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THE SENATE RECEIVED 08 JUN 2021 CLERK'S OFFICE

EAST AFRICAN COMMUNITY
EAST AFRICAN LEGISLATIVE ASSEMBLY

THE SENATE RECEIVED 09 JUN 2021 DIRECTOR LEGISLATIVE AND PROCEDURAL SERVICES

JUMUIYA YA AFRIKA MASHARIKI

COMMITTEE ON GENERAL PURPOSE

REPORT OF THE COMMITTEE ON GENERAL PURPOSE ON THE CAPACITY BUILDING WORKSHOP TO ENHANCE THE CAPACITY OF MEMBERS IN LEGISLATIVE AND BUDGET OVERSIGHT

26TH TO 29TH OCTOBER 2020

(2) Mr. Mogere (AD LAPS) pls facilitate tabling. 9/6/21

(1) DLPS Please deal. 9/6/21

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Clerk's Chambers
EALA Headquarters, 3rd Floor
EAC Headquarters
Arusha – TANZANIA

21st April 2021

1/5

LIST OF ACRONYMS

AOP – Annual Operational Plan

BMS – Budget Management System

CSO – Civil Society Organizations

DP – Development Partners

FY – Financial Year

MOU – Memorandum of Understanding

MTEF – Medium Term Expenditure

PBO – Parliamentary Budget Office

PFMA – Public Finance Management Act

1.0 INTRODUCTION

The East African Legislative Assembly (EALA) is one of the Organs of the East African Community (EAC) established under Article 9 of the Treaty for the establishment of the East African Community. The treaty bestows upon the Assembly three cardinal functions: Legislation, Oversight and Representation. The Assembly, to a reasonable extent exercises its functions through Committees. The Committee on General Purpose is charged with among others, matters related to health, gender, population and Development and the Budget function.

Annex 5(f) of the Rules of procedure of the Assembly provides for the specific functions of the Committee on General Purpose, which include but are not limited to, oversight of the work of the EAC and Sectoral Committee emanating from following provisions of the Treaty, though not restricted or limited to them.

a) Chapter Sixteen – Co-operation in the Development of Human Resources, Science and Technology.

b) Chapter Twenty One – Health, Social and Cultural Activities.

c) Chapter Twenty Two – Enhancing the Role of Women in Socio-Economic Development and

d) Pre-budgeting function.

2.0 BACKGROUND INFORMATION

According to Rule 80 (3) of the Rules of procedure of the Assembly, the Members of the Standing Committees shall be nominated from among the Members of the Assembly and shall serve for a term of two and half years and thereafter fresh nominations shall be done. In June 2020, the Assembly nominated new Members of all Standing Committees. The tenure of all Standing Committees nominated in June 2020 commenced on 1st August 2020. However, due to the delay in the passing of the EAC Budget for the 2020/2021 FY, the activities of the Assembly for 2020/2021 FY commenced in October 2020.

Members of Parliament are from diverse backgrounds and have different experiences and therefore capacity building programs must be conceived from time to time to enhance their capacity among others the core functions of EALA including legislative, representative, budget appropriation, and oversight roles. At its sitting held on 19th October 2020, the Planning Meeting of EALA decided that all Standing Committees should organize capacity building activities to equip Members with the necessary skills to undertake the activities of the Committee.

It is against this background that the Committee on General Purpose is scheduled to hold a capacity Building workshop from 26th to 29th October 2020.

3.0 OBJECTIVES OF THE ACTIVITY

The principal objective of the activity was to enhance the capacity of Members of the Committee on General Purpose in Legislative and Budget Oversight. It was expected that during the capacity building workshop the Committee will;

i. Get a better understanding of the EAC Budget process;
ii. Enhance their skills on the use and application of the various tools in Budget analysis and budget oversight;
iii. Appreciate the need to have a Parliamentary Budget Office in enhancing legislative and Budget oversight;
iv. Appreciate the necessity of initiating Public Finance Reforms in the EAC;
v. Explore ways of enhancing the principle of public participation in the budget process.

4.0 METHODOLOGY

During the virtual Capacity Building workshop, the Committee interfaced with the Senior Budget Officer from the EAC Secretariate Ms. Beatrice Rono, Senior officers from the Budget office from the Republic of Kenya Mr. Martin Masinde and the Republic of Uganda Mr. Kiggundu Sulaiman.

5.0 PRESENTATIONS BY EXPERTS

5.1 The EAC Budget process and the available tools

Ms. Beatrice Rono explained the legal framework and instruments that inform the budget process which includes the Treaty for the establishment of the East African Community, the EAC- budget Act (2008), the EAC budgeting principles and Medium Term Expenditure Framework (MTEF) .

Challenges faced in Budget execution and implementation

i. Non-adherence to Planning and budgeting calendar and guidelines by Cost Centers;
ii. Crafting activities that are not output oriented;
iii. Wish list budgeting especially on Development Partners' funds;
iv. Lack of split project life cycle funds of DP's into a fiscal year;
v. Improper codes when formulating MTEF and using similar MTEF codes by Cost Centres in all the activities;
vi. In costing AOPs(work-plans), the use of wrong input codes, rate or unit of measure, etc;
vii. Over budgeting/ bursting the ceilings etc.

Mitigating the above Challenges

i. Training of new staff on EAC budget process either through induction or team arrangement;
ii. Conducting yearly refresher training to the budget focal person identified by the Directorate;
iii. Supporting budget holders on a need basis;
iv. Issuing System alerts/ reminders on closure date – BMS enables the Planning and Budgeting calendar to be populated with time frames as set;
v. Setting budget ceilings in the system especially on Partner States funds as guided by Planning and Budget committee.

5.2 The Parliamentary budget oversight and budget analysis

In his presentation, Mr. Kiggundu defined a budget as a tool used by the Executive to implement its policies and strategic plans to achieve its economic and development goals.
It reflects the choices that the Government has to make to balance a wide range of demands with limited resources at its disposal.

In the budget, the Government sets out what it is going to spend (expenditure) and the income it collects through taxes and other sources of revenue which it needs to finance planned expenditure. He explained the different stages of the budget cycle which include;

I. Budget formulation,
II. Budget approval,
III. Budget execution; and
IV. Budgeting oversight and reporting.

The Legislature plays an important role in the oversight of the budget both in terms of reviewing past performance and future plans of the Executive, scrutinise & approve the budget, ensure that the budget complies with the existing legal regime (constitutional requirements, statutory expenditures, PFMA, etc), scrutinize & approve the annual Budget estimates, approve all legislation relating to tax revenues.

He further stated that the objectives of the budget oversight include;

i. Fiscal discipline - spending what each EAC Partner State can afford;
ii. Resource allocation based on strategic policy priorities -spending should reflect EAC objectives;
iii. Operational efficiency getting the most impact from your resources.

He explained further the different tools for budget oversight which includes among others Public hearing, Public Outreach Programme, Public Dialogue and Civil Society Forum on the Budget, establishment of the CSO Parliament engagement Platform, quarterly field budget monitoring trips, Written public comments on proposed projects, use of citizen-based commissions/organizations &engagements and expenditure tracking.

He further stated the different budget oversight challenges which included;

- Lag between when the money is spent and when the output is delivered for public services;
- Lack of a common misunderstanding that monitoring is meant for policing and unearthing what has not gone right;
- Lack of transparency amongst some stakeholders and especially the Government agencies and departments;
- Lack of action on the findings of the monitoring process;
- Late introduction of monitoring procedures-Continuous Reforms;
- Lack of coordination among monitoring groups or units /agencies;
- The setting of unrealistic and unachievable objectives.

He urged that the budget analysis involves:

- Linking policies to budgets;
- Identifying priorities and their corresponding allocations;
- Checking the release of funds against budgetary allocations to various spending agencies/ units;
- Checking the accuracy and correctness of the budget figures to be reported;
- Checking the consistency of expenditure with planned objectives and activities;
- Checking release of funds against budgetary allocations;
- Checking resource outturns against the projections;
- Checking on physical outputs of various forms of expenditure through physical inspection and public hearings.

He concluded by stating that Parliaments World over, now find PBO's and or independent fiscal and indispensable institutions within Parliament that can be relied upon to provide non-partisan and or independent, reliable, professional and timely budgetary and economic policy analysis for legislation and oversight support.

Over time, the Parliamentary Budget Office has been instrumental in building in enhancing the technical capacity for Members of Parliament which has greatly improved the quality of budgetary debate and decision making, evidence-based budget scrutiny, Executive appreciation of Parliament – the executive no longer take Parliament for granted and accepts budget negotiations, improved transparency, more credibility and appreciation of budget debate by the Public.

5.2 The Role and establishment of parliamentary Budget office: Experience of Kenya by Mr. Martin Masinde

Within the realm of Public Finance Management, there are three (3) objectives that legislative scrutiny seeks to achieve: Affordability, Prioritization, and Value for money.
Affordable aggregate expenditures are taken in the context of available resources, fiscal policies and spending priorities. In order to be effective, issues of affordability and prioritization must be made before budget implementation.

Over-sighting budget matters (priority and affordability) require a dedicated committee to handle these matters. Overall aggregate spending and allocation decisions are based on political judgment, and if Parliament is to engage actively, then it has to do this through the ex-ante process.

5.3 Linking watchdog Committee Reports with Budget making process

Financial auditing seeks to attest to or verify the accuracy of the data contained in financial statements and reports. In compliance auditing, the auditor seeks to locate instances of illegal or irregular transactions. The purpose is to determine whether the accountable entity has conformed to the laws and regulations governing its operations. Performance auditing developed partly in response to a demand from parliamentarians advice on how to increase the efficiency of the Government and thus obtain better value for the taxpayer's money-Value for money Audit.

The rationale for WatchDog Committees -Linkages to the budget process

Committees are Concerned with budget execution, accounting, and fiscal reporting processes and institutions to implement the budget, manage resources, assets (and policies), report on resource use, Ex poste audit reports and resource use.

Basic Principles for budgeting that are audited

i. Comprehensiveness: include all revenue and expenditure;
ii. Accuracy: record actual transactions and flows;
iii. Annuity: covers a defined period of time (e.g. one year budget, multi-year forecasts);
iv. Authoritativeness: ensure implementation is in line with appropriate laws;
v. Transparency;
vi. Information on spending is public, timely, understandable and Predictable; and
vii. Stability in the macro and strategic policy and funding in the short and long term.

He explained that the budget auditing is important because it affects: the cost and quality of services, the volume of the Government expenditure, and the relations between citizens and the Government. Citizens know their Government through the services they receive from it.

Linking Audit Committees to Budget Process

The open budget survey examines the extent to which legislatures and supreme audit institutions can provide effective oversight of the budget. These institutions play a critical role often enshrined in national constitutions in planning budgets and overseeing their implementation.

Mr. Kiggundu concluded his presentation stating that challenges of watchdog Committees notwithstanding, budget and public accounts committees have become very instrumental in aiding the efficiency in public spending watchdog Committees.

5.4 Budget execution, challenges and opportunities

Mr. Masinde explained that it is possible to implement a well-formulated budget but it is not possible to implement well a badly formulated budget. Good budget preparation comes first, logically as well as chronologically.

He further explained the budget reforms that need to be made which includes among others:

i. Stages in budget reform development which ensures control over expenditures and consistency with the budget law;
ii. Stabilize the economy through timely and efficient adjustment in fiscal aggregates; and
iii. Promote efficiency in service delivery through procedures that provide incentives for greater productivity.

Mr. Masinde concluded his presentation stating that the budgeting and budget reforms are not static, for a Parliament to be effective, there is a need to establish a gap in the budget legislation, establish harmony in working relations with the Executive and all the Sectoral Committees in ensuring the smooth finalization of the Budget process.

6.0 Findings and Observations

1. Non-existence of a Parliamentary Budget Office at EALA. Parliamentary Budget Offices exist in all parliaments around the world as independent and indispensable fiscal institutions within Parliament. The non existence of such an office in EALA affects efficiency and ability of EALA to carry out its oversight effectively.

2. The PBO has been proven to be an effective instrtument in enhancing the technical capacity of members of Parliament , which leads to an improved quality of parliamentary debates and decision making. It also improves the ability to scrutize budgets and thus enhance the oversight capacity of Parliament to ensure the Council of Ministers doesn't take for granted the budget process.

3. Delays in remittance of funds by the Partner States has continuously led to the non-execution of projects and programmes.

4. Additionally, Over 50% of activities in the budget are donor funded. EALA as an oversight Organ plays a role in scrutizing these funds however it cant examine how these funds are raised and utilized. This is only registered under the Memorundum Of Uundterstanding between the donors and the Secretariat.

5. The Council of Ministers does not provide sufficient resources to the Assembly to scrutinize and monitor budget implementation. Despite that Parliaments have a fundamental role in authorizing the budget decisions and in holding the xecutives to account. This process of scrutinizing budget requires time and resources which is currently not sufficient compared to what is provided by the Council of Ministers.

6. The limited working relationship between EALA and the Council of Ministers doesn't allow enough time to build the necessary trust and awareness to ensure the avoidance of the risk of the budget being rejected.

7. Article 49 (2) (b) of the Treaty for the Establishment of the East African Community and provision 16 (a) of the Administration of the EALA Act 2012 stipulate that the Assembly shall debate and approve the budget of the Community. This gives the powers to the Assembly to scrutinize the Budget. However, the Treaty doesn't clearly state the mechanisms of approval, t doesn't give the limits and extend the Assembly should go before approval.

8. The Committee noted that the Assembly is not engaged in the process of the budget implementation. The Council of Ministers do not provide quarterly reports relating to the budget execution, yet the quarterly reports are important as they inform Members on the areas that need collective action. This is important in ensuring that there is value for money.

9. To avoid Overlaps in the Audit process a series of steps need to be taken to analyze particular financial operations. The end product is a final report detailing aptitude against set standards. To follow a set audit process means to conduct an audit

properly and therefore any overlap could potentially result in regulatory breaches that would have been avoided with thorough audit processes.

10. According to rule 77 (4) of the EALA Rules of procedure, the Assembly shall consider the supplementary estimates relating to the financial year or any part thereof. The Committee raised concerns relating to delayed submission of the supplementary budget which afford Members insufficient time to thoroughly scrutinize the budgetary proposals therein.

11. The Assembly does not conduct a comprehensive budgeting process. A comprehensive budgeting process involves reading and making continuous reference to the previous audit reports. This is important when transiting in the next budget cycle.

12. The Committee further observed the backlog of Audit reports that are not considered by the AssemblyAn accumulation of uncompleted work or matters regarding audit reports needs to be dealt with commonly caused by the repeated postponement of timely report submission and poor task prioritization creates inefficiency in jurisdictions and also undermines their effective performance.

7.0 RECOMMENDATIONS

1. The Committee urges the Council to establish a law to support the creation of a fully-fledged functioning parliamentary Budget office.

2. Need to build the capacity of staff both staff at the Budget office as well as Members of the General Purpose Committee to strengthen their skills, competencies, and abilities and strengthen the ties of working together throught out the budget process.

3. The Assembly needs to avail sufficient resources and time to enable the Committee to scrutinize the Budget from the beginning. EALA and its Committee should be given the opportunity and resources to engage with the budget process at all key stages of the budget cycle.

4. The need to establish a strong budget execution framework that ensures compliance with budgetary authorizations and has adequate monitoring and reporting capabilities to be able to identify budget implementation problems promptly while giving flexibility to budget holders to resolve problems arising during implementation and managing the purchase and use of resources efficiently and effectively.

5. The need to establish a harmonious working relationship between the Assembly and the Council of Ministers. It is also important to close the gap between the Audit Commission and the Budget Committee. This can be done by reading the reports that are important in the next budget cycle. The relationship may not be structured but the Committee needs to read through what the Audit commission found out in terms of budget implementation for programs and projects and ensure findings of the audit Commission feed into the Budget.

6. Consider amending the Budget Act to create a provision that allows the Assembly to analyze, review, discuss and approve the policy statement.

7. The Committee should consider reforming the Budgeting system and approach to ensure that it is in tandem with reforms that are taking place. The outcomes of the budget process depend heavily on whether there are clear rules for formulating, executing, and reporting on the annual budget, as well as a clear statement of fiscal policy objectives. They must ensure that the reformed budget system consist of mainly four phases of approach which include;

    I. preparation and submission;
    II. approval;
    III. execution, and
    IV. audit and evaluation.

8. With regards to the approval of the supplementary budget. The Assembly urges the Council of Ministers to submit the supplementary early to enable the Assembly scrutinize it.

9. The Assembly should avail funds to help in conducting continuous Capacity building for Members. This will help the latter to appreciate the Budgeting system eventually helping EAC organs to make good operations better, rescue from bad planning and rehabilitate poor resource management.

10. In order to have a comprehensive budget process, the Committee on Accounts should should work closely with the General Purpose Committee that deals with the budget of the Community. There has been limited interaction between the Accounts Committee, the General Purpose Committee Budget Committee and other Committees of the Assembly. In turn, EALA Committees might benefit more from the intimate knowledge of the audit outcomes with regard to their respective departments.

REPORT OF THE COMMITTEE ON GENERAL PURPOSE ON THE CAPACITY BUILDING WORKSHOP: 26TH – 29TH OCTOBER 2020

1. Hon. Dennis Namara ....

2. Hon. Ayason Mukulia Kennedy ....

3. Hon. Gai Deng ....

4. Hon. Kim Gai Ruot Duop ....

5. Hon. Jematiah F. Sergon ....

6. Hon. Wanjiku Muhia ....

7. Hon. Fatuma Ibrahim Ali ....

8. Hon. Maryam Ussi Yahya ....

9. Hon. Dr. Abdullah H. Makame ....

10. Hon. Pamela S. Maassay ....

11. Hon. Uwumukiza Francoise ....

12. Hon. Rutazana Francine ....

13. Hon. Bahati Alex ....

14. Hon. Musamali Paul Mwasa ....

15. Hon. Odongo George Stephen ....

16. Hon. Jean Marie Muhirwa ....

17. Hon. Alfred Ahingejeje ....

18. Hon. Sophie Nsavyimana ....