
2. Whether there was value for money in the purchase of other slaughterhouse equipment.

**SUBMISSION BY FORMER COUNTY EXECUTIVE COMMITTEE MEMBER,  
AGRICULTURE, LIVESTOCK, FISHERIES AND COOPERATIVE  
DEVELOPMENT – Mr. PATRICK KOYI**

Mr. Patrick Koyi informed the committee that he came to office on 1st June 2013, when the department budget had already been prepared by the directors and only joined them at the final stages.

He further added that part of the budgetary allocation was for rehabilitation of slaughter houses.

The CEC member acknowledged to have seen the wheelbarrows when he toured the slaughter houses in March 2014.

On whether procurement structures had been put in place, Mr. Koyi told the committee that the county had not established procurement structures and everything was done under the office of the county secretary who acted as the accounting officer.

On the cost of the wheelbarrows, the CEC member informed the committee that he was only aware of the budgetary allocation of Kshs. 30M set aside for the rehabilitation of the 3 slaughter houses in Bungoma, Kimilili and Webuye.

The CEC member informed the committee that Mr. Juma Matsanza was the acting county secretary and the accounting officer in charge of procurement.

When asked whether he signed any document concerning the procurement of wheelbarrows, he denied having appended his signature anywhere on the procurement documents on the purchase of the wheelbarrows.

On the specifications of the wheelbarrows, Mr. Koyi responded that Dr. Wycliffe Wangwe who is the head of the user department gave the specifications.

On whether the ministry utilized Kshs 30million budgeted for the rehabilitation of slaughter houses, CECM said the financial year elapsed before the funds were fully used

**SUBMISSION BY FORMER CHIEF OFFICER MINISTRY OF AGRICULTURE,  
LIVESTOCK, FISHERIES AND COOPERATIVE DEVELOPMENT-MS.MONICA  
FEDHA.**

The chief officer informed the committee that she was not in office at the time of procurement of the wheelbarrows. The chief officer further stated that the wheelbarrows were functional and in use.

When asked on where such wheelbarrows are used within the country, the officer cited Kenya Meat Commission.

On procurement, the chief officer informed the committee that three bidders applied for the tender.

She added that the payment vouchers and the Local Purchase order were signed by Mr. Juma Matsanza, the Transitional authority coordinator who acted as the County Secretary.

### **SUBMISSION BY COUNTY SECRETARY- MR. MURUMBA CHIULI**

The County Secretary informed the committee that he was not in office at the time of procurement of the wheelbarrows since he assumed office in March, 2014.

He told the committee that officers from EACC visited the county the previous week on invitation by the Governor and they had started their investigations.

The county secretary further informed the committee that he had gone through the procurement records and was satisfied that due procurement process was followed but was not sure whether the County government got value for money.

On the issue of handing and taking over, Mr. Chiuli stated that he was handed over the office.

The county secretary informed the committee that he only heard of the wheelbarrow issue over the media and out of curiosity he called a friend in Kabete (Nairobi) who informed him that the price per stainless steel wheelbarrow varies from Kshs. 90,000 to Kshs. 125,000.

### **SUBMISSION BY COUNTY SUPPLY CHAIN MANAGEMENT- MR. JEREMIAH MUCHEMBI**

Mr. Jeremiah Muchembi informed the committee that he was not in office at the time of procurement of the wheelbarrows since he assumed office in June, 2014.

He further stated that he could not comment on the issue since it was under investigation by EACC.

He also stated that he was not officially handed over the office but retrieved the documents he submitted from the procurement records.

Mr. Muchembi told the committee that Mr. Ayub Tuvaka China was better placed to respond to the queries since he was by then the head of supply chain Management.

On specifications, Head of procurement said the wheelbarrows purchased were of gauge 316 as stated in the procurement documents.

**SUBMISSIONS BY FORMER HEAD OF SUPPLY CHAIN MANAGEMENT- MR. AYUB CHINA**

Mr. Ayub China informed the committee that a request for the purchase of wheelbarrows and other slaughterhouse equipment was received from the County Director of Veterinary Services.

He clarified that nine wheelbarrows were procured by the County Government and not ten as reported in the media.

He added that on receipt of the requisition from the Director of Veterinary Services, he invited quotations from the prequalified bidders.

When asked why advertisement was not done as stated in procurement regulations, Mr. China said there was urgency since the notice to close slaughter houses had been issued by the National Government thus need to save the slaughter houses from closure.

Mr. China further informed the committee that due procurement process was followed in the purchase of wheelbarrows and the tender awarded to the lowest bidder.

When asked on who composed the Tender Award Committee, Mr. China told the committee that it was done by Juma Matsanza who was the acting County Secretary at that time.

He added that specifications of the Wheelbarrows and other Slaughterhouse equipment were prepared by the office of Director of Veterinary Services.

On where the wheelbarrows were manufactured, he denied knowing where they were made.

When asked about prices of the stainless wheelbarrows and hooks, Mr. China said he relied on the advice of Dr. Wangwe that prices for stainless wheelbarrows ranged from Kshs 63,000 to 117,000.

When asked why they went ahead and awarded the tender despite the Tender Evaluation Committee recommending that fresh quotations be given out since the prices quoted were above prevailing prices, Mr. China said he wrote a letter to Dr. Wangwe to do market survey and bring the findings to the tender award committee.

He added that the Director of Veterinary Services advised the Tender committee that the prices ranged from Kshs 63,000 to 117,000, which the committee used to award to the lowest bidder among the three listed.

On inquiry why he did not take the advised of the Director of Veterinary Services to the Tender Evaluation Committee for reconsideration, Mr. China said the Tender Award Committee is a superior committee and they are not bound by the decision of the Tender Evaluation Committee if the decision is not objective.

Upon asking, why there is a difference between the unit price of hooks as indicated in the Evaluation Committee minutes (Kshs 902. 78) and what is payment Voucher/LPO (Kshs 32,500)

totalling to 1,170,000, Mr. China said the person who did minutes of the Evaluation committee mixed the issues, adding that what was in the quotation and the LPO are consistent.

## **SUBMISSION BY DIRECTOR OF VETERINARY SERVICES -DR. WYCLIFFE WANGWE**

He informed the committee that the decision to equip three slaughter houses; Bungoma Kimilili and Webuye was born out of the fact finding exercise he undertook when he took over as the County Director of Veterinary services in 2013.

Dr. Wangwe told the committee that from the fact finding it was clear that 3 slaughterhouses were in deplorable state and needed immediate upgrading.

The Director of Veterinary Services informed the committee that he later passed the report of the fact finding to the CEC member Mr. Patrick Koyi and the Governor for further action, who gave him a go ahead to come with a comprehensive report and need for improvement.

He added to have shared the findings with the National Director of Veterinary Services who is in charge of quality control in the Country to do a survey and give a second expert opinion on the same facilities, he said the Country Director sent a team of two officers from Kabete who visited the same facilities and gave a report which apparently agreed with his observation.

Dr. Wangwe told the committee that his boss also listed the type and the quality of the equipment to be procured.

He added that after getting the second opinion which agreed with his observation, he raised a requisition which went through the CECM Mr. Koyi, who approved and further forwarded to the procurement department.

The Veterinary Director told the committee that in January 2014, he received a letter from the head of procurement seeking guidance on the prices of wheelbarrows, which indicated that their market survey showed very high prices.

Dr. Wangwe informed the committee that having worked as a Chief Food Hygiene Officer at National level for 3 years and having visited a number of International Food Processing facilities, he gave prices which ranged from 63,000 – 117,000 per wheelbarrow, but he advised the Head of Procurement to ensure that he is guided by procurement procedures and regulations.

He told the committee that his office gave specifications for wheelbarrows and other slaughter house equipment that were purchased at the time.

Dr. Wangwe told the committee that he send his officer to represent him in the Tender Evaluation Committee with strict instructions on why the request had taken long, the slaughterhouses were faced with eminent closure, that items were specialized in nature and prices of Kshs 63,000- 117,000 quoted were fair according to his experience.

The Director of Veterinary Services told the committee that he was not part of the Tender Acceptance and Inspection Committee; but cut short his journey to Nairobi while in Nakuru to come and inspect the wheelbarrows and other equipment when they were delivered.

When asked why he did not delegate the duty of inspection of the goods delivered to his juniors, he responded that he wanted to use his wealth experience to ascertain if the wheelbarrows and other goods were the ones requested for or not.

On whether the wheelbarrows were working, he said the equipment was poorly done but he accepted them because the said slaughterhouses were at verge of closure by the Public health department. He cited poor workmanship on edges of the wheelbarrows.

When the committee wanted to know why the wheelbarrows and hooks purchased were too expensive, Dr. Wangwe said that the wheelbarrows and hooks are not the normal ones found in the hardware's but are special ones made of stainless steel used in the food industry.

He further stated that as a government they want to set standards and be an example in handling meat in the County.

He told the committee that prices of one hook according to his experience should be Kshs 69,000 thus the County got a fair deal of Kshs. 32,500 per hook.

When asked whether the wheelbarrows were imported or locally manufactured, Dr. Wangwe said the materials were imported but the wheelbarrows were fabricated in Nairobi.

Dr. Wangwe admitted that he is the one who gave the Governor a press statement that he read to the media when the wheelbarrow saga broke out.

He informed the Committee that same types of wheelbarrows are used at Kenya Meat Commission and Kabete.

#### **SUBMISSIONS BY TRANSITIONAL AUTHORITY COORDINATOR: MR. JOHN JUMA MATSANZA**

Mr. Matsanza informed the committee that in June 2013 he was appointed by the Governor to act as County Secretary in addition to his responsibilities as the Transitional Coordinator.

The Transitional Coordinator told the committee as the County Secretary, he supervised and ensured proper utilization of finances approved implementation of various activities and ensured that procurement was carried out in the right way.

On the Wheelbarrow saga, Mr. Matsanza said the requisition came from the Director of Veterinary Services on the need to purchase of slaughter house equipment, which he marked to head of Supply Chain management and the Chief Finance Officer to take action.

He added that when the Head of Supply Chain Management received the requisition, he circulated the quotations to the prequalified suppliers who had been identified through competitive process.

Mr .Matsanza said that the Evaluation Committee sat on 8th January, 2014 and recommended that some items were over-priced, which the head of Supply Chain Management Mr. Ayub China wrote to the user Director of Veterinary Services who confirmed to the Tender Committee that prices ranged between Kshs 63,000 - 117,000.

He added that the matter was not referred back to the Evaluation Committee because the Tender Committee used the information they got from the Director of Veterinary Services to award the tender.

Transitional Coordinator told the committee that Chemiaty enterprise was listed in the procurement of other slaughterhouse facilities but did not feature in the procurement of wheelbarrows.

Mr. Matsanza informed the Committee that he went through the minutes of all tender committees and was satisfied that the process was fair.

When asked why the Tender Evaluation Committee recommended that 36 hooks to be purchased at the total cost of Kshs 32,500 and they went ahead to pay 1,170,000 for the same hooks, Transitional Coordinator said that it was an anomaly and was seeing the issue for the first time adding that he trusted the officers who processed the LPOs and payment vouchers.

He further told the committee that Accountants examines the payments vouchers and satisfies them before they are taken to the A. I. E holder for final endorsement.

When asked on who will take the responsibility for the loss of County Government money through carelessness, Mr. Matsanza said the officers who examined the payment vouchers will carry the cross.

When asked whether procurement of Stainless steel wheelbarrows was fairly done, the Transitional Coordinator said the procurement process was properly done but pricing should be undertaken afresh by an independent entity to ascertain if the County government got value for its money.

#### **SUBMISSION BY THE CHAIR OF TENDER AWARD COMMITTEE- MR. HOWARD LUGADILU**

The chairman of the tender committee was interrogated by the PAC committee and gave the following submissions;

He told the committee that once they received the evaluation minutes, the committee noted that the evaluation committee didn't make any declaration on the prices to state comparisons and show how higher the prices were above the market prices.

The Tender committee chairman explained in summary on how the process of procurement had commenced with a signed requisition from user department by the CECM agriculture. He informed that through ministry of Agriculture and the National government had done an appraisal on the slaughter house in the County and through the letter, there was urgent need to procure slaughter house equipment which included the 9 wheelbarrows.

Mr. Howard elaborated that quotations were floated and four bidders applied. These included Jagla enterprises that quoted Ksh.109320 per wheelbarrow and Economic Crescent that quoted Kshs. 140,000, Chemiaty 122,000 and Biovet 136,700

On the question of why the committee decided to inquire on wheelbarrow prices from the user department, the chairman indicated to have done that since it was the user department that requested for the goods and would therefore be better placed to give the prices.

On the reason why there was a big disparity on the prices quoted by Dr. Wangwe (Kshs. 63,000-117,000), the tender committee chairman replied that the disparity depends on the specifications of the item being procured.

When the committee wanted to know why the tender committee didn't rely on the report of the evaluation team, the chairman noted that the tender committee is not bound by the decision of the evaluation committee if the decision is not objective. He added that the tender committee can engage services of any expert at any point of need.

When the committee wanted to find out if the Director of Veterinary services influenced the decision of the tender committee, the chairman of the tender committee stated categorically that Dr. Wangwe didn't influence the decision of the tender committee but only advised accordingly.

The chairman also agreed to the prices of the hooks noting that they are special kind of hooks.

#### **SUBMISSION BY SECRETARY OF EVALUATION COMMITTEE-MS JEDDIDAH KULUNDU**

The secretary of the evaluation committee was interrogated by the PAC committee and gave the following submissions;

She stated that price was the main criterion that was used to evaluate tenders, and the committee felt that the prices for wheelbarrows were above the prevailing market prices since they relied on the prices of common hardware wheelbarrows and didn't do a market survey.

She added that specifications are also used as a basis for evaluation of quotations but at the time of evaluation, the technical person was not present even though the wheelbarrows were specified to be of stainless steel.

Ms. Jeddidah told the committee that she heard of the word 'Non-carcinogenic' for the first time when it was highlighted by the media and didn't hear of it at the time of evaluation.

Upon inquiry into prices of the hooks, the secretary stood by the resolutions of the evaluation committee as minuted that the total cost of 36 hooks was Ksh.32,500 (equivalent to Kshs. 902.78 per hook) and unit price of the wheelbarrows was Kshs. 12,146.67 for the lowest bidders giving a total of Kshs 109,320.

The secretary to the Evaluation committee stated that the tender committee can approve, reject or send back an award to the evaluation committee. On this note, the tender committee didn't sent back any determination to the evaluation committee.

The secretary also stated that during the evaluation process, the Public Health officer attended the committee proceedings and also affirmed that the wheelbarrow prices were higher than the market prices.

### **SECRETARY TO THE INSPECTION AND ACCEPTANCE COMMITTEE-MS JANE SIMIYU**

The secretary of the inspection committee was interrogated by the PAC committee and gave the following submissions;

She stated that the committee consisted of four members; Dr. Wycliffe Wepukhulu and Mr. Isaiah Masinde both from the user department, Mrs. Ernest Murunga and Mrs. Jane Simiyu. She added that Dr. Wycliffe Wangwe was also present during the inspections and acceptance even though he was not captured anywhere in the acceptance report/minutes.

The secretary indicated that the users who were present during the inspection who among them Mr. Isaiah Masinde a technical person, accepted the wheelbarrows and confirmed to be as per the specifications (Made of stainless steel).

The secretary indicated to the committee that as a person, she had never seen stainless steel wheelbarrows but since the user confirmed of the specs of the wheelbarrows, no one could question.

On inquiry on the specifications that are relied on before acceptance, the officer replied that they do cross check delivery note against the Local purchase order and the Invoice.

The secretary further stated to have received 36 hooks of the same size and 9 wheelbarrows.

On the term 'Non-carcinogenic', the officer also confessed to have heard the word for the first time on the media.

### **FACT FINDING TO THREE MAIN SLAUGHTHOUSES IN THE COUNTY**

#### **1. BUNGOMA SLAUGHTER HOUSE**

The committee visited Bungoma Slaughter house on 19th September, 2015 and found out the following:

- 3 wheelbarrows with patches of rust.
- The wheelbarrows appeared to be wearing out especially along the edges
- Poor workmanship on wheelbarrows
- 1 two-step platform with handle rails
- 2 cattle cradles
- 3 inspection racks

- The officer in charge confirmed receipt of 12 small hooks for small animals and 12 large hooks for larger animals.

### **WEBUYE SLAUGHTER HOUSE**

The committee visited Webuye Slaughterhouse on 21st September, 2015 and found out the following:

- 3 wheelbarrows with patches of rust.
- Poor workmanship on wheelbarrows
- 1 two-step platform with handle rails
- 2 cattle cradles
- 3 inspection racks
- The officer in charge confirmed receipt of 10 hooks for larger animals.

### **KIMILILI SLAUGHTER HOUSE-22/09/2015**

The committee visited Kimilili Slaughterhouse on 22st September, 2015 and found out the following:

- 3 wheelbarrows with patches of rust.
- Poor workmanship on wheelbarrows
- 1 two-step platform with handle rails
- 1 cattle cradle
- 1 inspection racks

The officer in charge confirmed receipt of 10 hooks for larger animals.

### **FACT FINDING TO KENYA MEAT COMMISSION**

After various officers cited that similar wheelbarrows and other equipment were being used at Kenya Meat Commission, the committee visited the factory at Athi River on 25th September, 2015 and made the following observations;

- The committee visited Kenya meat commission and observed that food carriers/wagons are used instead of wheelbarrows. The wagons are made of stainless steel.
- The available wheelbarrows are used for waste disposal and are not made of stainless steel

- The production manager and KMC engineer recommends stainless steel material to be the best for food handling
- The food carriers had not been procured recently since they were acquired by the Europeans during colonial years. The food carriers appeared to be in good condition with no rust despite having existed for more than 50 years.
- The hooks at KMC were made of stainless steel.
- Stainless Food carriers were thicker and had no rust compared to those at Bungoma slaughterhouses.

### **FACT FINDING TO KENYA BUREAU OF STANDARDS**

The committee visited the company on 24th September 2015 and was advised to carry out the following tests;

- Chemical tests to determine the quality and the type of materials used to make the wheel barrows
- Mechanical tests whose aim was to test the gauge of the stainless steel used on the wheelbarrow
- The above tests could be carried out if one wheelbarrow was to be destroyed and the remains used for the tests (destructive test).
- The committee decided that there was no value in destroying one wheelbarrow for the test.

### **COMMITTEE OBSERVATIONS AND FINDINGS**

1. Mr. Patrick Koyi lied to the PAC Committee that he was not involved in the procurement process of the wheelbarrows but documents presented to the committee show otherwise. i.e. signed a requisition ref: stock/7/10/2 forwarded by Dr. Wycliffe Wangwe.
2. The Committee found out that Dr. Wangwe influenced the decision of the Tender Committee as he proposed the prices to it.
3. Evaluation Committee minutes indicates that total prices for supply of the slaughter house items were used as unit prices for purchase requisitions. This is in reference to wheelbarrows, hooks, cattle cradles, inspection racks, 2-step platform with handle rails i.e. stainless steel hooks Kshs 902.78 but was varied upwards to Kshs 32,500 per hook in the LPO.
4. The Tender Award Committee took upon itself evaluated the prices it received from Dr. Wangwe and awarded the tender for the purchase of wheelbarrows and inspection racks.

5. The Tender committee ignored the advice from the Evaluation Committee to refloat fresh quotations.
6. Dr. Wangwe cut-short his journey to Nairobi to attend the inspection and acceptance of the wheelbarrows and hooks even though he was not a member in the Inspection and Acceptance Committee and was also not captured in the Committee minutes.
7. The Wheelbarrows purchased were of poor quality as Mr. Wangwe admitted during his submission that wheelbarrows delivered were of poor workmanship but according to him the prices were fair.
8. The original quotations were not made available to the Committee as it was stated that the said documents had been taken by EACC.
9. The Accounting Officer, Mr. Juma Matsanza signed the payments vouchers and the LPO despite the amount being higher than what the Evaluation Committee recommended.
10. **The Head of Supply Chain Management did not follow the laid down regulations by asking the user, who is the director of Veterinary Services to carry out a market survey and advise the tender committee.**
11. Reference is made to the Public procurement regulations No. 11 (1) (a) (b), 2(a) (b) (c) and (3) where the tender committee in its deliberations did not adhere to these regulations.
12. The committee established that the stainless steel wheelbarrow is not used at Kenya Meat Commission as alleged Former Chief Officer Agriculture Ms. Monica Fedha and Dr. Wycliffe Wangwe. KMC uses food carriers/wagons that are made of a denser stainless steel material.
13. The Wheelbarrows in Bungoma have rust patches questioning whether they are made of stainless steel.
14. It did not escape the Committee's attention that it was not only the wheelbarrows that were overpriced, but also other slaughter house equipment that were procured together with the wheelbarrows as summarized below;
  - i. Supply of 9 wheelbarrows by JAGLA ENTERPRISE at Kshs. 983,880(each at 109,320) Instead of at a total cost of Kshs. 109,320(each at 12,146.67) as per the evaluation committee report and subsequent award by tender committee. The County government may have lost Kshs. 874,560 basing with advice from Dr. Wycliffe Wangwe through Mr. Isaiah Masinde..
  - ii. Supply of 36 stainless steel hooks by JAGLA ENTERPRISE at Kshs. 1,170,000 instead of at a total cost of Kshs. 32,500 as per the evaluation

committee recommendations and subsequent award by tender committee. The County government may have lost Kshs. 1,139,250

- iii. Supply of 5 Cattle cradles by CHEMIATY ENTERPRISE at Kshs. 1,850,000 instead of at a total cost of Kshs. 370,000 as per the evaluation committee recommendations and subsequent award by tender committee. The county government may have lost Kshs. 1,480,000.
  - iv. Supply of 3, 2-step platform with handle rails by CHEMIATY ENTERPRISE at Kshs. 546,000 instead of at a total cost of Kshs. 182,000 as per the evaluation committee recommendations and subsequent award by tender committee. The county government may have lost Kshs. 364,000.
  - v. Supply of 5 stainless steel inspection rack by CHEMIATY ENTERPRISE at Kshs. 1,600,000 instead of at a total cost of Kshs. 320,000 which the evaluation committee had reservations due to the quotations being above the Market prices, but the tender committee went ahead and awarded to Chemiaty without doing a survey about the market prices. The county government may have lost more than Kshs. 1,280,000
15. The committee didn't receive any submissions from JAGLA Enterprise although they had been invited for the interrogations.
16. This committee also draws attention to the Public Procurement and disposal act regulations 2006, No. 10 (2) (e) *where the tender committee should ensure that the procuring entity does not pay in excess of prevailing market prices*; The tender committee did otherwise.
17. The Committee noted a myriad of irregularities for the procurement of slaughter house equipment and the following officers were found culpable as pursuant to Constitution of Kenya 2010, Article 201 (d) and as per PFM Act 197 (1)(i), PFM Act 156(4) (b) and (c):
- i. Mr. Ayub China -Head of Supply Chain management (former)
  - ii. Mr. Juma Matsanza -Transitional Coordinator
  - iii. Dr. Wycliffe Wangwe -The Director of Veterinary Services

- iv. The Suppliers
  - a. JAGLA Enterprises
  - b. Chemiaty Enterprise

### **COMMITTTEE RECOMMENDATIONS**

1. The County Executive Committee Member Mr. Patrick Koyi should be cautioned and reprimanded for giving misleading information to the committee while on oath as per PFM Act 197 (1)(n)
2. In view of the foregoing, the Committee, accordingly, recommends appropriate disciplinary action against the relevant officer(s) and other Public officers responsible as follows;
  - a. Mr. Patrick Koyi, should be cautioned and reprimanded for lying to the committee.
  - b. Dr. Wycliffe Wangwe should step aside to pave way for further investigation by EACC.
  - c. Members of Tender Committee should be suspended
3. Specifically the Appointing authority must take immediate stern internal disciplinary action against all those culpable, including surcharges and withdrawal of their appointments. And most importantly, officers involved must face the full force of the law for violating the letter and spirit of the Constitution, Statute and Regulations. And in accordance with Article 226(5) of the Constitution, they must bear direct personal liability for any public funds lost, wasted or misapplied by reason of their direction or under their watch.
4. The tender committee should adhere to the public procurement and disposal act and the regulations as it pertains their duties and responsibilities.
5. The committee recommends that The Ethics and Anti-Corruption Commission be invited to do a forensic audit in this matter.

### **Acknowledgement**

Mr. Speaker Sir, allow me to commend each single Honourable Member of this key Committee for their commitment and exemplary work which made the investigation into the purchase of

wheelbarrows and hooks and production of this report a major success. I applaud you all, Distinguished Colleagues.

**Mr. Speaker Sir,** The Committee wishes to register its appreciation to all officers from the Executive and Legislative arms of the County government who provided the Committee with the necessary evidence.

Further, the Committee is grateful to the Offices of the Speaker and the Clerk to the County Assembly for the support received as the Committee discharged its mandate.

**Mr. Speaker Sir,** The Committee is greatly indebted to the Secretariat for their overwhelming participation in the entire process. It is as a result of their commitment and dedication to duty that the work of the Committee and production of this Report came to fruition.

**Mr. Speaker Sir,** It is therefore my pleasant duty and privilege, on behalf of the Public Accounts and Investment Committee, to table the Report on Investigation into the purchase of wheelbarrows and hooks by the County Government of Bungoma.

**Sign**

**Date**

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**HON. JOSEPH MAGUDAH, MCA**  
**CHAIRMAN, PUBLIC INVESTMENTS AND ACCOUNTS**  
**Date: OCTOBER, 2015.**

Members of the Public Investments and Accounts Committee hereby append their signatures adopting this report.

No	Name	Designation	Sign
1	Hon. Joseph Magudah	Chairman	
2	Hon. Bethwel	Vice/ Chair	

	Mwambu		
<b>3</b>	Hon. Elly Tindi Manasseh	Member	
<b>4</b>	Hon. Protus Waswa	Member	
<b>5</b>	Hon. David Fwaro	Member	
<b>6</b>	Hon. Gerishom Namasake	Member	
<b>7</b>	Hon. Margaret Barasa	Member	
<b>8</b>	Hon. Gentry Maindi	Member	
<b>9</b>	Hon. Euventine Kisaka	Member	

## **ANNEXTURES**

1. Committee minutes
2. Letter of Requisition from the Director of Veterinary Services.
3. Payment Voucher signed by the County Secretary
4. Evaluation Committee Minutes.
5. Letter from the Veterinary Department to Tender Evaluation
6. Local Purchase Order Jagla enterprise
7. Tender Award Committee minutes
8. Letter from head of Supply Chain to Director of Veterinary Services
9. Requisition letter from Dr. Wangwe
10. Acceptance and Inspection Committee report