



COUNTY ASSEMBLY OF BOMET
THIRD ASSEMBLY: SECOND SESSION

REPORT OF THE COMMITTEE ON GENDER, CULTURE, AND SOCIAL
SERVICES ON THE INQUIRY INTO THE CONSTRUCTION OF A RESCUE
CENTRE/HOLDING ROOM AT THE PRECINCT OF BOMET POLICE
STATION

NOVEMBER, 2023

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28/11/2023.*

*Hon Speaker
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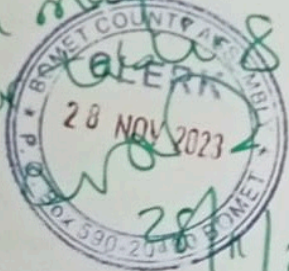


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Definition of Terms

BQs	Bills of Quantities
CECM-	County Executive Committee Member in charge of Gender, Culture and Social Services
Chief Officer-	The Chief Officer in charge of Gender, Culture and Social Services
NEMA-	National Environmental Management Authority
EIA-	Environmental Impact Assessment

Annexures

No	Annex
1.	Correspondence between the Committee and the CECM in charge of Gender Culture and Social Services

2.	Response to the issues raised by the Committee pertaining to the construction of the rescue centre
3.	Letter from the County Secretary on Ms. Rose Chepkirui
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6.	Appointment letter of Ms. Rose Chepkirui
7.	Correspondence from the CECM dated 20 th July 2023 on the construction of the rescue centre
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9.	Proposal to construct gender desk and holding are at Bomet Police Station dated 15 th November 2022
10.	Memo from the CECM to the Chief Officer requesting for information on the construction of the rescue centre
11.	Award letter on the construction of the rescue centre
12.	Bulk correspondences from the Chief Officer to the Committee on issues pertaining to the construction of rescue centre/holding room

Preface

Establishment and Mandate of the Committee

The Committee on Gender, Culture and Social Services is established pursuant to Standing Order 201(5) which defines its functions as being:

- a. Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;**
- b. Study the program and policy objectives of departments and the effectiveness of the implementation;
- c. Study and review all county legislation referred to it;

- d. Study, assess, and analyse the relative success of the departments as measured by the results obtained as compared with their stated objectives;
- e. Investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly;
- f. To vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 197(on Appointments);
- g. Make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation;
- h. Examine any questions raised by Members on a matter within its mandate; and
- i. Scrutinize the resolutions of the County Assembly (including adopted Committee reports) and the undertakings given by the County Executive Committee.

Committee Membership

The Committee on Gender, Culture and Social Services as currently constituted comprises the following members: -

Table 1 Committee Members

No	NAME	POSITION
1.	Hon. Japhet Cheruiyot	Chairperson
2.	Hon. Monica Manyey	Vice Chairperson
3.	Hon. Felody Chepkirui	Member

4.	Hon. Lily Cherotich	Member
5.	Hon. Carolyn Chelangat	Member
6.	Hon. Eric Kirui	Member
7.	Hon. Caren Cherono	Member

Committee Secretariat

The secretariat of the committee comprises of the following;

1. Jesca Chepngeno- Committee Clerk
 2. Haron Ng'eno- Deputy General Counsel (DGC)
 3. Timothy Korir- Research Officer (RO)
-

Chair's Forward

I am pleased to present this comprehensive report on the construction of the Rescue Centre/Holding Room at the precincts of Bomet Police Station. The Committee on Gender, Culture, and Social Services has conducted a diligent inquiry into this matter, with a commitment to ensuring transparency, accountability, and adherence to established protocols, particularly in the execution of departmental projects. While the construction of such facilities is crucial for promoting the safety and welfare of our community members, it is imperative that every step of the process is thoroughly examined to guarantee the responsible allocation and utilization of resources.

In the course of our inquiry, numerous pertinent issues have come to light regarding the initiation of projects within the Department of Gender, Culture, and Social Services, necessitating a comprehensive review and, in some instances, corrective actions. Serious contradictions in information and statements submitted to the committee, along with discrepancies in correspondence and uncertainties surrounding meetings and consultations, have been identified. Addressing these discrepancies promptly is essential to maintaining the integrity of county projects and upholding the trust of the citizens we serve.

The Committee acknowledges the cooperation of the County Executive Committee Member (CECM), the Chief Officer, and all stakeholders involved. The identified shortcomings must be rectified to forge a path forward that aligns with the principles of good governance, transparency, and accountability.

The recommendations outlined in this report underscore the Committee's commitment to fostering transparency and accountability in the management of affairs within the Department of Gender, Culture, and Social Services. It is our hope that these recommendations will be embraced and implemented to enhance the efficiency and effectiveness of the ongoing project. We extend our gratitude to all those who contributed to this inquiry and express our commitment to ensuring that the interests of the public are safeguarded.

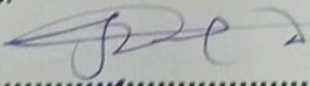
Hon. Japhet Cheruiyot, MCA Embomos Ward
The Chairperson Committee on Gender, Culture, and Social Services

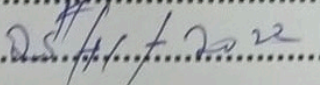
Acknowledgment

The Committee on Gender, Culture, and Social Services extends heartfelt appreciation to all individuals who played pivotal roles in the inquiry on the construction of the Rescue Centre/Holding Room at the precincts of Bomet Police Station. Your dedicated efforts have contributed significantly to the pursuit of transparency, accountability, and the public interest. We extend our gratitude to:

1. **County Executive Committee Member (CECM):** For providing valuable insights during the inquiry and responding to the committee's queries.
2. **Chief Officer, Gender, Culture, and Social Services:** For cooperating with the committee, supplying necessary documents, and participating in the proceedings.
3. **Stakeholders and Witnesses:** Whose testimonies and submissions have enriched the committee's understanding of the project and its intricacies.
4. **Members of the Committee:** For their commitment, diligence, and tireless efforts in ensuring a thorough and unbiased inquiry.
5. **Support Staff:** Whose behind-the-scenes work facilitated the smooth running of the inquiry process.

This inquiry would not have been possible without the collective contributions of each individual involved. As we move forward, it is our shared responsibility to address the identified issues and work towards the betterment of our County. Thank you for your unwavering commitment to upholding the principles of good governance and public service.


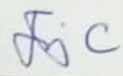
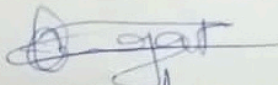
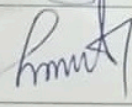

Signed.....

Date:

Hon. Japhet Cheruiyot, MCA Embomos Ward
The Chairperson Committee on Gender, Culture, and Social Services

Ownership of the Report

We, the members of the Committee on Gender, Culture and Social Services, do append our signatures against our names in this report to affirm the correctness of the contents and support for the report.

No	NAME	POSITION	SIGN
1.	Hon. Japhet Cheruiyot	Chairperson	
2.	Hon. Monica Manyey	Vice Chairperson	
3.	Hon. Felody Chepkirui	Member	
4.	Hon. Lily Cherotich	Member	
5.	Hon. Carolyn Chelangat	Member	
6.	Hon. Eric Kirui	Member	
7.	Hon. Caren Cherono	Member	

Dated this Saturday 25th day of November 2023

Background

Mr. Speaker Sir,

The inquiry on the construction of the Rescue Centre/Holding Room at the precincts of Bomet Police Station was initiated by the Committee on Gender, Culture, and Social Services through its own motion on **4th July 2023**. The purpose of the inquiry was to investigate various aspects related to the project, ensuring transparency, adherence to regulations, and accountability in public service delivery.

Initiation of the Inquiry

The committee commenced the inquiry in response to concerns raised regarding the construction of the Rescue Centre. These concerns encompassed potential irregularities in the project, procurement issues, and conflicting information surrounding its execution.

Key Objectives of the Inquiry

Examine Documentation

The committee sought to review relevant documents, including project plans, financial records, and procurement documentation, to ascertain the accuracy and legality of the construction process.

Interview Stakeholders

Stakeholders involved in the project, such as the County Executive Committee Member (CECM) responsible for Gender, Culture, and Social Services, the Chief Officer overseeing the department, and other relevant officials, were invited to provide their perspectives and insights.

Site Visit

To gain a first-hand understanding of the project, the committee conducted a site visit to inspect the construction site, assess progress, and identify any discrepancies between the actual implementation and the documented plans.

Examine Compliance

The inquiry aimed to assess whether the construction adhered to legal and regulatory frameworks, including procurement laws, environmental impact assessments, and other pertinent regulations.

Address Stakeholder Concerns

The committee aimed to address concerns raised by stakeholders and the public regarding the transparency, cost-effectiveness, and overall propriety of the Rescue Centre's construction.

Progress and Challenges

The inquiry encountered challenges such as conflicting information, allegations of irregularities, and issues related to documentation. The committee worked diligently to navigate these challenges, ensuring a fair and thorough investigation.

Public Interest

Recognizing the public interest in the proper use of public funds and the need for accountable governance, the committee conducted the inquiry with the aim of promoting transparency and maintaining public trust.

Anticipated Outcomes

The Committee, upon concluding the inquiry, aims to present a comprehensive report detailing its findings, recommendations, and proposed actions. This report will serve as a basis for further action, policy adjustments, or corrective measures deemed necessary.

Overall, the inquiry reflects the committee's commitment to upholding standards of good governance, fostering accountability, and safeguarding the interests of the community it serves.

Methodology

The committee conducted hearings, received submissions, and engaged key stakeholders, including the County Executive Committee Member (CECM), Chief Officer, and relevant departmental personnel.

Engagement with the CECM and the Chief Officer

The following submissions are from the County Executive Committee Member (CECM) and the Chief Officer in charge of Gender, Culture, and Social Services concerning the construction of the rescue center at the precincts of Bomet Police Station.

The CECM appeared before the committee on Tuesday, November 21, 2023, to clarify various salient issues noted by the committee regarding the construction of the rescue center. The following is an in-depth summary of the submission:

- 1. Contradicting information submitted by the CECM in letters dated July 20, 2023, Ref: BMT/GCS/CAC/002/(6), and July 12, 2023, Ref: BMT/GCS/CAC/002/(5)**

Response by the CECM

The CECM indicated that she was not provided with the file concerning the construction of the rescue center despite several requests. She affirmed that the Chief Officer was uncooperative when she sought information regarding the construction. However, she mentioned that, during her attempt to locate the file, she was informed that it was with Ms. Rose Chepkorir.

Regarding the contradicting information, the CECM clarified her position in the letter dated July 20, 2023, REF: BMT/GCS/CAC/002/(6) addressed to the Clerk of the Assembly. She stated as follows:

- a. There is no correspondence between the County Government and the National Police Service demonstrating an intention to sign a

Memorandum of Understanding (MOU) except for a letter of request from the Police Service to construct the holding room.

- b. The office of the County Attorney was not involved in the preparation of an MOU.
- c. Minutes handed over to the CECM for a meeting that allegedly took place between the Department of Gender, Culture, and Social Services were fake, as some officers mentioned to have attended the meeting confidentially informed the CECM that the said meeting never occurred.
- d. She has not been supplied with the file containing the blueprints and bills of quantities for the building.
- e. The procurement process for all items was irregular and violated the provisions of the Public Procurement and Disposal Act by appointing a Tender Evaluation Committee without consulting the CECM. She also noted that the tender evaluation committee had the same members for all procured items.
- f. She wrote to the finance department to halt payments for the construction of the center until the issues were resolved.

Response by the Chief Officer

The Chief Officer denied withholding any information from the CECM. She indicated that she made the file available to the CECM's office in both hard and soft copies. She expressed her lack of understanding regarding the circumstances surrounding the allegations that she failed to supply information. On the issues related to the appointment of tender committees, the Chief Officer stated that it falls under the director in charge of procurement. She mentioned three meetings discussing the construction of the rescue center, involving the Chief Officer, Deputy OCPD Musa Imam,

Director Andrew Kimetho, and Director Rose Chepkorir. The Chief Officer disputed the contents of the CECM's letter dated July 20, 2023, Ref: BMT/GCS/CAC/002/(6) addressed to the Clerk of the Assembly regarding the construction of the rescue center/holding room.

2. Meeting between the Department and the National Police Service

Response by the CECM

The CECM stated that she is not aware of any meeting between the Department of Gender, Culture, and Social Services and the National Police Service to deliberate and agree on the construction of a rescue center/holding room. She affirmed that she has never been invited to any meeting on the development of the rescue center. Furthermore, the CECM indicated that the minutes she supplied to the Committee via a letter dated July 20, 2023, purporting to be minutes of approval for the construction of the rescue center, were invalid. Some persons listed as attendees in the said meeting confirmed that the subject was not to approve the construction. She expressed readiness to submit the names of persons who denied the existence of that meeting in confidence. Finally, the CECM pointed out that they had a discussion with the Chief Officer on the construction of the center immediately after the commencement of construction.

Response by the Chief Officer

The Chief Officer mentioned having an informal discussion with the CECM on the construction of the rescue center, and the minutes supplied to the Committee were evidence of consultation between the two levels of government on the decision to construct the center.

3. Rose Chepkorir

Response by the CECM

The CECM informed the Committee that Rose Chepkorir was an employee who served in the department, and her contract lapsed on December 31, 2022. However, she continued serving in the department without a valid contract, engaging in critical tasks, including being the custodian of crucial documents and information and chairing tender committees without any expertise, contrary to Procurement Laws. The CECM indicated that Rose Chepkorir exited when newly recruited employees reported to the office.

Response by the Chief Officer

The Chief Officer informed the Committee that in appointing Ms. Rose Chepkorir as the Chair of the tender committees, she was guided by a letter dated May 16, 2018, Ref: BC 88/9/1, appointing Rose Chepkorir as the director in charge of social services for one year commencing June 1, 2018, or until the position is substantively filled by the County Public Service Board. The Chief Officer refuted claims that she appointed a stranger to chair a tender evaluation committee and also indicated that she was guided by procurement law, which authorizes the appointment of experts to sit on tender committees, including Rose Chepkorir, who has institutional memory of the department. Finally, she informed the committee that on numerous occasions, she verbally consulted the County Secretary on the involvement of 'strangers' or experts to sit on tender committees or to give expert opinions.

4. Correspondence between the National Police Service and the Department of Gender, Culture, and Social Services

The CECM informed the Committee that there was no vast engagement between her office and that of the National Police Service, except for a request for the construction of a juvenile facility from the police service, which she declined.

5. Involvement of the County Attorney

Response by the CECM

The CECM affirmed to the Committee that the department did not seek the involvement of the office of the County Attorney during the discussion to construct the rescue center at the precincts of Bomet Police Station. The CECM further indicated that the minutes on the rescue center supplied to the committee do not indicate the presence of the County Attorney, further justifying that the office of the County Attorney was not involved.

Response from the Chief Officer

The Chief Officer informed the Committee that she involved the office of the County Attorney, and the County Attorney advised her that there was no need for an MOU since the project was between two government entities. The Chief Officer further indicated that the County Attorney advised her to develop a management framework for the project instead of an MOU.

6. Environmental Impact Assessment (EIA) from NEMA

Response by the CECM

The CECM informed the Committee that an Environmental Impact Assessment (EIA) from NEMA is a critical exercise that should be undertaken before the commencement of construction, particularly in a place as sensitive as a police station. She confirmed to the committee that the said exercise

was not sought before the construction of the rescue center, and the cost of the assessment is contained as part of the Bills of Quantities (BQs).

Response by the Chief Officer

The Chief Officer indicated that there was no budgetary allocation to carry out an Environmental Impact Assessment (EIA). She further indicated that it was not within her purview to determine whether an Environmental Impact Assessment (EIA) on the project should be undertaken. Finally, she submitted that the department only undertook the mandatory social impact assessment of the project.

7. Consultation on procurement issues

The CECM informed the Committee that, in the financial year ending June 30, 2023, her office was not consulted on matters pertaining to procurement, leading to the recurrence of several issues and flaws. The CECM, however, indicated that in the current financial year ending June 30, 2024, due consultation is taking place.

8. Appointment of the same members to procurement committees

Response by the Chief Officer

The Chief Officer informed the Committee that the department was short of staff, which led to the appointment of the same officers to sit on tender committees. She also indicated to the Committee that she verbally consulted the director in charge of procurement, and she was advised to appoint different chairs for various tender committees.

9. Cost of the project

Response by the Chief Officer:

The Chief Officer informed the Committee that the planned cost of the project as contained in the budget was KES 3 million; however, the actual cost of the project as contained in the Bills of Quantities (BQs) is KES 2.977 million.

10. Taking responsibility for actions

The CECM informed the Committee that she will take responsibility for all the actions she undertook on matters concerning the construction of the rescue center/holding room.

11. Disharmony in the department

Response by the CECM

The CECM indicated that she has always fostered harmony in the department. She insisted that she always uses the correct channel of communication within the department and thus is clear in her mind that she has undertaken the correct channels of fostering unity in the department. Finally, she pointed out that she can never be associated with some flaws that took place in the department.

Response by the Chief Officer

The Chief Officer indicated that there were some issues within the department in the past, but she insisted that as a storming age and currently there at the norming stage. She also indicated that the flaws and personal vendetta have lessened since Ms. Rose Chekorir, a former director, exited the department.

12. Status of the project

Response by the CECM

The CECM informed the committee that the structural works have been completed, with minor works pending.

Response by the Chief Officer

The Chief Officer informed the committee that the contractor developed cold feet when financing of the project was halted by the CECM but affirmed that the contractor is still on site. She also stated that they have engaged some donors who are ready to partner with the department to equip and complete the center.

General observations

Mr. Speaker Sir,

The following are some of the committee's observations

The Committee uncovered significant inconsistencies in the information provided. This analysis encompasses various aspects, including the conceptualization of the project, its relocation, stakeholder engagement, budgetary considerations, and overall project management.

1. Conceptualization Discrepancies

a. Identification of Inconsistencies

The Committee identified substantial disparities concerning the project at Bomet Police Station. The constructed facility appears more suited for a holding room or a gender/children's desk than a designated rescue center, prompting concerns about its functionality and appropriateness.

b. Committee's Perspective on Rescue Centers

The Committee emphasizes its perspective on rescue centers, highlighting their intended purpose as secure spaces offering immediate assistance, support, and temporary housing for individuals or groups facing crisis situations or emergencies.

c. Concerns about Designation at the Police Station

The Committee has serious concerns about designating a Rescue Center within the Bomet County Police Station. It highlights potential intimidation and fear that victims may experience when seeking assistance in a law enforcement setting, hindering their access to necessary support.

d. Overlooked Considerations

The Committee notes certain considerations that seemed to have been overlooked in placing a rescue centre within a police facility, including issues

of stigma, privacy concerns, and the perception of bias. Victims dealing with sensitive matters like domestic violence or human trafficking may hesitate to seek support within a location closely tied to law enforcement, raising concerns about breaches of privacy and potential social stigma.

e. Accessibility Issues and Cultural Sensitivity

Recognizing that the location of a police station may not be easily accessible or convenient for all members of the community, the Committee underscores the importance of cultural sensitivity, noting potential discomfort or distrust within the community when seeking services in a setting associated with the police.

f. Concerns at categorising the project as a Rescue Center

The Committee expresses concern about the insistence on categorizing the facility as a rescue center, deeming it a misplaced characterization. It suggests that, at best, the facility should be designated as a holding room or a gender desk. The lack of conceptual understanding of a rescue center is identified as a point of conflict between the CECM and the Chief Officer.

2. Project Location Relocation

a. Scrutiny of Development Plans

Upon scrutinizing the Annual Development Plan and the County Integrated Development Plan, the Committee notes the initially proposed location for the Rescue Centre was in Kipreres Ward. The Chief Officer's explanations about the abrupt relocation to Bomet Police Station lack clarity.

b. Alignment with County Planning

The Committee underscores the importance of aligning county projects with sectoral plans, translating into the five-year County Integrated Development

Plan. The arbitrary shift of the project's location to the police station is questioned for lacking substantive rationale.

c. Lack of Formal Agreement

Even if there were compelling reasons for relocating the project to a national government facility, the Committee emphasizes that a formal agreement between the county department and the National Police Service should have preceded such a decision.

d. Legal Counsel and Consultation

The Committee highlights the absence of evidence suggesting consultation with the County Attorney's office for legal counsel and clarification. It stresses the importance of adhering to the stipulations under the Intergovernmental Relations Act.

e. Lack of Correspondence

Despite rigorous examination, the Committee is unable to uncover any correspondence between the national government, the Police Service's top decision-makers, and the county government regarding the project relocation.

f. Lack of Endorsed Agreements

The Committee questions the lack of documented proof of meetings and the absence of a letter of no objection from the Police Service. It emphasizes the need for firm and verifiable written agreements with the endorsement of the County Executive Committee.

3. Role of Ms. Rose Chepkorir

a. Discrepancies in Tenure and Responsibilities

Discrepancies are highlighted regarding the role of Ms. Rose Chepkorir, including differing accounts of her tenure, responsibilities, and involvement in tender committees.

b. Lack of Legal Contract

The Committee notes that Ms. Rose Chepkorir was not legally contracted by the County Government of Bomet at the initiation of the project. The Chief Officer's defense of her association under the guise of institutional memory raises concerns about engaging someone without a firm letter of appointment in procurement and financial matters.

4. Environmental Impact Assessment (EIA) Process

Inconsistencies are noted in the EIA process, with conflicting accounts on whether the assessment was undertaken before construction commenced.

5. Adherence to Public Appointment and Disposal Regulations

The Committee stresses the importance of adhering to the Public Procurement laws particularly the Public Procurement and Disposal Regulations of 2020, requiring consultation on procurement matters between an accounting officer and the County Executive Member during the tendering process.

6. Staff Shortages and Tender Committees

a. Chief Officer's Explanation

The Committee has reviewed the Chief Officer's explanation of staff shortages as the reason for appointing the same individuals to sit on multiple tender committees.

b. Credibility Concerns

The Committee expresses worry about the lack of credibility in the Chief Officer's explanation and differing views on this approach.

7. Budgeted and Actual Costs Discrepancies

The Committee has uncovered disparities between the initially budgeted costs and the actual expenditures on the project, revealing a troubling trend. These financial inconsistencies provide a valid basis for questioning the overall rationale and motivations behind the execution of the project at the Bomet Police Station.

8. Responsibility and Discord within the Department

a. CECM's Willingness to Take Responsibility

The Committee acknowledges the CECM's stated readiness to take accountability for her actions in connection to the construction of the project.

b. Ultimate Responsibility of the Chief Officer

However, the Committee underscores that a willingness to take responsibility does not absolve actions that contravene the law. Ultimately, the responsibility for the utilization of public funds will also lie with the Chief Officer, who holds the role of the Accounting Officer.

c. Discord within the Department

The Committee observes discord within the department, reflected in the demeanor and presentations of both the CECM and the Chief Officer, indicating a strained relationship between the two most senior officers of the Department of Gender, Social and Cultural Services.

9. Status of the Project

Conflicting reports have been presented regarding the project's status, revealing variations in the completion of structural works and the current engagement of the contractor. The Committee attributes these

inconsistencies to deficiencies in contract management and underscores the paramount importance of robust management practices for maintaining transparency and ensuring accurate reporting.

Salient issues for determination

Mr. Speaker Sir,

The committee having undertaken a very arduous exercise made the following findings;

Mr. Speaker Sir,

I wish to state to this Assembly and highlight the Committee's deep concern regarding the current state of the construction of the "Rescue Center." It has become glaringly apparent to the committee that the project was hastily conceived and implemented without any form of public engagement. Although a rescue center had been conceptualized and planned for in the County Integrated Development Plan (CIDP), the project at the Bomet Town Police lacks the attributes envisioned for a safe haven for victims of sexual and gender-based violence, children in need of care and protection, and a place where counseling services could be sought, with a welcoming and homely atmosphere.

Given these observations, the Committee has identified three critical issues for determination, questioning the legality and appropriateness of the project at the Bomet Police Station:

1. **Exaggeration of Project Costs:** The Committee aims to ascertain whether the cost of the project was grossly exaggerated, raising concerns about the allocation and utilization of public funds.
2. **Non-Compliance with Procurement Laws:** The Committee seeks to determine whether there was non-compliance with existing procurement laws by the accounting officer, specifically the Chief Officer in charge. This includes an examination of procurement processes and adherence to established legal frameworks.

- 3. Consultation Between National and County Government:** The Committee is investigating whether there was adequate consultation between the national and county government, as the lack thereof may expose the county government to potential liabilities. This aspect involves scrutinizing the interactions and agreements between the two levels of government concerning the project.

In conducting investigations, the committee was guided by the provisions of Articles 6, 10, 35, 46 and 232 of the Constitution, the public procurement and Disposal Act and the Public Finance Management Act.

Whether the cost of the project was grossly exaggerated.

Hon Speaker,

During submissions, the Chief Officer indicated that the cost of the project was Kshs. **2,953,050** and she was not aware of any variation. However, it emerged during the proceedings that the department actually submitted two different Bills of Quantity dated the same date. The committee further established the following;

1. Both Bills of Quantities were prepared and submitted by the same engineer, Architect, and Quantity Surveyors. However, one of the BQs is unsigned.
2. Both BQs are dated 27th March, 2023. However, one of the BQs is endorsed with a stamp dated 13th June, 2023.
3. The committee notes that there is an apparent lack of correlation between the items provided in the BQs and works and structures on the site as evidenced by the photographs taken during the site visit and attached to this report.
4. That during her submissions, the Chief Officer further alluded that the cost of the project was about 2,977,000 a figure which was not supported by any documentation.

5. That the committee could not verify the actual cost of the project and thus there was a possibility that the cost of the project was grossly exaggerated.

Whether there was Non - non-compliance with existing procurement laws by the accounting officer, the Chief Officer in charge.

The committee reviewed the entire tendering process and established the following;

1. The requisition was done on 15th November, 2022 by one Ms. Rose Chepkorir.
2. The tendering process was done through the IFMIS system and flouted as tender no. 1284733. It is not clear why the department opted for Request for Quotation (RFQ) as opposed to open tendering.
3. There were three bidders- SK ventures ltd, Flosine ltd and Judmac Ltd.
4. The Chief Officer appointed both the tender opening committee and the tender evaluation committee. Notably though is that Ms. Rose Chepkorir chaired the tender evaluation committee as per the minutes supplied to the committee. It is also important to note that the Chief Officer contradicted herself during her oral submissions by insisting that she doesn't appoint tender evaluation committee members which raises doubt as to her understanding of the procurement laws.
5. The award of the tender was issued on 8th May, 2023 with SK Ventures being the successful bidder.
6. An agreement was signed between the county government and the successful bidder (SK Ventures ltd) on 10th May, 2023. Interestingly, the agreement is not properly witnessed and attested as provided for in law.
7. There is no evidence as to the date when the contractor took over the site.
8. There is no contract implementation committee appointed to monitor the project implementation.

9. The Bills of Quantities supplied indicated that it was prepared on 13th June, 2023 almost one month after the contract was awarded.

The composition of the tender evaluation committee

Hon. Speaker,

Pursuant to the stipulations outlined in the Public Procurement and Asset Disposal Act, the accounting officer holds a pivotal role in ensuring the compliance of the public entity with the provisions of the Act. Specifically, one of the key responsibilities bestowed upon the accounting officer is articulated in Section 44. In the execution of this duty, the accounting officer is vested with the authority to establish and constitute all procurement and asset disposal committees within the procuring entity, adhering meticulously to the provisions set forth in the Act. This mandate underscores the critical role of the accounting officer in overseeing the proper formation and functioning of committees dedicated to procurement and asset disposal processes, thereby ensuring transparency, fairness, and adherence to legal frameworks in these crucial aspects of public administration.

Hon. Speaker, as per the minutes presented to the committee, the tender committee comprised the following;

1. Rose Chepkorir
2. Kimeto Andrew
3. Leonard bii
4. Kevin Ngeno

In appointing the tender committee, the Chief Officer was guided by section 46 of the Public Procurement and Disposal Act which provides as follows;

“46. Evaluation Committee

(1) An Accounting officer shall ensure that an ad hoc evaluation committee is established in accordance with this Act and Regulations made thereunder and from within the members of staff, with the relevant expertise.

(2) In establishing the ad hoc evaluation committee referred to in subsection (1) above, the procuring entity that is a State Department or a County Department, shall do so in consultation with the Cabinet Secretary or the County Executive Committee member responsible for that entity, as the case may be.”

Mr. Speaker,

One of the critical issues under consideration pertains to whether the Chief Officer breached procurement laws by appointing Rose Chepkorir to chair the tender evaluation committee for the procurement of the construction of a gender desk office and children holding center, despite the expiration of her employment contract.

The undisputed facts reveal that Rose Chepkorir was initially appointed under a fixed-term contract on May 16, 2018, valid for a duration of one year. However, there is a notable absence of evidence in the records indicating any extension of her employment contract. Confirming this, the Chief Officer, in a letter dated July 31, 2023, addressed to the County Secretary, explicitly stated that Rose Chepkorir's contract had lapsed on July 31, 2019. Furthermore, the Chief Officer acknowledged that Rose Chepkorir continued her engagement on a voluntary basis subsequent to the contract's expiration.

This unequivocal admission from the Chief Officer strengthens the argument that Rose Chepkorir's appointment to chair the tender evaluation committee occurred during a period when her contractual obligations had ceased. The

absence of a valid employment contract raises concerns about the legitimacy of her involvement in such a pivotal role within the procurement process.

This evidence finds corroboration in the letter dated August 1, 2023, by the County Secretary and addressed to the Clerk of the County Assembly. The letter states as follows;

“Your letter, the records shows that Rose Chepkorir falls under the staff whose contract expired and on the attempt to regularize her service, among others; the positions were declared to the Board.

The authorized officer from the department of gender, culture and social services indicated that Rose has been working upto and including 31st December, 2022 On voluntary services after three (3) months extension of contract ended....”

This admission by the Chief Officer unequivocally acknowledges her awareness that the employment contract had lapsed, yet she persisted in involving the former employee, Ms. Rose Chepkorir. It is evident that Ms. Rose Chepkorir did not fall within the category of staff as contemplated under Section 46 of the Act.

The Chief Officer's claim that Ms. Rose Chepkorir was serving on a voluntary basis lacks a solid legal foundation and appears to be a mere excuse. The absence of a valid employment contract and the acknowledgment of voluntary service raise serious concerns about the adherence to legal and procedural requirements in the Chief Officer's actions. This admission raises questions about the transparency, legality, and ethical considerations surrounding the appointment of Ms. Rose Chepkorir to a key role in the tender evaluation committee for the procurement of the construction project

The Public Service Commission Act, when read in conjunction with its accompanying regulations, outlines the procedures governing the engagement of individuals to serve on a voluntary basis within a public body. Section 43 of the regulations explicitly addresses this matter, providing clear guidelines on the manner in which such engagements may be carried out. Section 43 of the Regulations provides explicitly as follows;

“43. (1) The authorised officer of a public body may, with the approval of the Commission, appoint a qualified person to serve on voluntary basis.

(2) No person shall be engaged on voluntary basis in a public body as —

(a) a revenue collector;

(b) an officer involved in any aspect of procurement;

(c) a cashier;

(d) a caretaker of any premises belonging to a public body;

(e) a security officer;

(f) a holder of any strategic public office including any office established by the Constitution or an Act of Parliament; or

(g) such other position as may be determined by the Commission.

(3) A volunteer in the public service shall be issued with a letter of engagement as a volunteer for a non-renewable period not exceeding twelve months.

(4) A volunteer shall be bound by these regulations, and the code of conduct, rules and regulations applicable to other public officers.

(5) A person engaged as a volunteer shall be deployed to perform duties relevant to the volunteer's area of qualification, experience or expertise.

(6) Volunteer service shall not be a guarantee of employment in the public service.”

Mr. Speaker, it is crucial to highlight that in the current scenario, the involvement of Ms. Rose Chepkorir in the procurement process was not only illegal but also problematic for three primary reasons. Firstly, her employment contract had lapsed, rendering her involvement in the procurement proceedings questionable. Secondly, there was a failure to issue a formal letter of engagement on a voluntary basis, casting doubts on the legitimacy of her service in this capacity. Lastly, engaging the officer in procurement processes for a project situated within a national government facility without conducting the necessary consultations or obtaining the requisite acquiescence from the County Executive Committee adds another layer of concern.

Even further the law in the Public Procurement and Disposal Regulations, 2020 stipulates as follows in Regulation 29;

29. (1) The ad hoc evaluation committee established and appointed under regulation 28 of these Regulations shall consists of— Composition of an evaluation committee.

*(a) at least three members appointed on rotational basis **comprising heads of user departments or their representatives**; and*

(b) a professional or consultant, where required

It is evident that Mrs. Rose Chepkorir was neither a head of the user department or representative and neither was she a professional or consultant, as if she was it have been clearly brought out in the Committee intetogration. Yet still she became the chair, a position given the circumstances of her emplyment she could not be held to account for any moistakes as hse could not be subject to discilainary procedures being a nont emplouee.

The Committee, in its observation, concludes that the Chief Officer's actions amount to a clear violation of the law. The illegal and procedurally flawed engagement of Ms. Rose Chepkorir raises significant concerns about the adherence to legal and regulatory frameworks in the procurement processes

Inadequate consultation between the national and county government which may expose the county government to liabilities.

Honourable Speaker, the third crucial issue under consideration revolves around the adequacy of consultations between the two levels of government. Upon thorough interrogation, the committee has unearthed alarming observations that demand immediate attention. These observations can be summarized as follows:

- a) **Lack of Public Participation:** The committee notes with concern that the Rescue Centre, a project situated on national government land, commenced without the essential prerequisite of public participation. This fundamental oversight raises questions about the project's legitimacy and adherence to democratic principles.
- b) **Absence of Memorandum of Understanding (MoU):** Another glaring shortcoming is the absence of a Memorandum of Understanding or any formal agreement between the County Government and the Ministry of

Interior. This lack of a documented understanding leaves the project vulnerable to uncertainties and potential disputes.

- c) **Failure to Seek Legal Counsel:** It is disconcerting to find no evidence demonstrating that the County Government sought legal counsel despite evident legal issues surrounding the project. The lack of a legal opinion from the County Law Office leaves critical matters unresolved and exposes the project to legal jeopardy.
- d) **Violation of Constitutional and Legal Provisions:** The committee has identified an apparent violation of Articles 96 and 187 of the Constitution, in conjunction with sections 25 and 26 of the Intergovernmental Relations Act. This breach raises serious concerns about the adherence to the constitutional framework governing intergovernmental relations.
- e) **Risk of Resource Loss:** The County Government faces the imminent risk of losing resources already expended on the project if the police hinder access and use of the facility as per the county's programs. This potential loss underscores the urgency of addressing the intergovernmental issues surrounding the Rescue Centre.
- f) **Audit Concerns:** The Chief Officer's actions, seemingly devoid of documented plans or resolutions from high-level stakeholder meetings, pose a risk of potential audit issues. This lack of informed decision-making may lead to accountability challenges and must be rectified to ensure transparency and proper governance.

Committee's Recommendation

Mr. Speaker Sir,

Having considered submissions from various witnesses and conducting a site visit, the committee makes the following recommendations pursuant to standing order 201(5) (a);

1. Value-for-Money Audit by the Office of the Auditor General:

The committee recommends that the Office of the Auditor General conduct a thorough value-for-money audit of the Rescue Centre project. This audit must evaluate the project's propriety, its status concerning incurred expenses, and the overall value derived from the investment. Special attention should be given to assessing whether the project, as currently formulated, meets the established standards of a Rescue Centre. Additionally, the evaluation must scrutinize the Bills of Quantities, acknowledging the emergence of two distinct sets during the inquiry.

2. Suspension of Project and Payments:

Given the uncertainties surrounding the Rescue Centre project, the committee strongly recommends the immediate suspension of the project and any ongoing works at the Bomet Police Station. Payments for the project should be withheld until the full scope of work has been executed, and necessary agreements are in place within the intergovernmental framework for the facility's use and management.

3. Engagement with National Government:

The committee urges the county government, facilitated by the County Secretary's office, to engage with the National Government/Ministry of Interior through the County Commissioner's office. This engagement should lead to

corrective actions and the prompt signing of a Memorandum of Understanding (MOU)/intergovernmental agreement within 45 days. A subsequent report should be forwarded to the County Assembly outlining the progress made in this engagement.

4. Disciplinary Action against Chief Officer:

Recognizing the Chief Officer's casual approach to duties and the violation of various laws, the committee recommends forwarding this report to the appointing authority for appropriate disciplinary action. This includes the Chief Officer's involvement in appointing a non-employee as the chair of a crucial procurement committee and displaying apparent insubordination towards the County Executive member in charge of her department.

5. Invocation of Public Finance Management Act:

Observing a poor grasp of procurement laws and dereliction of duty, the committee directs the County Executive Committee Member for Finance to invoke section 156(3) of the Public Finance Management Act. This action entails revoking/suspending the designation of **Ms. Pauline Korir**, Chief Officer in Charge of Gender, Culture and Social Services as an Accounting Officer until assurances are provided that she can undertake lawful, authorized, efficient, effective, and economical implementation of procurement plans.

6. Surcharge and Referral to Anti-Corruption Commission:

The committee recommends the surcharging of **Ms. Rose Chepkorir** for any illegally received monies and allowances during her unauthorized tenure. Non-compliance with this directive should lead to the matter being referred to the Ethics and Anti-Corruption Commission for appropriate legal proceedings.

7. Strengthened Role by County Executive Committee Member:

Lastly, the committee emphasizes the imperative need for the County Executive Committee Member (CECM) to play a more proactive role in supervising and administering service delivery within the departments. Clear leadership and effective oversight are critical for ensuring accountability and the successful implementation of projects.