

(Legislative Supplement No. 18)

LEGAL NOTICE NO. 35

THE PUBLIC FINANCE MANAGEMENT ACT

(No. 18 of 2012)

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## THE PUBLIC FINANCE MANAGEMENT ACT

(No. 18 of 2012)

IN EXERCISE of the powers conferred by section 205 of the Public Finance Management Act, 2012, the Cabinet Secretary for finance makes the following Regulations:—

## THE PUBLIC FINANCE MANAGEMENT (COUNTY GOVERNMENTS) REGULATIONS, 2015

## PART I—PRELIMINARY

1. These Regulations may be cited as the Public Finance Management (County Governments) Regulations, 2015. Citation.
2. In these Regulations, unless the context otherwise requires— Interpretation.
  - “Act” means the Public Finance Management Act, 2012; No. 18 of 2012.
  - “Accountant-General” means the officer of the National Treasury designated as the Accountant-General;
  - “Accounting Standards Board” has the meaning assigned to it under section 2 of the Act;
  - “Accounting Unit” means organizational division in a government entity responsible for accounting and financial services;
  - “Appropriation-in-Aid” means any revenue which a county government entity receives and is approved by Parliament for application by that entity to finance its activities;
  - “Appropriation Act” has the meaning as assigned to it under section 2 of the Act;
  - “budget ceilings” means the maximum amount that the county government allocates in a given year to target sector or expenditure category;
  - “Budget Circular” means a written instruction issued by the Cabinet Secretary providing broad guidelines on the budget process of the national government or means a written instruction issued by the County Executive Committee Member for Finance providing broad guidelines on the budget process of the county government;
  - “benefit deduction” means a deduction on a payroll system against an official’s salary for a debt arising from employment benefits;
  - “basic salary” means an officer’s salary excluding allowances;
  - “Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to the National Treasury;
  - “Cash flow” means a financial statement that shows planned inflow and outflow of resources over a period covering the financial year in line with the activity level;
  - “chief officer” has the same meaning assigned to it under section 2 of the Act;

“collector of revenue” has the meaning assigned to it under section 2 of the Act;

“collective agreement deduction” means a deduction on a government payroll system against an official’s salary arising from a collective agreement between the government and a union and is registered in accordance with applicable law;

“Contingencies Fund” has the meaning assigned to it under section 2 of the Act;

“Corporate governance” is the process and structure used to direct and manage business affairs of the county government entities towards enhancing prosperity and good governance with the ultimate objective of realizing national long-term value while taking into account the interest of all stakeholders;

“County Allocation of Revenue Bill” means the Bill annually introduced into Parliament and enacted under Article 218(b) of the Constitution;

“county corporation” has the same meaning assigned to it under section 2 of the Act;

“County Emergencies Fund” has the same meaning assigned to it under section 2 of the Act;

“County Executive Committee” has the same meaning assigned to it in the County Government Act;

“County Executive Committee Member” has the same meaning assigned to it under section 2 of the Act;

“county government entity” has the same meaning assigned to it under section 2 of the Act;

“County Public Debt” has the same meaning as assigned to it under section 2 of the Act;

“County Revenue Fund Services” means a service the expense of which is charged directly against and payable from the County Revenue Fund under or by virtue of an Act of Parliament or any Act of County Assembly, other than an Appropriation Act;

“debt” means an amount of money owed and already payable by an official to any person and for the purposes of these Regulations, includes insurance premiums deducted in terms of policies with long and short-term insurers;

“deduction code” means a code issued by the Accountant-General to enable a person to deduct money from an individual paid via the government payroll system;

“discretionary deduction” means a deduction on the government payroll system against an official’s salary, other than benefit, collective agreement, state or statutory deductions;

“disposal” in relation to a capital asset, includes—

- (a) the demolition, dismantling or destruction of the capital asset;
- or

- (b) any other process applied to a capital asset which results in loss of ownership of the capital asset otherwise than by way of transfer of ownership;

“Division of Revenue Bill” means the Bill annually introduced into Parliament and enacted under Article 218(a) of the Constitution;

“donation” has the meaning assigned to it under section 138 of the Act;

“economy” means minimising the cost of resources used or required to achieve priority objectives;

“effectiveness” means the extent to which a programme intervention has attained, or is expected to attain, its objectives efficiently in a sustainable manner;

“efficiency” means a measure of how economically resources or inputs (including fund, expertise and time) are converted to results;

“estimates of expenditure” means—

- (a) estimates of expenditure based on programmes and sub-programmes prepared on a three-fiscal year rolling basis, specifying the resources to be allocated and the outcomes to be achieved and outputs to be delivered, the estimates for the first year of every such period of three fiscal years requiring appropriation by the County Assembly; or
- (b) supplementary estimates of expenditure appropriated by the County Assembly;

“fair market value”, in relation to a capital asset, means the value at which a knowledgeable willing buyer would buy and a knowledgeable willing seller would sell the capital asset in an arm's length transaction;

“financial statements” has the meaning assigned to it under section 2 of the Act;

“financial year” means the period of twelve months ending on the 30<sup>th</sup> June in each year;

“governing body” means a body of persons managing a public entity and includes a commission, a board of trustees, a board of directors and a management board;

“grant” has the meaning assigned to it under sections 47 and 138 of the Act;

“grant recipient” has the meaning assigned to it under sections 47 and 138 of the Act;

“intended beneficiaries” has the meaning assigned to it under section 47 and 138 of the Act;

“internal control” means a set of systems to ensure that financial and other records are accurate, reliable, complete and ensure adherence to the management policies of the Ministry, department or other agency of Government, for the orderly and efficient conduct of

the Ministry, department or agency, and the proper recording and safeguarding of its assets and resources;

“irregular expenditure” means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any relevant legislation, including—

- (a) the Act;
- (b) these Regulations;
- (c) the Public Procurement Act, 2005, or any Regulations made in accordance with that Act; or
- (d) any county legislation providing for procurement procedures in that county government; and
- (e) any other Act of Parliament.

“medium term” has the meaning assigned to it under section 2 of the Act.

“national government entity” has the meaning assigned to it under section 2 of the Act;

“Principal Secretary” has the meaning assigned to under section 2 of the Act;

“public debt” has the meaning assigned to it under Article 214(2) of the Constitution;

“public money” has the meaning assigned to it under section 2 of the Act;

“public officer” has the meaning assigned to it in under Article 260 of the Constitution;

“programme” means a group of independent, but closely-related, activities designed to achieve a common outcome;

“receiver of revenue” has the meaning assigned to it under section 2 of the Act;

“regulatory agency” means a national government entity established by an Act of Parliament to ensure compliance with the provisions of the Act that established it;

“revenue” has the meaning assigned to it under the Commission on Revenue Allocation Act, 2011;

No. 16 of 2011.

“revised estimates” refers to the supplementary budget estimates and approved budget reallocations prepared and submitted under section 43 of the Act;

“spending unit” refers to a government component for which appropriation is allocated within the budget and which is authorized to spend;

“sinking fund” means an account or pot of money or securities set aside to pay for a bond, repurchase or early redemption of Treasury Bonds;

“standing committee” means the Public Finance Management Standing Committee established under regulation 18 of these Regulations;

“statutory appropriation” means the authority to spend money allocated to the executive in accordance with the purposes specified in the Constitution or an Act of Parliament;

“statutory deduction” means a deduction on government payroll system against a public officer’s salary, which is required or permitted by a law, court order or arbitration award;

“subscription statement” is a statement showing the investor’s holdings as registered on the Central Depository Securities (CDS) Register at the Central Bank of Kenya;

“supplementary budget estimates” means additional request of funds by the county government to County Assembly;

“third party” has the meaning assigned to it under section 47 and 138 of the Act;

“unutilized balances” means any amounts withdrawn from the Consolidated Fund and Appropriation-in-Aid collections for purposes of provision of basic services under an Appropriations Act and not expended at the end of the financial year;

“unauthorised expenditure” means—

- (a) overspending of a vote or programme within a vote; or
- (b) expenditure not in accordance with the purpose of a vote or, in the case of a programme, not in accordance with the purpose of the programme;

“value for money” means the economic, efficient and effective utilization of resources;

“vote” has the meaning assigned to it under section 2 of the Act;

“vote-on-account” means a special provision by which the county government obtains the authority of the County Assembly for a sum sufficient to incur expenditure on various items for a part of the year, pending the consideration and approval of budget estimates for that year; and

“wasteful expenditure” has the meaning assigned to under section 2 of the Act.

3. (1) These Regulations shall apply to—

- (a) county governments;
- (b) county government entities;
- (c) County Public funds established under section 116 of the Act; and
- (d) any other person performing any act or doing such thing that is provided for under the Act.

Application of the Regulations.

4. The object and purpose of these Regulations is—
- Object and Purpose of the Regulations
- (a) to provide means of administering of the powers vested in Cabinet Secretary under the Constitution, the Act and any other related legislation;
  - (b) to provide means of administering the powers vested in the County Executive Committee Member under the Act, and any other related legislation;
  - (c) to harmonize and standardize their application throughout the county governments with a view controlling and managing the finances;
  - (d) to set out a standardized financial management system for use in county government which is capable of producing accurate and reliable accounts free from errors, fraud and which will be useful in management decisions and statutory reporting;
  - (e) to provide for the conduct of fiscal relations between the national and county governments; and
  - (f) to ensure accountability, transparency and the effective, economic and efficient collection and utilization of public resources.
5. The Accounting Officers shall ensure that all public officers under their control have access to copies of these Regulations and the public officers shall ensure they are fully conversant with the contents of the Regulations.
- Officers to be conversant with Regulations.
6. (1) Subject to national security considerations, the public shall be provided with full access to financial information in a timely manner for purposes of seeking public input, by—
- Openness and accountability.
- (a) establishing a focal point to facilitate access to financial information; or
  - (b) making information available in the media or ;
  - (c) presenting information in the national language in summarised and user-friendly forms; or
  - (d) making financial information available on websites that allow for information to be downloaded.
- (2) The County Treasuries shall arrange for effective public participation during the development of their annual budget estimates including the publication of citizens' budgets which shall explain and summarize the budget proposals.
- (3) The dates for the sectoral forums and the venues shall be publicly announced one week in advance, and an annual calendar of events released at the start of the financial year.
7. (1) For purposes of public participation in the planning and budgeting process, there shall be participatory structures and processes that shall encompass a broad range of strategies including—
- County Executive Committee Member to publish process and procedures for public participation.
- (a) open forums , written submissions, online platform and media;

- (b) specification of venues of public participation; and
- (c) dates of public participation.

(2) The County Executive Committee Member shall notify the general public through a notice in the gazette or at least two newspapers of county wide circulation on the venue or manner of submitting written submissions.

(3) The documents submitted to County Assembly and any other published documents shall be published and publicized within 7 days of presentation.

(4) The County Executive Committee Member shall give a responsibility statement confirming the extent to which general public was consulted particularly on the County Strategy Paper and Sector Working Groups.

8. (1) The Kenyan shilling shall be the unit of account for drawing up and implementing the county budgets, presenting and reporting accounts.

Monetary unit, accounting and reporting currency.

(2) Despite the provisions of paragraph (1), certain operations may be carried out in international currencies subject to conditions laid down in these Regulations or other financial instruments.

9. (1) County Treasury shall publish financial manuals and forms which may be used by county government entities to support implementation of these Regulations.

Financial management forms and manuals.

(2) The financial manuals and forms, issued in accordance with these Regulations shall facilitate adoption of international standards and emerging best practices.

(3) The publications under paragraph (1) shall be made with the approval of the County Executive Committee Member.

(4) The financial manuals shall contain relevant procedures for the budget preparation, budget execution, keeping of books of accounts, formats of financial statements and Government standard chart of accounts issued by the National Treasury.

10. The responsibilities of internal and external auditors exercised in accordance with the Constitution, the Act and other legislation shall not diminish the Accounting Officers' responsibility to maintain financial discipline as required by the Act and these Regulations.

Accounting Officer's responsibility not diminished by audit

11. The accountability of a public officer vacating an office shall not be completed until the financial and accounting records kept by him or her have been properly handed over in writing to an officer taking over his duties and attested by their supervisor:

Responsibility for handover by financial officers.

Provided that this does not preclude the public officer from handing over any other documents required under any other law or government policy.

12. (1) Any county public officer signing any document or record pertaining to a financial transaction shall ensure that the signature is given in such a manner so as to preclude subsequent

Application of secure signatures.



alteration or addition to the information contained in such document or record.

(2) The signature of any county public officer shall not be binding on an Accounting Officer or a public officer performing a financial function unless a specimen of the signature is duly communicated in advance to the relevant county public officer or any other person performing a financial function.

(3) If a county public officer no longer occupies a public office, the Accounting Officer shall nullify that officer's specimen signature and communicate the same to all relevant county public officers or any other person performing a financial function within a reasonable time.

13. (1) In no circumstances shall a county public officer sign a blank or incomplete cheque, record or other document, pertaining to a financial transaction.

Signing blank or blind accountability documents.

(2) It is the duty of any county public officer signing any document or record pertaining to a financial transaction to read and satisfy himself or herself that it is proper to give his or her signature and his or her signature shall be evidence of acceptance of responsibility for the document, whether the public officer read it or not.

(3) The signing of a document contrary to paragraphs (1) and (2) shall constitute an offence under the Act.

14. No county public officer except the Governor shall use green ink or green pencil in recording or transacting any official financial transaction.

Restricted use of green Ink.

15. No county public officer other than the County Executive Committee Member, the Chief Officer, the County Head of Internal Audit Services or Head of Internal Audit, shall use brown ink or brown pencil in recording or transacting any official financial transaction.

Restricted use of brown ink.

16. (1) Financial records and documents shall be written in indelible ink.

Use of indelible ink.

(2) An entry in a financial record or document shall not be obliterated, erased or altered by being written over.

(3) Payment in connection with any document bearing an alteration, obliteration or erasure shall be refused by the relevant public officer or any other person unless countersigned, but this shall not apply to a cheque and official receipt.

(4) A person who contravenes paragraphs (1), (2) or (3) commits an offence under the Act.

## PART II—CORPORATE MANAGEMENT

17. (1) Every county government entity to which the Act and these Regulations apply shall include in their annual financial report as provided in section 164 of the Act, a statement by each entity's Accounting Officer on compliance of the entity with these Regulations under this part.

Corporate governance.

(2) Where the entity is not fully compliant with these Regulations, the Accounting Officer of that entity shall identify the reasons for non-compliance and indicate the steps being taken to become compliant.

(3) The statements made in the report under this regulation shall be submitted to the County Executive Committee Member.

18. (1) There is established in every county government entity a public finance management standing committee to provide strategic guidance to the entity on public finance management matters.

Establishment of Public Finance Management Standing Committees.

(2) Each standing committee shall comprise of the following—

- (a) the Accounting Officer as chairperson of the committee;
- (b) an officer designated by the accounting officer as secretary of the committee and who shall be either the head of the finance or accounts units or head of both finance and accounts units of the entity; and
- (c) heads of departments or administrative units dealing with public finance management matters.

(3) The Standing Committee shall meet as often as is necessary, but at least once every quarter so as to coordinate management of public finance for entities and shall be accountable to the County Executive Committee Member responsible for the entity or in case of County Assembly, to the Speaker ,

(4) The Standing Committee may establish sub-committees for the better carrying out of its roles and responsibilities under this regulation.

19. (1) The Standing Committee shall generally be responsible for the following—

Roles and responsibilities of the standing committee.

- (a) ensuring that there is prioritization on resources allocated to a county government entity for the smooth implementation of the entities mission, strategy, goals, risk policy plans and objectives;
- (b) regularly review, monitor budget implementation and advice on the entities accounts, major capital expenditures and review performance and strategies at least on a quarterly basis;
- (c) identifying risks and implementation of appropriate measures to manage such risks or anticipated changes impacting on the entity;
- (d) review on a regular basis the adequacy and integrity of the entity's internal control, acquisition and divestitures and management information systems including compliance with applicable laws, Regulations, Rules and guidelines;
- (e) establish and implement a system that provides necessary information to the stakeholders including stakeholder

communication policy for the entity in line with Article 35 of the Constitution;

- (f) monitor the effectiveness of the corporate governance practices under which the entity operates and propose revisions as may be required from time to time;
- (g) monitoring timely resolution of audit issues; and
- (h) any other matter referred to it from time to time by the responsible County Executive Committee Member or in the case of County Assembly, the Speaker.

(2) The Standing Committee shall submit a quarterly report of its work including any recommendations to the responsible County Executive Committee Member or in case of County Assembly, to the Speaker.

20. (1) Once the Annual County Appropriation Bill or County Supplementary Bill(s) have been assented to, the County Executive Committee Member shall obtain Governor's warrants authorizing issues from the County Revenue Fund in accordance with the respective County Appropriation legislation.

Governor's warrants

(2) The Governor's warrants in paragraph (1) shall then be transmitted to the Controller of Budget by the County Executive Committee Member to authorize withdrawals in accordance with Article 228 of the Constitution.

21. On receipt of the Governor's warrants, the County Executive Committee Member shall issue a County Treasury warrant granting authority to Accounting Officers to incur expenditure for the year in respect of their votes.

County Treasury warrant.

22. (1) Accounting Officers shall, in accordance with Article 226(2) of the Constitution and section 149 (1) of the Act, be accountable to the County Assembly —

Responsibilities of Accounting Officers.

- (a) for ensuring the most effective means of achieving desired program outcomes are used;
- (b) for maintaining effective systems of internal control and the measures taken to ensure that they are effective; and
- (c) for measures taken to prepare the financial reports that reflect a true and fair financial position of the entity.

(2) In addition to the responsibilities of Accounting Officers provided in the Act, an Accounting Officer designated under the Act or any other Act, shall —

- (a) comply with any tax, levy, duty, pension, commitments and audit commitments as may be provided for by legislation;
- (b) if he or she reasonably believes that an unauthorized, or irregular expenditure has occurred, he or she shall immediately report, in writing, particulars of the expenditure to the relevant authority with a copy to the County Treasury; or

- (c) before transferring any funds to an entity within or outside the county government, ensure that there is a written assurance from the entity that that entity implements effective, efficient and transparent financial management and internal control systems, or, if such written assurance is not or cannot be given, render the transfer of the funds subject to conditions and remedial measures requiring the entity to establish and implement effective, efficient and transparent financial management and internal control systems;
- (d) enforce compliance with any prescribed conditions if the county government entity gives financial assistance to any other county government entity or person in accordance with the law;
- (e) take into account all relevant financial considerations, including issues of propriety, regularity and value for money, when policy proposals affecting the Accounting Officer's responsibilities are considered, and when necessary, bring those considerations to the attention of the relevant authority;
- (f) promptly consult and seek the prior views of the County Treasury on economic viability and financial implications on any new county government entity which a county department intends to establish or in the establishment of which it took the initiative;
- (g) not commit county government entity to any liability for which money has not been appropriated provided that expenditure for projects or programs implemented beyond one financial year is provided for in the subsequent financial years; and
- (h) comply, and ensure compliance by county government entities with the provisions of the Act and these Regulations

23. (1) The Accounting Officer of a county government entity may delegate to a public officer, in writing, any of the Accounting Officer's powers or functions under the Act or these Regulations.

Delegation by the Accounting Officer.

(2) In exercising powers and functions under a delegation, the public officer shall comply with any lawful directions of the Accounting Officer.

(3) The delegation in this regulation may include the authority to incur expenditure in accordance with any limits prescribed by the Accounting Officer.

(4) Delegation of power does not take away the responsibility of the accountability from the Accounting Officer.

24. (1) An accounting officer may authorize a public officer under their county government entity to be an Authority to Incur Expenses (AIE) Holder.

Designation of Authority to Incur Expenditure by the Accounting Officer.

(2) An accounting officer who finds it necessary to authorize a public officer in another county government entity or a national government entity to incur official expenditure on his or her behalf, should do so by issuing an Authority to Incur Expenditure addressed to the Accounting Officer of the county government entity or national government entity.

(3) The designation of AIE Holder shall be in writing in the form prescribed by the National Treasury.

(4) An accounting officer shall maintain a register of all AIE Holders designated under this Act.

(5) Where an accounting officer delegates this authority, the accounting officer shall remain responsible for any expenditure incurred as a result of that delegation.

### PART III—COUNTY FISCAL STRATEGY

25. (1) In addition to the fiscal responsibility principles set out in section 107 of the Act, the following fiscal responsibility principles shall apply in the management of public finances—

Fiscal responsibility principles.

- (a) the County Executive Committee Member with the approval of the County Assembly shall set a limit on the county government's expenditure on wages and benefits for its public officers pursuant to section 107(2) of the Act;
- (b) the limit set under paragraph (a) above, shall not exceed thirty five (35) percent of the county government's total revenue;
- (c) for the avoidance of doubt, the revenue referred to in paragraph (b) shall not include revenues that accrue from extractive natural resources including as oil and coal;
- (d) the county public debt shall never exceed twenty(20%) percent of the county governments total revenue at any one time;
- (e) the county annual fiscal primary balance shall be consistent with the debt target in paragraph (d);
- (f) the approved expenditures of a county assembly shall not exceed seven per cent of the total revenues of the county government or twice the personnel emoluments of that county assembly, whichever is lower;
- (g) pursuant to section 107(5) of the Act, if the county government actual expenditure on development shall be at least thirty percent in conformity with the requirement under section 107(2)(a) of the Act;
- (h) if the county government does not achieve the requirement of regulation 25(1)(f) above at the end of the financial year, the county executive committee member for finance shall submit a responsibility statement to county assembly explaining the reasons for the deviation and provide a plan

on how to ensure annual actual expenditure outturns as well as medium term allocation comply with the provisions of Section 107 (2) (a) of the Act and these regulations in the subsequent years; and

- (i) the compliance plan above shall be binding and the county executive committee member for finance shall ensure implementation

(2) In line with prudent management of risks envisioned in section 107 (2)(f) of the Act, the County Executive Committee Member shall in the County Fiscal Strategy Paper include a statement of fiscal risks outlining the potential policy decisions and key areas of uncertainty that may have a material effect on the fiscal outlook and the statement shall include—

- (a) potential policy decisions affecting revenue, tax payer behavioural responses and court decisions that are likely to affect revenue bases and overall tax and revenue collections and government income, including tax concessions (‘r tax expenditures), increase in tax rates, tax minimisation and avoidance by tax and rates payers;
- (b) potential policy decisions that could increase or decrease expenses depending on decisions taken, and which constitute risks to the fiscal forecasts only to the extent that they cannot be managed within existing baselines or budget allowances;
- (c) potential capital decisions that are risks to the fiscal forecasts only to the extent that they cannot be managed within existing county government balance sheet;
- (d) matters dependent on external factors such as the outcome of negotiations or international obligations; and
- (e) a list of contingent liability including debt guarantees.

(3) The County Executive Committee Member shall disclose the specific fiscal risks if—

- (a) their impact in his or her view is significant enough;
- (b) a decision has not yet been taken but it is reasonably possible (but not probable) that the matter will be approved or the situation will occur;
- (c) it is reasonably probable that the matter will be approved or the situation will occur, but the matter cannot be quantified or assigned to particular years with reasonable certainty; and
- (d) any other matters the County Treasury considers, using their best professional judgement, that the matters may have a material effect on the fiscal and economic outlook, but are not certain enough to include in the fiscal forecasts.

26.(1) For the avoidance of doubt, the County Fiscal Strategy Paper submitted under section 117 of the Act, shall contain an

County Fiscal  
Strategy Paper.

assessment of the current state of the county economic environment which may include—

- (a) the medium term macroeconomic framework and its outlook as contained in the Budget Policy Statement and how it impacts on the county economic environment;
- (b) a medium-term fiscal framework defining a top-down aggregate resource envelope and broad expenditure levels;
- (c) indicative allocation of available resources among county government entities;
- (d) the economic assumptions underlying the county budgetary and fiscal policy over the medium term; and
- (e) a statement of fiscal responsibility principles, as specified in the Act and these Regulations indicating whether the fiscal strategy adheres to these principles.

(2) In addition, county fiscal strategy paper shall contain a fiscal risk statement as provided for under regulation 25.

(3) Before tabling a report containing recommendations on the County Fiscal Strategy Paper for adoption by the County Assembly in accordance with section 117(6) of the Act, the relevant committee of the County Assembly shall seek the views of the County Executive Committee member on its recommendations.

(4) Once the County Fiscal Strategy Paper is adopted by the County Assembly it shall serve as the basis of expenditure ceilings specified in the fiscal framework.

(5) The County Executive Committee member shall submit a copy of the adopted County Fiscal Strategy Paper to the National Treasury.

(6) The ceiling for the development expenditure and personnel spending of the county government budget shall be approved by the County Assembly and be binding for the next two budget years.

(7) The County Treasury shall include a statement explaining any deviation to the provisions of paragraph (4) of this regulation.

27.(1) The fiscal framework in the County Fiscal Strategy Paper shall contain—

- (a) updated forecasts expressed in Kenya shillings for the current budget year and three further years and actual results for the previous budget years for the consolidated county government budgets for—
  - (i) level of budgetary revenues by classification of the main categories of revenues;
  - (ii) level of budgetary expenditures by economic and functional classifications;
  - (iii) capital expenditures;

Contents of a fiscal framework

- (iv) the overall balance and primary balance position;
  - (v) level of county public debt;
  - (vi) sensitivity analysis taking account of possible changes in macroeconomic and other conditions; and
  - (vii) any other information the County Executive Committee Member determines is material to fiscal strategy;
- (b) an explanation of the fiscal policies in relation to fiscal responsibility principles, and any temporary measures to be implemented to ensure compliance, if necessary;
- (c) an analysis and explanation of—
- (i) revenue policy, including planned changes to taxes and policies affecting other revenues;
  - (ii) deficit and debt policy, including an analysis of county debt sustainability; and
  - (iii) expenditure policy including expenditure priorities, aggregate expenditure intentions, including the county consolidated budgets, and expenditure ceilings and other targets or limits implied by or required by the fiscal responsibility principles; and
- (d) an analysis of the consistency of the updated fiscal strategies with the previous fiscal strategies, providing an explanation of any significant changes.
- (2) The County Executive Committee Member shall gazette effective dates and give general guidelines and formats for preparing a consolidated county government accounts for statistical purposes.

(3) The guidelines and formats under paragraph (2) shall be in conformity with the ones issued by the Cabinet Secretary

28.(1) The fiscal framework in regulation 27, may be revised as a result of—

- (a) a significant and unexpected change in county macroeconomic indicators and assumptions;
- (b) policy changes arising from change of government.

#### PART IV — BUDGET PREPARATION

29. (1) The accounting officer shall ensure that the draft estimates relating to her or his department are prepared in conformity with the Constitution, the Act and these Regulations.

(2) The accounting officer is responsible, in particular for ensuring that—

- (a) all services which can be reasonably foreseen are included in the estimates and that they are within the capacity of her or his county government entity during the financial year;

Revisions to the fiscal framework.

Responsibility for preparing annual estimates of expenditure.



- (b) the estimates have been prepared are complete and accurate as possible;
- (c) the estimates have been framed with regard to economy and efficiency;
- (d) the requisite authority has been obtained, where necessary, before provision is made in the estimates; and
- (e) the estimates are submitted to the County Treasury in the manner and format to be gazetted by the Cabinet Secretary.

30. (1) The budget preparation process for the following financial year (N+1) shall start not later than the 30<sup>th</sup> August of the current financial year (N) with the issuance of the annual budget circular by the County Executive Committee Member and in compliance with formats and recommendations contained in the annual budget preparation circular or guidelines, instructions and the financial manual—

Budget preparation process.

- (a) on the basis of budget sector ceilings contained in the County Budget Review and Outlook Paper (C-BROP), the budget sector working groups shall submit by January of each year (N) the sector reports to the County Treasury which shall include printed estimates for the current year (N) and for the forthcoming financial year (N+1) and two outer years on a rolling basis (N+2), (N+3);
- (b) the estimates for the sector referred to in paragraph (a) shall be consistent with regulation (27); and
- (c) budget proposals shall be submitted in the prescribed formats that support program-based budgeting and classification of expenditure in economic classes.

(2) All budget proposals shall be supported by the county government entity strategic plan.

(3) The preparation and submission of estimates shall be done exclusively through prescribed automated integrated financial management systems.

(4) The proposed sector ceilings for the next three financial years contained in C-BROP, may be firmed up or readjusted in the County Fiscal Strategy Paper submitted in February of financial year (N) and adopted by County Assembly by the 15<sup>th</sup> March of same financial year (N).

(5) The approved County Fiscal Strategy Paper shall be published on the County Treasury website.

(6) County government entities, or agencies when required, shall readjust their estimates following the approval of the County Fiscal Strategy Paper and finalize and submit their estimates for years (N+1), (N+2) and (N+3) by the 10<sup>th</sup> April of financial year (N) to the County Executive Committee Member.

(7) Budget estimates shall be reviewed and consolidated and the draft budget estimates submitted to County Executive Committee by April the 20th of the financial year (N).

(8) Budget estimates of county government entities shall be reviewed and consolidated and the annual budget estimates submitted to the County Assembly, by April the 30<sup>th</sup> of financial year (N).

31. Unless provided otherwise in the Act, these Regulations or any other guidelines developed in furtherance of the Act or these Regulations, the following guidelines shall be observed at all times during budget formulation and approval—

Budget guidelines.

- (a) all revenue and expenditure shall be entered into the county government budget estimates;
- (b) expenditure entered in county government budget estimates shall be authorised for one financial year only;
- (c) budget revenue and expenditure appropriations shall be balanced;
- (d) the Kenyan Shillings shall be the unit of account for drawing up and implementation of the county government budgets, as well as the presentation of those accounts;
- (e) total budget revenue shall cover total budget expenditure and therefore—
  - (i) except as provided by legislation, there shall be no use of specific revenue to finance specific expenditure; and
  - (ii) appropriation shall be for a specific purpose or a specific programme or item of expenditure; and
- (f) budget estimates, shall take into account expenditure priorities, which contributes to the realisation of the required output and desired policy outcome.

32. (1) The budget ceiling contained in the County Fiscal Strategy Paper shall take into account—

Determination of budget ceilings.

- (a) the aggregate resource envelope following the forecast of major revenue (including the equitable share) and expenditure categories (the latter according to both economic and administrative classification);
- (b) the non-discretionary expenditure (debt service, wages and other related items);
- (c) the overall expenditure taking into consideration the fiscal rules;
- (d) breakdown of the overall expenditure into recurrent and development expenditure by sector ceilings; and
- (e) expenditure priorities as set out in county government policies.

33. (1) Each Accounting Officer may cause any proposed budget estimates to be examined and reported on by the internal audit unit of that county government entity.

Audit of Budget Estimates.

(2) The Accounting Officer in paragraph (1) shall take into account any recommendations made in respect thereto before submitting estimates to the County Treasury.

(3) A person who fails under paragraph (1) to provide information, or submits information which that person knows to be misleading or incorrect shall have committed an offence under the Act.

34. (1) On receipt of estimates from Accounting Officers, the County Executive Committee Member shall cause to be conducted budget hearings to review strategic plans and estimates of the entities concerned in order to ensure that these plans and estimates are in accordance with the county economic policy and fiscal framework.

Budget hearing process.

(2) Where the budget hearings in paragraph (1) necessitates changes, the County Executive Committee Member may require an Accounting Officer to make adjustments to his or her estimates.

35. County Appropriation Bills shall provide for —

Provisions in Appropriation Bills

- (a) the Votes and programs of the financial year;
- (b) financial provision in respect of certain activities of the county governments during that financial year; and
- (c) enabling the withdrawal out of the County Revenue Fund, or any other county public fund.

36. (1) Where the County Appropriation Act is not assented to or is not likely to be assented to before the first working day of the financial year, the Speaker to the County Assembly, with approval of County Assembly, shall communicate to the County Executive Committee Member grant of authority to withdraw from the County Revenue Fund of monies of an amount not exceeding one-half of the amount included in the estimates in accordance with section 134 of the Act.

Vote on account.

(2) Accounting officers shall make necessary entries in their books in respect of the amount of the vote on account approved.

(3) Moneys withdrawn under paragraph (1) shall be for the purpose of meeting expenditure on the county government's programmes and activities in respect of the financial year—

- (a) up to fifty (50%) percent of the estimates of budget for the financial year submitted to the County Assembly; or
- (b) until such a time the Appropriation Act is assented to, whichever is earlier.

(4) Funds withdrawn from the County Revenue Fund under this regulation may be utilized only for services for which funds have been provided for in the budget estimates submitted to County Assembly.

(5) The funds provided for in paragraph (2) shall be regarded as forming part of the funds appropriated in the relevant annual budget estimates for that financial year.

37. (1) Where a county assembly approves any changes in the annual estimates of budget under section 131 of the Act, any increase or reduction in expenditure of a Vote, shall not exceed one (1%) percent of the Vote's ceilings'.

Approval of the Annual Budget Estimates by the County Assembly.

(2) The County Executive Committee member shall submit a copy of the budget estimates approved under paragraph (1) to the National Treasury within 14 days of its approval.

38. (1) If estimates of budget submitted to the County Assembly for a financial year have not been approved by the County Assembly or are not likely to be approved by the County Assembly, by the beginning of the financial year, the Controller of Budget may authorize withdrawals from the County Revenue Fund based on the last approved budget by the County Assembly up to fifty (50%) percent for the purposes of meeting expenditure of the County government for the financial year.

Expenditure before approval of budget estimates by County Assembly.

(2) The authority under paragraph (1) shall cease upon assent of the Appropriation Act for the financial year.

(3) The expenditure incurred under paragraph (1), shall form part of expenditures for the financial year.

39. (1) Each Accounting Officer shall within the guidelines of the supplementary budget circular and in conformity with budget guidelines issued by the County Executive Committee Member, prepare revised budget estimates in the format to be issued by the Cabinet Secretary.

Supplementary budgets estimates.

(2) Prior to incurring any expenditure under paragraph (1), Accounting Officers shall seek the approval of the County Treasury, and if approval is granted by the County Executive Committee Member, it shall be communicated to the Accounting Officers through a notification which shall be copied to the Auditor-General and the Controller of Budget.

(3) The purpose for which approval is sought for a supplementary budget shall be—

- (a) unforeseen and unavoidable, in circumstances where no budget provision was made; or
- (b) unavoidable, in circumstances where there is an existing budgetary provision which, however, is inadequate.

(4) For purposes of paragraph (3), the following shall not be considered unforeseen and unavoidable expenditure—

- (a) expenditure that, although known when finalizing the estimates of the original budget, could not be accommodated within allocations; and
- (b) tariff adjustments and price increases.

(5) Accounting Officers may seek supplementary budget if the expenditure cannot be met by budget reallocation under section 154 of the Act.

(6) The request for supplementary budget in paragraph (5) shall be presented in a format that facilitates comparison with the original budget and shall contain all the information necessary to enable a decision on the application to be reached and shall include—

- (a) the Vote, program, sub-programme and broad expenditure category which it is desired to supplement, the original sum voted thereon and any supplements which may have since been added;
- (b) the actual expenditure and the outstanding liabilities or commitments against the item on the date when the request is made;
- (c) the amount of the supplement required, the reasons why the supplement is necessary and why it has not been possible to keep within the voted provision;
- (d) the basis for the calculation underpinning the supplementary;
- (e) the proposed source of financing of the additional expenditure;
- (f) an analysis of the fiscal impact of the additional expenditure, or of the implications, if any, for the planned outputs and outcomes of the affected programmes;
- (g) any implied deviation from the Medium Term Expenditure Framework (MTEF) and the financial objectives; and
- (h) the latest fiscal projections.

(7) The county government entity requesting additional funds through a supplementary budget process shall submit a memorandum to the County Treasury, on a date determined by County Treasury.

(8) For avoidance of doubt, budget allocations for new policy options and service delivery initiatives shall only be considered when introduced in the annual estimates of budget in accordance with the procedure laid down in the Act and these Regulations.

(9) In approving any estimates under sections 135 and 154 of the Act, that County Assembly approval shall not exceed ten (10%) percent of the approved budget estimates of a program of Sub-Vote unless it is for an unforeseen and unavoidable need as defined in section 112 of the Act.

(10) The County Executive Committee member shall submit a copy of the budget estimates approved under this regulation to the National Treasury.

40.(1) Each county government's budget estimates shall be prepared, accounted for and reported in accordance with the Government of Kenya budget classification and standard chart of accounts issued by the National Treasury.

Budget classification and the standard chart of accounts.

(2) As much as practicable, these classifications shall be designed to support financial and economic reporting requirements in the Act and generally accepted international standards.

## PART V – BUDGET EXECUTION

41.(1) Overall control of county government budget execution shall be exercised through strict application of the following general rules, which shall apply to all transactions with the specific exception of debt service payments –

General rules relating to budget Execution.

- (a) aggregate reallocations for a particular appropriation line in a given fiscal year may not exceed the amount appropriated for that line in the annual Appropriations Act amended from time to time through budgetary reallocations made pursuant to section 154 of the Act and any supplementary Appropriations Acts enacted under section 135;
- (b) total payments for a detailed budget line in a given fiscal year may not exceed the reallocations issued against that budget line.

(2) Debt service payments shall be a first charge on the County Revenue Fund and the Accounting Officer shall ensure this is done to the extent possible that the county government does not default on debt obligations.

(3) Debt payments shall be made whether or not they meet the general rules, provided that the County Executive Committee Member reports of any excess over appropriations, with full explanations of the circumstances, to County Assembly in the next quarterly reporting cycle.

(4) Other than temporary treasury liquidity management operations, no payment shall be made from the County Revenue Fund as a direct charge, except under an item identified in the annual budget estimates.

42.(1) An Accounting Officer shall –

Accounting Officers to exercise budgetary control measures.

- (a) sign financial statements thereby making himself or herself responsible for their correctness;
- (b) ensure that public funds entrusted to their care are properly safeguarded and are applied for purposes for only which they were intended and appropriated by the County Assembly;
- (c) ensure all appropriation-in-aid due to county government entity are collected and properly accounted for in accordance with the relevant laws, rules and Regulations;
- (d) manage control and ensure that policies are carried out efficiently and wastage of public funds is eliminated; and
- (e) ensure each county government entity has an audit committee in place.

43. (1) Accounting Officers shall provide the County Treasury with an annual cash flow plans as a requisition for funds needed for that financial year.

Accounting Officers to request cash on the basis of an approved quarterly cash disbursement schedule.

(2) County government entities shall execute their approved budgets based on the annual appropriation legislation, and the approved annual cash flow plan with the exception of unforeseen and unavoidable spending dealt with through the County Emergency Fund, or supplementary estimates.

(3) The annual cash flow plans prepared by Accounting Officers shall be broken down into a three month rolling basis and shall be adjusted to reflect any implementation realities in consultation with the County Treasury.

(4) As far as possible, quarterly cash flow projections prepared by the Accounting Officers shall be supported by a procurement plan approved in accordance with the Public Procurement and Disposal Act, 2005.

No. 3 of 2005.

44. (1) The County Treasury shall consolidate all expenditure requirements and projections as forwarded by Accounting Officers, compare with the projected revenues including county net domestic borrowing, and thereafter in consultation with Accounting Officers, agree on an indicative annual cash flow forecast limit for that financial year.

Consolidation and approval of cash limits issued to accounting officers.

(2) The County Treasury shall issue a County Treasury circular communicating cash flow projections agreed with the Accounting Officers.

(3) In the event of unanticipated cash flow fluctuations, the County Treasury shall inform the Accounting Officers through a circular requesting them to review and submit revised cash flow projections in line with the guideline set out in the circular.

45. (1) The basis for requisition of funds for grant of credit by the Controller of Budget on the account of the accounting officer from the county exchequer account shall be based on the approved cash flow plans communicated to that accounting officer by the County Treasury.

Release of funds to meet expenditure

(2) Release of Funds from the County Revenue Fund to County government entities shall be in accordance with the authority granted by the Controller of Budget together with the written instructions of the County Treasury.

(3) The County Treasury shall make requisition from the Controller of Budget as necessary for the exchequer withdrawal of funds which shall be placed to the credit of an accounting officers' entity account.

(4) Pursuant to the grant of credit in paragraph (3), the County Treasury shall issue an exchequer notification informing the accounting officer of the amounts authorized.

(5) The County Treasury may require accounting officers to review their cash flow plans in line with changes in revenue realization, shortfalls in borrowing and unforeseen expenditures.

(6) The County Treasury shall publish and publicize the quarterly liquidity position reports reflecting the impact of revenue collection

efforts, spending and county public debt operations on the cash position of county government.

46. (1) The Accounting Officer shall inform his or her responsible County Executive Committee Member immediately of any circumstances that are likely to affect materially the budgetary results either through revenue and expenditure or other receipts and payments of the county government entity.

Budget Variation.

(2) The Accounting Officer shall inform his responsible County Executive Committee Member of actions taken to mitigate any budget variations.

(3) The responsible County Executive Committee Member shall take the necessary steps to bring to the notice of the County Executive Committee, any warnings of significant or material budget variations.

47. (1) For purposes of section 154(3) of the Act, Accounting Officers, may authorize reallocation of funds within programmes or sub-votes provided that —

Budget reallocation.

- (a) this does not affect the total voted provision;
- (b) the provisions in the budget of the programme or sub-vote from within which the funds are to be transferred are unlikely to be utilized;
- (c) reallocation is in accordance with donor conditions in the case of reallocation impacting on donor-funded expenditure;
- (d) the reallocation does not affect the voted provisions from wage to non-wage expenditure or from capital to recurrent expenditure; and
- (e) allocations earmarked by the County Treasury for a specific purpose may not be used for other purposes, except with Treasury's approval.

(2) Accounting Officers shall keep a register of all budgetary reallocations and use it to prepare a report of all reallocations to the County Treasury not later than the 10<sup>th</sup> day of each month and the report shall state measures taken by the Accounting Officer to mitigate against future reallocations.

(3) The report referred to in paragraph (2) shall state the impact that the reallocations may have had on program objectives, planned program outputs and outcomes.

(4) The County Treasury shall consolidate all reallocations and include them in the next revised budget.

(5) The reallocations under this regulation shall be approved by the respective Accounting Officer of the entity.

48. The reallocations by the County Treasury in terms of section 154(2) of the Act shall be included in the next revised budget for submission to and approval by the County Assembly.

Reallocation between programmes and sub votes



49. (1) Where an Accounting officer accesses the County Emergency Fund in accordance with section 112 of the Act, that accounting officer shall first identify resources within his or her vote through identification of savings for re-allocation before applying for financing from the County Emergency Fund.

Advances from the County Emergency Fund.

(2) If an accounting officer is satisfied that there are no savings within his or her vote and the need meets the criteria set under section 112 of the Act and paragraph (1), the accounting officer shall—

- (a) give reasons why he or she believes the need meets the criteria under section 112 of the Act;
- (b) issue a certificate confirming that the need meets the criteria under section 21 of the Act and paragraph (1) of this regulation;
- (c) the certificate shall be countersigned by the County Executive Committee Member for that entity; and
- (d) submit the request to the County Executive Committee Member responsible for Finance for consideration.

(3) The County Executive Committee Member shall consider the request and assess if the need meets the criteria set under section 112 of the Act and may approve it or reject it.

50. (1) All commitments for supply of goods or services shall be done not later than the 31<sup>st</sup> May each year except with the express approval of the accounting officer in writing.

Commitment for goods or services.

(2) Expenditure commitments for goods and services shall be controlled against spending and procurement plans approved by the responsible Accounting Officer, based on allocations and allotments from approved budgets.

(3) The Accounting Officer of that government entity shall make an expenditure commitment only against the procurement plan approved for that entity in accordance with the Public Procurement and Disposal Act and Regulations made thereunder.

(4) At minimum, a procurement plan shall include proper descriptions of the procuring items, unit cost, the estimated contract value, and the procurement method relating to the annual portion of a multi-year contract and delivery schedule.

(5) Any changes to approved procurement plan during the year shall be approved by the responsible Accounting Officer in consultation with the county executive committee member responsible for that entity.

(6) Any public officer who contravenes the provisions this regulation commits an offence.

51.(1) Any public officer who holds any post involving, in any degree, the management of public funds, and in particular every officer to whom is delegated the power to expend or receive such funds shall, in the county government's interest and in his own interest, be aware of the essentials of vote control procedures outlined here below—

Vote Control Procedures.

- (a) no public officer shall spend or commit funds until he or she has been properly authorized by means of an Authority to Incur Expenditure (AIE) to do so;
- (b) AIE holders shall be made to understand that the limit to which they may spend is that prescribed by the authority and not their expectations, however justified these may seem;
- (c) the AIE issued to a public officer shall in the minimum contain—
  - (i) the AIE number and to whom issued;
  - (ii) the authorized total expenditure;
  - (iii) a description of the expenditure item; and
  - (iv) the account code to which the expenditure is to be debited;
- (d) when the AIE is issued by the county department or agency, the allocation shall be entered as a commitment in the county department's or agency's master vote book so as to ascertain at all times the availability of uncommitted funds;
- (e) accounting officers whose votes cover field programmes, sub-county and projects shall issue AIE's to their field programmes, sub-county and project officers not later the 15th day of each quarter;
- (f) public officers issued with AIE's shall also be informed in writing that the actual expenditures shall not exceed the limit authorized in the AIE's;
- (g) sub-AIE's may be issued by AIE holders where necessary and where sub-county treasuries have been established;
- (h) all AIE's to field public officers shall show the following details at the minimum and copies submitted to the Auditor-General—
  - (i) the gross total amount of funds per Vote allocated and applied against the AIE issued; and
  - (ii) the total amount of AIA to be collected;
- (i) each accounting officer shall cause records to be kept in such a form as shall clarify at any time, in respect of each of his or her votes—
  - (i) the total amount of expenditure sanctioned for service of the year;
  - (ii) the amount of the expenditure charged;
  - (iii) any further known liabilities in respect of the year; and
- (j) the AIE holders shall note the following in terms of control of expenditure—

- (i) there shall be no divided responsibility, only the officer to whom the AIE has been issued is permitted to commit or incur expenditure against it; and
- (ii) an AIE holder shall not wait for suppliers to submit invoices in order to clear his commitment, but he or she shall regularly have his outstanding commitments checked and enquiries made from the suppliers.

52. (1) A local purchase order or local service order shall be valid for a period of thirty days from the date of issue.

Receipt of goods and services beyond the stipulated period.

(2) Any public officer who receives goods or services beyond the stipulated period specified in paragraph (1) commits an offence under the Act.

(3) Any public officer involved in the processing of a payment with regard to goods or services delivered after due date shall inform the accounting officer of this anomaly before proceeding to process the payment.

(4) The public officer in charge who fails to ensure the local service order or local purchase order is cancelled after thirty days commits an offence under the Act.

53.(1) Except as provided for in the Act and these Regulations, an Accounting Officer of an entity may not authorize payment to be made out of funds earmarked for specific activities for purposes other than those activities.

unauthorized spending.

(2) A public officer who makes a payment contrary to paragraph (1) commits an offence under the Act.

54.(1) An Accounting Officer of a county government entity shall not later than the 10<sup>th</sup> day of each month submit a monthly financial and non-financial budgetary report in the format to be issued by the Cabinet Secretary relating to the activities of his or her county government entity for the preceding month to the County Treasury with copies to the Controller of Budget and the Auditor-General.

Monthly reporting obligations by Accounting Officers.

(2) The contents of the report under paragraph (1) shall include—

- (a) actual revenues, including appropriations in aid;
- (b) expenditures classified in economic classification as follows—
  - (i) compensation to employees;
  - (ii) use of goods and services;
  - (iii) transfer to other levels of government; and
  - (iv) capital expenditure;
- (c) pending payments with an age of over ninety days;
- (d) a projection of expected expenditure and revenue collection for the remainder of the financial year;

- (e) when necessary, an explanation of any material variances; and
- (f) a summary of the steps that are to be taken to ensure that the projected expenditure and revenue remain within budget.

55.(1) A county government entity may enter into a contract which will impose financial obligations on the county government entity beyond a financial year.

Contracts with multi-year financial implications.

(2) Contracts imposing financial obligations in excess of one year may be concluded by the accounting officer only if—

- (a) the accounting officer discloses all finalized and signed contracts by the beginning of a financial year;
- (b) the finalized and signed contracts are budgeted for first, before new projects are considered by the accounting officer of the county government entity; and
- (c) the accounting officer secures the resources required in line with the financing requirements set out in the contracts.

56. (1) The county government may make policy changes in a financial year leading to—

Reorganisation of government functions.

- (a) creation of an additional county government entities; or
- (b) transferring certain functions or services of an existing county government department and agencies to —
  - (i) another existing county government department or agency;
  - (ii) a new county government department or agency; or
- (c) abolition of an existing county government department or agency and transferring its functions or services to one or more county government department or agency.

(2) Before embarking on accounting entries and other adjustments to reflect the changes in paragraph (1), it shall be necessary to agree on the actual status of the vote in respect of the following aspects of the affected functions and services based on the ledger balances of a trial balance to be drawn on a date to be communicated by the County Treasury—

- (a) the gross budgetary provision;
- (b) the approved Appropriation-in-Aid, if any, and whether in cash or credit purchase;
- (c) the approved development partner assistance and county government entity own revenue whether in cash or credit purchase, if any;
- (d) the net budgetary provision;
- (e) the gross expenditure incurred;
- (f) the amount of county government entity own revenue and development partner assistance applied in cash or in credit purchases; and

- (g) the sharing of amounts held in the below-the-line group of accounts.

(3) When a county department or agency is abolished, its vote shall cease to function and consequently it shall be necessary to extract a trial balance as at the date of abolition and to ascertain the state of financial affairs of that vote which shall include—

- (a) the budgetary provision;
- (b) expenditure incurred; and
- (c) cash balance.

(4) The statement shall also be accompanied by analysis of the below the line group of accounts, on the basis of which, it should then be agreed on the amount of the related budget provision, expenditure incurred and the below the line balances to be shared out, if necessary.

(5) The supplementary Appropriation Act will provide the details of the affected votes, and the County Treasury, shall inform the affected Accounting Officers of the effective date when they shall effect accounting entries in their books and other necessary inter-vote adjustments.

(6) The book-keeping entries of a new vote shall be effected as outlined in the National Treasury Guidelines issued.

#### PART VI—MANAGEMENT OF REVENUE AND OTHER RECEIPTS

57.(1) County government receipts may be classified into domestic receipts and external receipts.

Classification of County Government Revenues.

- (2) Domestic receipts under paragraph (1) shall comprise of—

- (a) domestic loans receipts;
- (b) tax revenues; and
- (c) non tax revenues including exchequer non tax receipts and Appropriation-in-Aid.

- (3) External receipts under paragraph (1) shall comprise of—

- (a) external loans including national exchequer loan receipts and credit purchase; and
- (b) external grants including national exchequer grant receipts and direct payments.

58. (1) The estimates of revenues shall be in the format issued by the Cabinet Secretary and shall include—

Format of estimates of revenue.

- (a) the description of the source of revenue in terms of head code;
- (b) estimated revenues;
- (c) the receiver of revenue;
- (d) for each revenue head, there shall be shown revenue items; and

(e) the amounts and the nature of receipts.

(2) The estimates of revenue shall include the actual revenue for the two previous financial years (N-2), (N-1), the current financial year revenue estimates (N), and the projected revenue estimates for the next two outer years (N+1) and (N+2).

59. (1) The following shall be the basic principles in deciding whether sums shall be applied as Appropriation-in-Aid —

Basic principles in deciding whether sums shall be applied as AIA.

- (a) receipts arising directly out of expenditure on a service, the primary purpose of which is not collection of revenue (including user charges, user fees and sale of stores) and may be Appropriated in Aid of the vote from which expenditure on the service is met;
- (b) Appropriations in Aid shall be applied against a vote;
- (c) where miscellaneous receipts are individually and collectively small, and circumstances of receipt unimportant in themselves, such receipts may be credited to Appropriations in Aid; and
- (d) sums due as Appropriations in Aid in the previous year shall be credited to the Appropriations in Aid head of the year in which they are actually received.

(2) Despite the provision under paragraph (1), the County Executive Committee Member may designate any type of Appropriations in Aid as revenue in furtherance of certain county government policies.

60. The following shall be the main forms of receipts which occur in development estimates —

Main forms of receipts in development estimates.

- (a) Appropriations in Aid in form of receipts collected by any authorized county government agency or derived from the sale of goods and services directly derived from projects contained in the appropriate expenditure head;
- (b) credit purchases charged to the appropriate head representing expenditure on the cost of goods or services supplied and credited to the county government entity, but such transactions may be carried out only after County Treasury's advice;
- (c) direct payments from grants from external sources charged to the appropriate head representing expenditure on the cost of goods or services supplied and credited to the county government entity of which may be carried out only after County Treasury's advice;
- (d) loan and grant receipts through the county exchequer account; and
- (e) tax and non-tax revenue through the county exchequer account.

61.(1) A receiver of revenue designated by the County Executive Committee Member under section 157 of the Act, shall be responsible for the collection of, and accounting for, such items of revenue as the County Executive Committee Member may specify.

Receivers of revenue.

(2) A letter for the designation of receiver of revenue under paragraph (1) shall indicate his or her responsibility and the manner in which he or she may delegate the duties of collection of revenue to officers under him or her or of another county government entity.

(3) Despite the provisions of paragraph (2), the receiver of revenue for loans and grants funds shall be the Chief Officer to the County Treasury, and the County Executive Committee Member shall specify such items of revenue in the designation letter.

62.(1) The receiver of revenue shall, in accordance with section 158 of the Act, authorize a public officer or any of the county government entities to be a collector of revenue for county government for the collection of, and accounting for, such items of revenue as the receiver of revenue may specify.

Collectors of revenue.

(2) Except with the specific authority of the collector of revenue, in no case may a public officer whose duty involves the posting of assessment registers, rent rolls and similar documents be authorized to collect public moneys or to post collections into a cash book.

63.(1) An accounting officer and a receiver of revenue are personally responsible for ensuring that—

Responsibility for revenue management.

- (a) adequate safeguards exist and are applied for the prompt collection and proper accounting for, all county government revenue and other public moneys relating to their county departments or agencies;
- (b) adequate measures, including legal action where appropriate, are taken to obtain payment;
- (c) official receipts are issued for all moneys paid to county government.

(2) An accounting officer or receiver of revenue who experiences difficulty in collecting revenues due to the county government shall report the circumstances to the County Executive Committee Member without delay.

(3) Except with the authority of the County Executive Committee Member, no receiver of revenue or collector of revenue, may convert public moneys received in local currency into foreign currency and vice versa.

(4) All public moneys collected by a receiver of revenue or collector of revenue or collected and retained by a county government entity, shall be paid into the designated bank accounts of the county government and shall not be used by any public officer in any manner between the time of their receipts and payment into the bank except as provided by law.

(5) An Accounting Officer or receiver of revenue or collector of revenue shall take disciplinary measures in line with the relevant legislation against a public officer who contravenes paragraph (4) of this regulation.

(6) An accounting officer or receiver of revenue or collector of revenue shall ensure adequate books of accounts are kept relating to revenue collection and management.

(7) A public officer who makes payment from monies collected under this regulation commits an offence under the Act.

64.(1) The Accounting Officer or receiver of revenue or collector of revenue shall prepare a quarterly report not later than the 15<sup>th</sup> day after the end of the quarter.

In-year reporting of revenue collection.

(2) The quarterly report in paragraph (1) shall include —

- (a) a statement of receipts and disbursements in such form as the Public Sector Accounting Standards Board may determine;
- (b) a statement of arrears of revenue which shall be classified by financial year; and
- (c) reasons for material differences between approved estimates and the actual revenue collected.

(3) The accounting officer or receiver of revenue or collector of revenue shall include in the report under paragraph (1), the following details in respect of each waiver or variation—

- (a) the full name of each person benefiting from the waiver or variation;
- (b) the amount of tax, fee or charge affected by the waiver or variation;
- (c) the year to which the waiver or variation relates;
- (d) the reasons for the waiver or variation; and
- (e) the law in terms of which the waiver or variation was granted.

(4) The quarterly report under paragraph (1) shall be submitted to the County Treasury, with a copy to the Auditor-General.

65. (1) The Accounting Officer of a county government entity may when finalising their budgets, review all fees, charges or the rates, scales or tariffs of fees and charges that are not fixed by any law and that relate to revenue accruing to the County Revenue Fund.

Fees for services rendered by the county government.

(2) An Accounting Officer shall obtain approval from the County Treasury for the proposed tariff structure.

(3) Information on the tariff structure shall be disclosed in the annual report, including information on exemptions, discounts, free services and any other aspect of material influence on the revenue yield.



66.(1) When a county government entity renders agency services to another county government entity or national government entity, all revenue receipts collected shall be accounted for fully by the agent to the receiver of revenue or collector of revenue or accounting officer.

Agency services and revenue management.

(2) Any exception to paragraph (1) on the expenses arising from the revenue administration costs shall be expressly agreed between the county government entity and the respective receiver of revenue or collector of revenue or accounting officer based on a service level agreement signed between them.

(3) Claims for agency services rendered on behalf of another county government entity, level of government, shall be based on actual revenue collected and accounted for and shall be supported by original vouchers and shall be reflected in the books of accounts of transacting institutions.

67.(1) Refunds of revenue may become necessary because of collections or over-collections made in error or because, although properly collected in accordance with an Act or these Regulations, provision exists under the Act or Regulations for the revenue to be reclaimed under certain circumstances in the form of a rebate or drawback.

Refund of revenue.

(2) Refunds of revenue and drawbacks under paragraph (1) shall be in accordance with the relevant legislation.

(3) Any refunds under paragraph (1) shall be provided for under an expenditure item appropriated by County Assembly in a County Appropriation Act.

(4) Where the collection, over-collection or drawback is made in the same financial year as that in which the revenue was originally collected, it may be authorized by the officer prescribed in the relevant legislation to be charged as a debit item in the appropriate revenue head.

(5) A Receiver of revenue or collector of revenue shall prepare estimates of refunds from taxes or fees or charges for the following financial year, and submit the budget to the County Executive Committee Member for consideration and inclusion in the budget estimates of the County Treasury for appropriation by County Assembly.

(6) The estimates of refunds submitted under paragraph (5) by the receiver or collector of revenue shall include assumptions underpinning the refund estimates.

68.(1) The annual, quarterly and monthly statements by a receiver of revenue submitted to the County Treasury under sections 158(3) and 165 of the Act, shall be in the format gazetted by the Cabinet Secretary and at the minimum shall include—

Format of annual and quarterly statements submitted by the receivers of revenue.

(a) the actual revenue received by the receiver and transmitted to the county exchequer account;

- (b) the actual revenue received by the receiver and not transmitted to the county exchequer account;
- (c) the revenue arrears due but not collected; and
- (d) a responsibility statement by the receiver of revenue on the revenue statement.

#### PART VII—MANAGEMENT OF GRANTS AND DONATIONS

69. (1) For purposes of this Part—

Definition of terms.

- (a) “grant agreement” means an instrument that gives the power to an agency to furnish money, property or materials to a grantee and the grantee has freedom to pursue the grants stated purpose, but the agency does not specify the matter of performance of the work and is not substantially involved in it;
- (b) “financing agreements” are documents detailing commitments for provision of goods, services and activities to be performed by an organization for the awarding agency and contain specific objectives, direction, specifications, costs or methods of performance; and
- (c) “donor or development partner or external financier” is used in this Part interchangeably to refer to the providers of external resources.

70. The Regulations prepared by the County Executive Committee Member under section 139 of the Act and approved by the County Assembly shall comply with the provisions under this Part.

Approval of Regulations under section 139 of the Act.

71. (1) Upon approval by the County Executive Committee Member, an Accounting Officer may receive any grant, donation, or sponsorship made in favour of the county government entity irrespective of whether such sponsorship or grant or donation is in cash or in kind provided that the Accounting Officer confirms with the relevant county government entity that donations given in kind—

Grants, donations, and sponsorships.

- (a) are not harmful to health and the environment; and
- (b) are in good and serviceable conditions.

(2) All cash grants and donations shall be deposited in the County Revenue Fund provided that—

- (a) such grants, donations and sponsorships are from a credible source and from persons or entities in good standing with the Government of Kenya; and
- (b) such grants, donations and sponsorships are intended to address government development policies.

(3) Where the purpose of the gift, donation, or sponsorship is not apparent, the County Executive Committee Member shall have the discretion to instruct the Accounting Officers on its application.

(4) A county government entity is not allowed to give a county government entity cash donations to augment the budgetary resources of designated departments.

(5) Gifts, donations or sponsorships received during the year shall be disclosed in the annual and quarterly financial statements.

72. (1) Projects implemented through grants, donations and sponsorships shall be aligned to the national and county development policies.

Grants  
administration.

(2) In identification and designing of projects funded by development partners, the areas covered and amount allocated shall be determined by objective criteria and as far as possible on need-based formula which may include geographical area, population and poverty index.

(3) The Accounting officer shall disclose the details under paragraph (2).

(4) Grants and donations shall be disbursed through the revenue mode of disbursement or supply of goods and services in which case development partners shall undertake to submit expenditure returns in a prescribed format by the County Treasury in the grant agreement.

(5) All grants shall be appropriated by County Assembly before commencement of disbursements.

(6) Issues to do with tax exemptions, issuance of work permits, counter-part personnel, counter-part funding, office space, demand driven technical assistance, community contribution either in cash or in kind shall be clearly spelt out in the grant agreements, and the county government and community contribution shall be properly assessed and quantified in all grant supported projects.

(7) County governments shall ensure grants are factored in the budgets and counterpart funds appropriated accordingly.

73. (1) Where authorisation has been granted for the project to start, the Accounting Officer shall ensure public disclosure to the intended beneficiaries within thirty days of the allocation and disbursement of the grants.

Disclosure of  
authorization and  
disbursement.

(2) After disbursement of grants, the accounting officer shall report within fifteen days after the end of each quarter to the intended beneficiaries on the expenditures and performance achieved in relation to the grant.

(3) During the project identification and design, the intended beneficiaries shall be involved through public participatory approach for planning.

(4) The views of the indented beneficiaries shall be received during public forums provided for under paragraph (3) above and their views will be considered appropriately or during budgeting process of the next budget cycle.

(5) Where non-compliance by an accounting officer with grant conditions is established through an audit or fiduciary review process, the County Executive Committee Member may suspend the disbursements and institute measures to recover any amounts misappropriated by the public officer.

*Accounting and reporting on donations and grants*

74. (1) All monies received by way of grants and donations shall constitute public monies and shall be paid into the County Revenue Fund.

Monies received by way of grants and donations to be paid into a designated account.

(2) The County Executive Committee Member shall make provisions in the budget estimates for grants and donations receivable in kind such as commodity aid for purposes of raising cash locally.

(3) Where the quantum of the grant or donation referred to in paragraph (2) is not known, a provision shall be included in the estimates and when the quantum becomes known a supplementary estimate shall be raised for the amount involved.

(4) Where grants and donations are receivable in kind, the value of such donations shall be determined and included in the estimate and reflected as expenditure in the financial year.

(5) Monies received for specified projects which have been paid into the County Revenue Fund, shall be released when required to the appropriate project bank account.

(6) An accounting officer of a county government entity shall—

- (a) cause to be kept and maintained proper books of accounts and records in respect of all projects and donations;
- (b) ensure that whenever projects are completed, the project assets including buildings, plant, vehicles, furniture, fittings and equipment are properly recorded and handed over to the accounting officer in accordance with the financing agreement;
- (c) where no time frame is provided for the project, ensure that the assets are handed over within three months from the date of the closure of the project; and
- (d) in the absence of any instructions to the contrary, any unexpended balance standing in the credit of the project account shall be paid into the County Revenue Fund.

75. (1) It shall be the responsibility of the County Treasury to ensure that any project approved for financing through grants and donations—

Project selection criteria.

- (a) has been approved by the accounting officer; and
- (b) the project feasibility study report has been inspected and approved by the relevant county government entity.

76. (1) For the purpose of disbursement of project funds, there shall be opened and maintained a project account for every project at Central Bank of Kenya unless it is exempted by the Cabinet Secretary in writing where the CBK has no branch or banking facilities, into which all funds shall be kept and such an account shall be known by the name of the project for which it is opened and each project shall maintain only one bank account.

Project bank account.

(2) All foreign currency designated bank accounts shall be kept at the Central Bank of Kenya for county government entities unless exempted in writing by the Cabinet Secretary under paragraph (1) of this regulation.

(3) Every payment or instruction for payment out of the project account shall be strictly on the basis of the approved estimates of budget and financing agreement.

77. The Accounting Officer of a project shall compile and maintain a record showing all receipts, disbursements and actual expenditure on a monthly basis in respect of every project and sub-project and shall—

Records of receipts and disbursements.

- (a) make monthly interim financial returns;
- (b) make quarterly financial management returns; and
- (c) submit a summary of the records for each quarter and year to the division responsible for external resources in the County Treasury not later than fifteen (15) days after the end of every quarter.

78. (1) Non Governmental Organisations that implement development programs funded by public funds, including donor funding shall be accountable through regular financial reporting and submission of audited annual financial statements to the relevant accounting officer in a format prescribed by the Public Sector Accounting Standards Board.

Responsibilities of NGOs where the project is implemented by NGO.

(2) NGO's in paragraph (1) of this regulation, shall be registered by the responsible national licensing authority and in accordance with the relevant law under which that authority is established.

79. (1) Documents to be attached to the financial reports and annual audited accounts in regulation 78 shall include a certificate of registration confirming that the NGO—

Documents to be attached by NGOs where the project is implemented by NGO.

- (a) is a body corporate and separate from its members, with perpetual succession;
- (b) can engage in public interest activities and public fund-raising within the county; and
- (c) is eligible for such fiscal or other benefits and privileges, as may be applicable to NGOs from time to time.

(2) In addition to requirements under paragraph (1) of this regulation, the NGO shall also submit —

- (a) its annual performance report outlining the activities undertaken by the NGO in the year;
- (b) an annual return reflecting details of its trustees, directors, office bearers and auditors;
- (c) its sources of funding;
- (d) in the event of any amendment to its constitution or governance instrument during the financial year, a certified copy of such amendment; and

- (e) in the event of any amendment to its constitution or governance instrument during the financial year, a certified copy of such amendment.

**PART VIII—COUNTY TREASURY AND CASH  
MANAGEMENT**

80. (1) The County Treasury shall administer the County Revenue Fund in accordance with the Constitutional provisions in Article 207 and 209 (3) and (4) in controlling revenue receipts to ensure that—

Composition of  
County Revenue  
Fund.

- (a) all revenue receipts by the county government are paid into the County Exchequer Account, except revenue receipts reasonably excluded by the Act, or any other Act of Parliament or an Act of County Assembly ; and
- (b) withdrawals from the County Revenue Fund are done—
- (i) in accordance with an appropriation by an Act of County Assembly; or
- (ii) as a direct charge against the County Revenue Fund authorized by the Act, an Act of Parliament or an Act of County Assembly.

(2) The administrator of the County Revenue Fund shall keep proper books of accounts of the County Revenue Fund in accordance with standards and formats prescribed by the Public Sector Accounting Standards Board.

81. (1) Receivers of revenue shall promptly deposit into the County exchequer account all receipts due to the County Revenue Fund.

Process of receipts  
into County  
Revenue Fund.

(2) The receivers of revenue shall promptly pay the revenue received into the County Revenue Fund , as soon as possible and in any case not later than five (5) working days after receipt thereof.

(3) The County Treasury shall issue a receipt to a receiver of revenue to acknowledge the receipt of revenue thereof.

*Cash and Banking Arrangements*

82. (1) Subject to the provisions of section 119 of the Act, the following criteria shall be considered by the County Treasury before granting approval to a county government entity to open and operate a county government bank account—

Criteria for approval  
of opening and  
operating county  
government entities  
bank accounts.

- (a) all county exchequer accounts shall be opened at the Central Bank of Kenya;
- (b) For avoidance of doubt, all county government bank accounts shall be opened at the Central Bank of Kenya except for imprest bank accounts for petty cash;

(2) All county government entities operating bank accounts outside the provisions of paragraph (1), shall comply with the provisions under this Regulation within six (6) months from the date of commencement of these Regulations.

(4) Except with the prior authority of the County Treasury, no accounting officer may open a bank account for the deposit, custody or withdrawal of public moneys or other moneys for which he or she is responsible in his or her official capacity or for the transaction of official banking business.

(5) The authority of County Treasury shall be conveyed in writing to the responsible Accounting Officer with a copy to the Controller of Budget and the Auditor-General.

(6) County Treasury may prescribe the banking rules and the maximum balance which may be held in any official County Treasury Single Account sub account or other bank accounts, and if at any time this balance seems likely to be exceeded, the officer operating the accounts shall consult County Treasury on the action to be taken.

(7) No official county government bank account shall be overdrawn, nor shall any advance or loan be obtained from a bank account for official purposes beyond the limit authorized by the County Treasury in line with section 119 (4) of the Act.

(8) The authority in paragraph (7) shall be conveyed in writing to the responsible Accounting Officer and copied to the Auditor-General.

(9) Personal cheques shall not be deposited in an official bank account.

83. (1) The County Treasury shall be responsible for establishing sound cash management systems, procedures and processes, to ensure efficient and effective banking and cash management practices.

Guiding principles  
for cash  
management.

(2) For purposes of this regulation, sound cash management includes—

- (a) assessing the cash inflows and outflows expected at any one time;
- (b) ensuring payments, including transfers to other levels of government and county-government entities are made when due for efficient, effective and economical programme delivery and the county government's normal terms for account; or
- (c) avoiding accumulation of idle balances;
- (c) using short term borrowing only when it is necessary;
- (d) avoiding prepayments for goods or services unless required by the contractual arrangements with the supplier;
- (e) accepting discounts to effect early payment only when the payment has been included in the monthly cash flow estimates provided to the County Treasury;
- (f) pursuing debtors with appropriate sensitivity and rigour to ensure that amounts receivable by the county government are collected and banked promptly; and
- (g) recognizing the time value of money and managing inventories to the minimum level necessary for efficient and

effective programme delivery, and selling surplus or under-utilised assets.

(3) County government overdraft at the Central Bank of Kenya shall be retired by the end of the financial year.

84. Not later than the 31<sup>st</sup> January each year, each Accounting Officer shall surrender to the County exchequer account unexpended voted money or excess Appropriations-in-Aid, as confirmed by Auditor-General in the audit report.

Surrender Of End-Of Year Surplus Cash Balances.

85. (1) All signatories in respect of cheques, or electronic payments and fund transfers shall be designated by the Accounting Officer and any changes in signatories shall be authorized by him or her.

Cheques and electronic payments

(2) There shall be two authorized signatories to sign a cheque drawn or electronic payment or fund transfer on a county government bank account.

(3) The names and designation of those officers in paragraph (1) and their specimen signatures shall be advised to the bank where the account is held by the accounting officer, with copies of the advice sent to the County Treasury, and any change in signatories shall be advised in writing.

(4) The signatories under this regulation shall —

- (a) initial the counterfoil or enter with their personal passwords;
- (b) be equally responsible for the regularity of the payment; and
- (c) thoroughly scrutinize the documents supporting the payment.

(5) Spoilt cheques shall be marked prominently with the stamp “cancelled”, and fixed securely to the cheque-list used for controlling the cheques issued each day.

86. (1) The County Executive Committee Member may establish a Cash Management Advisory Committee.

Cash Management Advisory Committee.

(2) The Cash Management Advisory Committee under paragraph (1) shall be comprised of—

- (a) Chief Officer of the County Treasury who shall be the chairperson or an officer designated by him or her;
- (b) the department responsible for accounting policy within the County Treasury, which shall also provide the secretariat;
- (c) the department responsible for economic affairs in the County Treasury;
- (d) the department responsible for public debt management in the County Treasury; and
- (e) the department responsible for budget matters in the County Treasury.



(3) The responsibilities of the Cash Management Advisory Committee shall be determined by the County Executive Committee Member during its establishment.

87. (1) The County Head of Accountancy Services shall maintain a register of all CTSA sub accounts and other bank accounts opened by County government entities including public funds and donor funded projects.

Registers and records of county government bank accounts

(2) The office of the County Head of Accountancy Services shall reconcile periodically the government bank accounts list, with the records maintained by the Central Bank of Kenya.

(3) The Accounting Officer of a county government entity shall, by the 30<sup>th</sup> September of each year, provide the County Treasury with an up-dated list of bank accounts held by the county government entity.

(4) The list referred to under paragraph (3) shall include the following information—

- (a) name of the bank where the account is held;
- (b) name of the bank account;
- (c) type of bank account;
- (d) signatories of the bank account;
- (e) date on which the bank account was opened;
- (f) the bank account number;
- (g) purpose for the bank account, if different from the main operational bank account of the government entity;
- (h) the bank account balances as at 30<sup>th</sup> June each year; and
- (i) the reference number and date of the County Treasury, letter granting approval for opening and operating the bank account.

88. (1) The County Treasury shall, when granting authority to Accounting Officers to open and operate bank accounts, require them to include as a pre-condition to that bank, that the County Executive Committee Member may request bank statements for that account without any reference to the authorized bank signatories of that bank account.

Authority to have access to county government bank accounts.

(2) The County Executive Committee Member may suspend the operations of any county government bank account or impose certain conditions, if he or she reasonably believes the purpose of that account no longer exists, or that fraud or fraudulent transactions are being undertaken in that specific account and shall institute investigations immediately.

(3) Where in the opinion of the County Executive Committee Member finds it necessary, he or she may share the report of the investigation carried out in paragraph (2) with the Auditor-General and the Controller of Budget.

89. The Accounting Officers shall ensure that adequate arrangements are made to protect both cash and staff for cash in transit and such measures shall include the following—

Security for cash in transit.

- (a) safe or strong rooms and restricted access to the cash handling locations;
- (b) police or armed security escorts;
- (c) the security bags locked to the vehicle; and
- (d) suitable transport and variation of movement, times, and routes.

90. (1) Accounting Officers shall ensure bank accounts reconciliations are completed for each bank account held by that Accounting Officer, every month and submit a bank reconciliation statement not later than the 10<sup>th</sup> of the subsequent month to the County Treasury with a copy to the Auditor-General.

Reconciliation of bank accounts.

(2) Similar reconciliations shall be carried out when responsibility for any bank account or cheque book is handed over from one officer to another and on the occasion of any surprise inspection or survey.

(3) Accounting Officers shall ensure any discrepancies noted during bank reconciliation exercise are investigated immediately and appropriate action taken including updating the relevant cash books.

(4) The County Treasury shall analyze and review the bank reconciliation statements submitted under paragraph (3) of this regulation and take the necessary action.

#### *Managing Imprest Transactions*

91. (1) For the purposes of this subpart, an imprest is a form of cash advance or a float which the Accounting Officer may authorize to be issued to officers who in the course of duty are required to make payments which cannot conveniently be made through the cash office of a government entity or bank account.

Nature of imprest.

(2) The officer authorized to hold and operate an imprest shall make formal application for the imprest through an imprest warrant.

(3) Funds disbursed for imprest shall not be kept or held in an official bank account, but in a separate or personal bank account operated by the imprest holder or in the form of cash under safe.

92. (1) The Accounting Officer or Authority to Incur Expenditure (AIE) holder shall approve the establishment of an imprest facility including the maximum amount for the specific purpose of that facility.

Determination of imprest levels.

(2) In determining the level of an imprest, many factors shall be considered, but in the interest of economy and as a matter of prudence, an imprest shall be fixed at the lower figure compatible with requirements and in any case a standing imprest shall not exceed one month's estimated expenditure on the intended purpose.

93. (1) An imprest shall be issued for a specific purpose, and any payments made from it, shall be only for the purposes specified in the imprest warrant.

(2) There are two types of imprests namely—

(a) Temporary or Safari imprest; and

(b) Standing Imprest.

(3) Temporary imprests shall be issued mainly in respect of official journeys and are intended to provide officers with funds with which they can meet travelling, accommodation and incidental expenses.

(4) Before issuing temporary imprests under paragraph (2), the Accounting Officer shall ensure that—

(a) the main objective of the journey cannot be achieved by other cheaper means;

(b) the applicant has no outstanding imprests;

(c) the applicant imprest has been recorded in the imprest register including the amount applied for; and

(d) that adequate funds are available against the relevant items of expenditure to meet the proposed expenditure.

(5) A holder of a temporary imprest shall account or surrender the imprest within seven (7) working days after returning to duty station.

(6) In the event of the imprest holder failing to account for or surrender the imprest on the due date, the Accounting Officer shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank Rate.

(7) If the Accounting Officer does not recover the temporary imprest from the defaulting officer as provided for in this regulation he or she commits an offence as provided under the Act.

(8) In order to effectively and efficiently manage and control the issue of temporary imprests, an accounting officer or AIE Holder shall ensure that no second imprest is issued to any officer before the first imprest is surrendered or recovered in full from his or her salary.

(9) If the accounting officer or AIE Holder under paragraph (8) does not comply with the provisions of this paragraph, he or she commits an offence as provided under the Act.

(10) If an imprest is to be recovered from any public officer by instalments, the Accounting Officer shall personally authorize such recovery and such moneys shall no longer be an imprest but an unauthorized advance from county government funds, and in addition to the interest charged under paragraph (6), the Accounting Officer shall take appropriate disciplinary action against the officer concerned for the abuse of the imprest.

(11) Standing imprest shall be intended to be in operation for a time and requires bringing the cash level of the advance continuously up to the agreed fixed level by systematic re-imburement of expenses.

(12) Standing imprest shall involve personal responsibility as it shall be issued to an officer in his or her own name, and not to the holder of an office.

(13) When an imprest holder leaves the service, or is transferred, he or she shall surrender the total standing imprest which includes cash plus payment vouchers which together amount to the fixed level of the imprest, and a new imprest issued to his successor.

(14) The holder of a standing imprest shall keep a memorandum cash book to record all receipts and payments and the balance on hand shall agree with the cash balance recorded in the memorandum cash book, and in the absence of any receipts, the actual cash balances plus the expenses paid shall equal at all times the fixed level of the imprest for which the imprest holder is personally responsible.

(15) When the imprest holder needs to have his or her funds replenished, he or she shall send an abstract and analysis of his or her memorandum cash book, plus originals of the supporting payment vouchers to accounts division.

(16) If the accounts division in paragraph (15) is satisfied that the expenditure has actually been incurred, and that it has been incurred for the intended purposes, and there is no irregularity in the payment vouchers, it shall arrange for the analysed expenditure to be posted to the various heads and items, and arrange for the cash to be transferred to the imprest holder so as to “top-up” his or her fund.

(17) In addition to paragraph (15) the head of accounts division shall also ensure that frequent spot checks are made of the standing imprest itself by a responsible officer as follows—

- (a) count the cash on hand;
- (b) confirm that the actual cash on hand corresponds with the balance on hand as recorded in the memorandum cash book;
- (c) ensure that the documents justify the difference between the fixed imprest level and the actual cash balance; and
- (d) report on any anomalies found to the head of the accounts section.

94. An officer holding an imprest shall ensure that—

- (a) the imprest issued to him or her shall be used for the intended purpose only;
- (b) the imprest moneys and any payment vouchers awaiting replenishment are adequately safeguarded at all times;
- (c) proper cash sale receipts are received for all payments out of the imprest;
- (d) the full amount of the imprest can be accounted for at all times in cash, stamps, money at bank and completed payment vouchers; and

Duties of Imprest Holders.

- (e) goods purchased through imprest are taken on charge and certificate issued.

*County Treasury Single Account*

95. (1) Each County Treasury hereby establishes a (.....) County Treasury Single Account (CTSA) pursuant to section 119 (2) of the Act, which shall become operational within six (6) months after the commencement of these Regulations and shall be kept at the Central Bank of Kenya.

Establishment of a County Treasury Single Account.

(2) The County Executive Committee Member shall from time to time issue County Treasury Single Account guidelines to accounting officers for the operations of the County Treasury Single Account.

96. (1) The County Treasury shall ensure operating cash balances in the CTSA sub accounts are kept to a minimum through consolidation into a County Treasury Single Account.

Operation of a Treasury Single Account.

(2) The County Treasury Single Account shall reflect at the minimum the following features—

- (a) unified banking arrangements to enable the County Treasury to have proper oversight of county government cash inflows and outflows on these bank accounts;
- (b) that no county government entity shall operate bank accounts outside the County Treasury Single Account unless expressly authorized by the County Executive Committee Member; and
- (c) the comprehensive consolidation of county government controlled public monies encompassing all government cash resources, including county exchequer account, special funds, trust funds and other public funds unless expressly exempted by the County Executive Committee Member.

(3) County government deposits or exchequer releases to County government entities by the County Treasury shall be deposited in the CTSA sub-accounts and shall form part of cash balances of these accounts.

(4) Unless exempted by an Act of Parliament or by judicial order, all deposit bank accounts of the county government's entities shall be sub-accounts of the County Treasury Single Account for the county governments.

**PART IX—ACCOUNTING AND REPORTING**

*Form and Basic Structure of Government Accounts*

97. (1) The accounts of the county government entities shall record transactions which take place during a financial year running from the 1st July to the 30th June.

Accounting period.

(2) Government accounts may be kept open for adjustments or a financial year may be kept open for a month in the following financial

year for completion of the following end of year accounting processes—

- (a) in respect of the transactions upto the 30th June each year to capture expenditure for field services;
- (b) for carrying out certain inter-departmental agency adjustments; and
- (c) for closing the accounts of special funds and suspense accounts.

(3) Adjustments may also be made after the close of the year by journal entries for the correction of accounts due to miss-postings or misclassifications impacting on fair presentation of financial statements that may be noticed after the 30th June each year.

(4) An actual cash transaction taking place after the 30th June, shall not, however, be treated as pertaining to the previous financial year even though the accounts for that year may be open for the purposes referred to in paragraphs (2) and (3) of this regulation.

(5) The County Treasury shall issue guidelines on the closure of the financial year not later than the 15th May each year.

98. (1) The date of payment of any amount shall determine the date of the recording of the transaction in the accounts.

Charging of expenditure to year of accounts.

(2) No advance payment shall be paid to suppliers of goods and services unless provided for in the contractual terms and conditions contained in a valid contract signed between the procuring entity and the supplier.

99. (1) As a general rule, the classification of financial transactions in county government entity's accounts shall be based on the standard chart of accounts approved by the National Treasury.

Account codes and standard chart of accounts.

(2) The approved estimates of expenditure shall form the basis of the accounts for the financial year.

(3) Every entry in the accounts shall be supported by a voucher or other approved document gazetted by the Cabinet Secretary containing the full details, clear narrations and particulars of the item or items to which it relates.

100. Accounting Officers shall keep in all offices concerned with receiving cash or making payments a cash book showing the receipts and payments and shall maintain such other books and registers as may be necessary for the proper maintenance and production of the accounts of the Vote for which he or she is responsible.

Books of accounts to be kept by Accounting Officers.

101. (1) The structure of the reporting formats shall be based on the requirements of the Act.

Recording and reporting basis.

(2) The Cabinet Secretary may from time to time amend the Schedule in accordance with the prescribed standards set by the Public Sector Accounting Standards Board.

(3) The National Treasury shall issue financial instructions and guidelines on application of accounting policies, bases, standards and classification to be applied in financial reporting in line with the standards set by the Public Sector Accounting Standards Board.

(4) An Accounting Officer shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed by the Public Sector Accounting Standards Board, not later than three months after the end of the financial year and submit them to the Auditor-General with a copy to the County Treasury, the Controller of Budget and the National Treasury.

102. (1) Financial records may be maintained in manual and, or electronic form.

Financial records and automation of financial operations

(2) An Accounting Officer shall take all reasonable precautions to guard against damage, destruction of or falsification of any financial record required to be kept by the Act or these Regulations.

(3) An Accounting Officer shall satisfy himself or herself that where an alteration of a financial record requires the authorization, approval or deletion of any transaction or data, whether electronic or manual by any means other than in writing, that there is sufficient audit trail which shall identify the person who approved the transaction.

103. (1) Journal entries prepared for all adjustments shall be authorized by the accounting officer or an officer designated by him or her before posting them in a financial record.

Accounting adjustments journal.

(2) In all cases journal vouchers shall be supported by sufficient explanations, authorisations and documentation to facilitate accounting adjustments to be understood.

104. (1) All receipts and payments vouchers of public moneys shall be properly supported by pre-numbered receipt and payment vouchers and shall be supported by the appropriate authority and documentation.

Vouchers.

(2) All receipt and payment vouchers shall be or made out in indelible ink and shall contain adequate narration of the particulars of the services, goods or works procured and being paid for.

(3) All amounts appearing in a voucher shall be written in words as well as in figures.

105. (1) An Accounting Officer or any other officer delegated in writing by him or her may authorize payment vouchers on his or her behalf for expenditure chargeable to his or her vote, provided such expenditure is in respect of and within the provision of the services in a County Treasury warrant, in accordance with the law, regulations, tariff, contract or agreement that may be applicable, and does not require special authority in terms of any law, regulation or County Treasury instruction.

Powers to delegate voucher approval

(2) Accounting Officers may prescribe the financial limits and other conditions within which this authority in paragraph (1) may be exercised.

106. Unless otherwise exempted by an Act of Parliament, any deposit which has remained unclaimed for 5 years may, with the approval of the County Executive Committee Member, be paid into County Revenue Fund and thereafter the County Executive Committee Member may refund the deposit to any person entitled thereto, if he or she is satisfied that the claim is authentic.

Deposit accounts.

107. (1) All the transactions relating to clearance and suspense accounts shall be supported by authentic and verifiable source documents, clearly indicating the approved allocation.

Clearance and suspense accounts.

(2) Where it is necessary, to account for revenue and expenditure transactions in a clearing or suspense account, the Accounting Officer shall ensure that—

- (a) amounts included in clearing or suspense accounts are cleared and correctly allocated to the relevant cost centres on a monthly basis;
- (b) monthly reconciliation's are performed to confirm the balance of each account; and
- (c) reports on uncleared items are prepared on a monthly basis and submitted to the County Treasury.

(3) The National Treasury shall prescribe in the financial manual procedures to be used for management of balances in suspense or clearing accounts.

108. Wherever practicable all payments of public monies made to persons outside Kenya shall be made by direct payment or payment advice through the Central Bank of Kenya to such persons' banks account or use of banker's draft or through the national payment system.

Payments to beneficiaries residing outside Kenya.

109. (1) For efficient and effective utilization of electronic systems in processing financial data, the National Treasury shall develop and regularly issue standard operating procedures and instructions on the automated integrated financial management system operations, use and maintenance.

Use of electronic systems for financial operations.

(2) The Principal Secretary shall designate a person or persons in writing to administer the automated integrated financial management system.

(3) The system administrator shall ensure compliance of assigned responsibilities and when necessary take appropriate measures.

110. (1) The Accounting Officer for a county government entity shall institute appropriate access controls needed to minimize breaches of information confidentiality, data integrity and loss of business continuity.

Restricted access to systems.

(2) Access controls to be instituted shall include—

- (a) uniform application forms for registration of new users, deregistration of users and modification of user roles;



- (b) processes of safeguarding completed application forms;
  - (c) segregation of duties;
  - (d) use of multi-factor authentication including standardization of user primary identity linked to national identification numbers, payroll numbers and assigned responsibilities; and
  - (e) utilization of appropriate password length for login.
- (3) Users of the system under this regulation shall—
- (a) not use or attempt to use the automated public financial management system without authorization of the system administrator;
  - (b) take all reasonable steps to maintain the integrity of passwords and other security mechanisms;
  - (c) where a password becomes insecure or potentially insecure, as soon as is practicable, implement a new secure password;
  - (d) not do anything that damages, restricts, jeopardizes, impairs or undermines the performance, usability, reliability, confidentiality or accessibility of any digital information system, programme, or other stored information data;
  - (e) not alter, delete or in any other way interfere with, any information, data or files;
  - (f) be responsible for any unlawful entry on the automated public financial management system using such persons password;
  - (g) undertake any tasks assigned; and
  - (h) take all measures to ensure that on the last day of each month, the financial period of the month is closed.
- (4) Failure to adhere to the closing of financial periods or to adhere to operational protocols in paragraph (3) of this regulation constitutes an offence under the Act.

#### PART X—EXPENDITURE MANAGEMENT

111. (1) Where an Act of Parliament or a county legislation provides for some specific categories of expenditure to be a direct charge on the County Revenue Fund, such expenditures shall be included in the recurrent budget estimates of the county government as part of the County Revenue Fund Services;

County Revenue  
Fund Services.

(2) Subject to an Act of Parliament and for the avoidance of doubt, the County Revenue Fund Services shall be limited to the following—

- (a) county public debt; and
- (b) salaries and allowances of the Governor and the Deputy-Governor.

(3) The County Revenue Fund Services shall be provided for in the recurrent estimates, but shall not be subject to County Assembly debate nor to the expenditure limited by estimates nor vote on account;

(4) County Revenue Fund Services shall be administered by the County Treasury.

(5) The County Treasury may arrange for another Accounting Officer to make payment in the first place on its behalf against subsequent reimbursement from the appropriate Vote of the County Revenue Fund Services.

112. If an Accounting Officer finds, after Appropriation Accounts are completed, that he or she has spent more than the total vote, that Accounting Officer shall seek County Assembly approval through the County Executive Committee Member for that Excess Vote.

Excess vote.

113. (1) An Accounting Officer who is instructed by his or her County Executive Committee Member to make payment which for any reasons the accounting officer has concerns, he or she shall raise those concerns in writing to his or her County Executive Committee Member.

Payments to which an Accounting Officer objects.

(2) In the event his or her County Executive Committee Member approves for the processing of the payment despite the concerns raised by the Accounting Officer, he or she shall obey the instructions without further responsibility.

(3) Upon payment, the accounting officer may bring those concerns in writing under paragraph (1) of this regulation, to the attention of the County Assembly with a copy to the Auditor-General.

114. (1) All purchases of goods, works and services from suppliers, including capital investments, shall comply with the provisions prescribed in the Public Procurement and Disposals Act, 2005, and the Regulations made thereunder and shall have the prior approval of the Accounting Officer.

Goods, works and services to be procured according to an approved procurement plan.

(2) Every year a procurement plan shall be prepared by Accounting Officers to form the basis for procurement activities undertaken by government entities in the fiscal year.

(3) The procurement plan in paragraph (2) of this regulation shall, where necessary, include estimated costs of procurement, insurance, clearing, forwarding, warehousing and demurrage charges for goods imported and have to undergo clearing and forwarding through ports of entry into the country.

115. (1) Amounts charged to Voted Funds, which are recovered in the financial year in which payment was made, shall on or before the closing of books of that financial year, be allocated to the budget item that was originally debited.

Recovery, disallowance and adjustment of payments.

(2) Such amounts which are recovered after the closing of books of a financial year shall be paid to the County Revenue Fund, provided that such amounts have not been allocated to a clearing or suspense account during the financial year in which payment was made.

116. (1) Where an A.I.E holder observes that it will not be possible to utilize all the funds allocated for a particular project in a given financial year, the AIE holder shall inform the accounting officer not later than the 15th February each year.

Re Vote of Budget

(2) The Accounting Officer shall then surrender the resources to the County Treasury and the County Treasury shall ensure that the funds are re-voted for the project in the following financial year in order to continue the implementation of the project.

117. (1) Accountable documents whether manual or electronic shall be under strict control at all times and they shall include—

Accountable documents.

(a) indent forms (for supplies from government printer or government stores);

(b) local purchase order;

(c) local service order;

(d) authority to incur expenditure;

(e) cheques;

(f) receipt books;

(g) imprest warrants; and

(h) Central Bank Kenya overseas payment authority form.

(2) The Accounting officer shall keep his or her stock of accountable documents whether manual under lock and key, issuing them in accordance with the daily needs of the service, and keeping an accurate up-to-date record of their use by means of continuity control sheets.

(3) Where the accountable documents are in electronic form, the accounting officer shall ensure appropriate mechanism are put in place for safeguarding and tracking them.

118. (1) Accounting Officers shall, subject to the provisions of the relevant national legislation, retain certain documents, of whatever kind, which shall be preserved in the following circumstances—

Preservation of accountable documents, books and records.

(a) where they may be of value to the national archives;

(b) if they are the subject of unfinished audit enquiries; or

(c) if they are likely to be needed for pension purposes (including salary records).

(2) After the expiry of the retention periods under paragraph (3) of this regulation, the information may, if required, be secured in an alternative form that ensures the integrity and reliability of the data and ensures that the information can be reproduced, where necessary.

(3) Subject to the overriding consideration under paragraph (1) of this regulation, certain classes of documents and records are to be preserved for a stipulated minimum period of time as detailed in the table below:

<i>S/No</i>	<i>Type of document</i>	<i>Preservation period</i>
1.	Principal ledger	10 years
2.	Cash books	10 years
3.	Journals	3 years
4.	Payment vouchers	5 years
5.	Paid cheques or electronic payments	3 years
6.	Completed indent warrants	12 months after the end of the financial year to which they relate.
7.	Completed order forms	12 months after the end of the financial year to which they relate.
8.	Duplicate receipts	12 months after the end of the financial year to which they relate.
9.	Duplicate payment vouchers	12 months after the end of the financial year to which they relate.
10.	Receipt books:	
	(a) Fully used Obsolete, partly used	6 months after date of completion but must be inspected by the Auditor-General and the disposal noted in the main counterfoils receipts, book registers.

*Expenditure in relation to Human Resources*

119. (1) Personnel management activities relating to gazettelement of appointments, the authorization of payments and the recording of those payments may not be performed by the same officer.

Expenditure in relation to human resources.

(2) The budgetary allocation for personnel costs shall be determined on the basis of a detailed costing of a human capital plan of a county government entity as approved by the responsible county department for public service management matters, the County Public Service Board and County Treasury.

(3) The Accounting Officer of a county government entity shall ensure that the personnel cost of all appointees, as well as promotion and salary increases, can be met within the budgetary allocation voted for the county government entity.

(4) The responsible county government department for public service management matters, the County Public Service Board, shall only approve establishment of new public service positions after getting confirmation of availability of budgetary provisions from the County Treasury.

(5) For purposes of ensuring a sustainable wage bill, where the County Executive Committee Member intends to approve any changes

under this regulation, he or she may consult the Salaries and Remuneration Commission.

(6) No change relating to the above matters shall be introduced into the expenditure estimates of the respective county government entity without the requisite authority.

120. (1) Personnel costs shall be classified based on the Government Finance Statistics Manual and the standard chart of accounts used in capturing government expenditure.

Payroll certification by accounting officer.

(2) Each employee shall be linked to a program in the budget of a county government entity's Vote.

(3) At least once every month, the accounting officer shall certify the correctness of the payroll.

121. (1) The County Treasury shall set requirements for issuing payroll deduction codes for all discretionary and non-discretionary deductions.

Deduction codes to be assigned to all payroll deductions.

(2) The Accounting Officer shall specify the purpose for which the code is applied for.

(3) The County Treasury may levy a fee on the discretionary deductions which shall be paid by the receiving institution.

122. (1) Remunerative benefits and other allowances for members and the staff of the secretariat of special committees and commissions of inquiry shall be determined by the county government entity responsible for matters relating to public service management in consultation with the County Public Service Board and the County Executive Committee Member taking into account any recommendations by the Salaries and Remuneration Commission.

Remuneration of members of committees and commissions of inquiry.

(2) The remuneration of all members of a commission or committee shall be disclosed as foot notes to the financial statements of the county government entity by the accounting officer.

123. Where the chairperson requests a non-official member of a commission or committee to render services in his or her private time, other than the normal preparations for meetings, the person may be paid an allowance as determined by the relevant Accounting Officer.

Services rendered by members during private time.

124. No offer of compensation in settlement of any claim against the county government or *ex-gratia* payment may be made without prior authority of the County Treasury, except where powers are available to accounting officer to settle such claims.

Compensation and ex-gratia payment.

#### *Benefits and Allowances of Public Officers*

125. (1) The accounting officer may only authorize salary advances for public officers under him or her to be paid if there exists a budgetary provision in his or her Vote.

Authority for loans and advances.

(2) No staff loan or advance which is properly chargeable to a head of expenditure shall be debited to a salary advance expenditure item.

126. (1) The County Executive Committee Member may by way of a gazette establish a mechanism for public officers to access loans including car loans, mortgage, housing loans and bicycle loans which shall be within the guidelines issued by the Cabinet Secretary.

Benefits and allowances for Public Officers.

(2) Despite the provisions of paragraph (1) of this regulation, the county executive committee member may issue guidelines on benefits and allowances for county public officers by way of a notice in Kenya Gazette within the guidelines issued by the Cabinet Secretary.

*Lease Financing and Joint County Infrastructure Investments*

127. (1) For the purpose of this regulation, a lease is regarded as a contract that gives the lessee (the renter) the right to the use of property, plant or equipment for a fixed period of time with a fixed schedule of payments to the lessor (the owner).

Lease financing transactions by accounting officers of county governments.

(2) The accounting officer of a county government entity may, for the purpose of conducting the entity's business, enter into finance lease transactions.

(3) The accounting officer of a county government entity may under no circumstances enter into finance leases (non-operating lease) without the approval of the relevant County Treasury.

(4) For the purpose of paragraph (3) of this regulation, a lease is considered to be a finance lease if—

- (a) the lease transfers ownership of the asset to the government entity by the end of the lease period;
- (b) the government entity has the option to purchase the asset at a price which is expected to be sufficiently lower than the fair value at the date the option becomes exercisable, so that at the inception of the lease it is reasonably certain that the option will be exercised;
- (c) the lease term is for the economic life of the asset even if the title is not transferred;
- (d) at the inception of the lease, the present value of the minimum lease payments amount to at least 90 % of the fair value of the leased asset;
- (e) the leased asset is of a specialized nature such that only the government entity can use the asset without major modifications being made;
- (f) the lessor's losses associated with cancellation of the lease by the lessee is borne by the lessee; and
- (g) the leased asset cannot be easily replaced by another asset.

(5) The County Treasury shall monitor all finance lease transactions and report associated obligations.

128. (1) For purposes of this regulation, "joint infrastructure investment" means any capital project(s) initiated and undertaken as a

Joint Infrastructure Investments.

joint venture between two or more county governments which involve development expenditures for the project(s) where—

- (a) the nature and costs of the project(s) is beyond the means of one county government;
- (b) the project traverses more than one county government territory; or
- (c) the project benefits can be enjoyed by more than one county government.

(2) A joint infrastructure investment shall be solemnized through an intergovernmental agreement which shall be filed with the office of the Attorney-General and the Department of Justice and shall specify—

- (a) the county governments involved;
- (b) the management and administrative structure of the joint investment project;
- (c) the description of the joint investment project and its objectives;
- (d) the description of the joint investment project and its objectives;
- (e) the responsibilities and obligations of each county government involved;
- (f) the joint investment project implementation modalities including procurement procedures and administrator of the project;
- (g) the joint investment project financing options;
- (h) the dispute resolution mechanisms between the county governments involved and the arbitrator in case of any dispute;
- (i) the reporting mechanism including the regularity of the reports by the management to all county governments involved; and
- (j) the apportionment of sharing of the benefits and maintenance costs, if any, between the county governments involved.

#### PART XI—MONITORING AND REPORTING

129. (1) The County Executive Committee Member responsible for matters relating to planning shall prescribe a framework for monitoring and reporting on non-financial performance for use by accounting officers in evaluation of programmes and projects by measuring—

- (a) financial indicators which shall capture expenditures on the implementation of programmes and projects;
- (b) outputs indicators which shall measure what is directly supplied through the implementation of the programmes and projects; and

Responsibility for monitoring, evaluation and reporting.

- (c) outcome or results indicators of the programme or projects which capture the expected effects on intended beneficiaries of the programme or project.

(2) The County Executive Committee Member responsible for matters relating to planning, shall also set up a system that shall facilitate efficient and effective data collection, storage and exchange to monitor and report on non-financial performance of the county government entity's individual programmes and projects.

(3) An Accounting Officer shall put in place efficient and effective systems to monitor and report on non-financial performance for his or her county government entity's individual programmes and projects based on the prescribed format under paragraphs (1) and (2) of this regulation and submit a report to the County Executive Committee Member responsible for planning with a copy to the Auditor-General.

(4) The County Executive Committee Member responsible for planning shall consolidate all the reports received under paragraph (2) of this regulation, and submit a report to the County Executive Committee Member for the County Treasury and publish and publicize it within seven (7) days after submitting it to the County Executive Committee Member.

130. (1) An Accounting Officer shall provide footnotes to the annual financial statements prepared and submitted to the Auditor-General pursuant to section 164 of the Act.

Footnotes to appropriation accounts

(2) The footnotes to the financial statements referred to under paragraph (1) of this regulation, shall at the minimum include—

- (a) the details of Appropriation-in-Aid;
- (b) excess Appropriation-in-Aid, if any;
- (c) reasons for material differences between approved estimates and actual expenditure, or actual collection of Appropriation-in-Aid;
- (d) losses and write offs;
- (e) nugatory and similar payments, compensation and *ex-gratia* payments;
- (e) arrears of Appropriation-in-Aid and Appropriation-in-Aid abandoned; and
- (f) advances appropriately analyzed including imprests.

(3) Where, in respect of any footnotes referred to, in this regulation, there is nil return that particular footnote shall be omitted entirely.

131. An accounting officer of a county government entity shall disclose in the annual financial and non-financial report a list of special funds or county corporations controlled by that county government entity.

Special county public funds and County corporations additional reporting responsibilities.



## PART XII—ASSET MANAGEMENT

132. (1) The Accounting Officer of a county government entity shall take full responsibility and ensure that proper control systems exist for assets and that —

Responsibility for assets management.

- (a) preventative mechanisms are in place to eliminate theft, security threats, losses, wastage and misuse;
- (b) movement and conditions of assets can be tracked; and
- (c) stock levels are at an optimum and economical level.

(2) The Accounting Officer shall ensure that processes and procedures both electronic and manual are in place for the effective, efficient, economical and transparent use of the county government entity's assets.

(3) The County Treasury shall provide guidelines on county government assets management after seeking the views of the Cabinet Secretary which shall be given in fourteen (14) days.

133. (1) Accounting Officer shall be responsible for the proper custody, care and use of government inventories under their control, including imported goods in vessels awaiting discharge and in customs warehouses awaiting clearance.

Responsibility for county government entity inventory.

(2) Despite paragraph (1) of this regulation, an Accounting Officer shall be responsible for the general management of government inventories held within that county government entity.

(3) Accountability shall only be discharged when government inventories have been —

- (a) consumed in the course of public business and records are available to show that the government inventories have been consumed; or
- (b) worn out in the normal course of public business and removed from the stores records and has been approved by accounting officer or they have been disposed of in accordance with the Public Procurement and Disposals Act, 2005; or
- (c) lost, stolen, destroyed, damaged or rendered unserviceable other than by fair wear and tear, and if removed from the store's records and has been approved in line with section 150 of the Act.

(4) If accounting officer is satisfied that the retention of any government inventories is no longer in the public interest, the accounting officer may authorize disposal in accordance with the Public Procurement and Disposals Act and its Regulations.

(5) Removal from the store's records under paragraph (3) shall be reported to County Treasury by the accounting officer.

(6) Where an Accounting Officer has reason to believe that any person —

- (a) has received county government inventory and has not duly handed it over; or

- (b) has received county government inventory for which the person is accountable but has not duly accounted for it; or
- (c) has in hand county government inventory which has not duly been applied to the purpose for which they were collected,

the Accounting Officer shall serve a notice on the public officer requesting that within a time specified in the notice, the person shall pay for, account for, or apply the inventory and submit to the Accounting Officer satisfactory evidence that this has been done.

(7) The Accounting Officer of a county government entity shall in consultation with a technical department review, at least annually when finalizing the budget, all fees, charges, rates, tariffs or scales of fees or other charges relating to the letting of state property to ensure sound financial planning and management.

134. (1) When assets or liabilities of a government entity are transferred to another government entity or other institution in terms of legislation or following a re-organization of government functions, the Accounting Officer for the transferring county government entity shall be required to—

Accounting Officers' responsibilities upon transfer of assets and liabilities.

- (a) identify an inventory of such assets and liabilities; and
- (b) provide the Accounting Officer for the receiving government entity or other institution with necessary records, including human resource records of staff to be transferred.

(2) Both the Accounting Officer for the transferring county government entity and the Accounting Officer for the receiving county government entity or other institution shall sign the inventory when the transfer takes place.

(3) The Accounting Officer for the transferring county government entity shall file a copy of the signed inventory with the County Treasury and the Auditor-General within two weeks of the transfer.

135. Where any money, property or right accrues to the county government by operation of law, the County Treasury, may exercise all powers, authority and prerogatives, and fulfil any obligation on behalf of county government.

Assets accruing to the county government by operation of law.

136. (1) The Accounting Officer shall be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws.

Register of assets.

(2) The register of land and buildings shall record each parcel of land and each building and the terms on which it is held, with reference to the conveyance, address, area, dates of acquisition, disposal or major change in use, capital expenditure, lease hold terms, maintenance contracts and other pertinent management details.

(3) All major items including furniture and equipment issued for a government's quarters or offices, large tools for county government

works, plant, equipment, vehicles or (launches) large motor boat shall be recorded in a register.

(4) All acquisitions or assignment of immovable property shall be notified to the County Treasury.

(5) All acquisitions or assignment of land with or without buildings shall be notified to the County Treasury.

137. (1) Official vehicles purchased for use by Governors, shall not exceed 2600 cc for saloon cars and 3000 cc for 4 x 4 utility vehicles.

Purchase and capacity of official vehicles for certain county government officers.

(2) Official vehicles purchased for use by the Deputy Governors Speakers of the County Assembly and County Executive Committee members, shall not exceed 2400 cc for saloon cars and 3000 cc for 4 x 4 utility vehicles.

(3) Official vehicles purchased for use by chief officers, clerks of county assemblies other officers on Job Group R and Chief Executives of county corporations shall not exceed 2000 cc for saloon cars and 2900 cc for 4 x 4 utility vehicles

(4) The County Committee Member for Finance may by way of notice in the gazette specify category of offices and the category of vehicles to be used by those public officers.

(5) Any person who contravenes the provisions of this regulation commits an offence.

#### *Losses and Write-offs*

138. For purposes of this Part, the term losses is defined to include—

Definition.

- (a) actual loss or destruction of, or damage (other than fair wear and tear) to, or failure to account for the disposal of public money, stamps, securities or property, movable or immovable (including any money or other property not belonging to the county government which is held or used by an officer in his official capacity either alone or jointly with any other person); or
- (b) non-collection of any moneys due or belonging to a county government, or for collection of which the county government is responsible; or
- (c) payments made or liabilities incurred without or in excess of any statutory, administrative or any other authority, including nugatory and similar payments and payments arising from incorrect certificates, and irregular or excess issues of stores, rations, etc.; or
- (d) unauthorized use of county government stores, vehicles, buildings, equipment or any other property, or of service (e.g. repair workshops) provided for official purposes; or
- (e) compensation and similar payments (including third party claims in respect of vehicle accidents) legal and court costs and any other additional expenditure or liability which was avoidable and need not have been incurred.

139. (1) When a loss as defined in this regulation is discovered, the Accounting Officer shall investigate the circumstances of the loss—

Accounting officers responsibility for a county government entity.

- (a) to ascertain the extent and amount of the loss;
- (b) to determine whether control or operational arrangements need to be improved in order to prevent the occurrence of similar losses in the county government entity; or
- (c) to determine whether any offence or other fault of a public officer has been revealed by the loss.

140. The investigation of a loss does not constitute a disciplinary enquiry and if the investigation reveals that an offence has been committed, it shall be dealt with in accordance with the relevant laws pertaining to that offence, as appropriate, and the relevant disciplinary measures.

Disclosure of offences.

141. (1) A loss may be revealed by defalcation or loss due to any cause, and thereafter investigation proceedings shall be commenced immediately and a report made to the Accounting Officer and where necessary, to the police;

Procedure for handling losses.

(2) The report referred to under paragraph (1) of this regulation, shall give details of the amount involved and any other information available including a brief account of actions to prevent further loss, and effect recovery.

(3) On receipt of the report, the accounting officer shall give instructions regarding accounting entries, if any, to be made and any other action which appears to him or her to be necessary.

(4) Where a liability has been established for a third party, payment shall be made, provided that there is no reason to suspect that the third party had any responsibility for the loss and the payment shall not await the results of the investigations of the loss.

(5) If the loss falls within the accounting officers powers under section 150(1) of the Act, he or she shall authorize the write off of the loss up to an amount not exceeding hundred thousand (KSh. 100,000) shillings in any one incidence and submit a report to the County Treasury and the Auditor-General.

(6) If the loss falls within the County Executive Committee Member's powers under section 150 (2) of the Act, the accounting officer shall seek the approval of the County Executive Committee Member to authorize him or her to write off the loss of an amount exceeding the one hundred thousand (KSh. 100,000) shilling but not exceeding one percent of the county governments' entity's approved estimates excluding the County Revenue Fund Services in any one incidence.

(7) The approval of the County Executive Committee Member shall be communicated to the accounting officer in writing with a copy to the Auditor-General.

(8) Any loss exceeding the threshold set for the County Executive Committee Member for finance shall fall within the County

Executive Committee powers under section 150 (3) of the Act, the Accounting Officer shall

- (i) Seek the approval of the County Executive Committee through the County Executive Committee Member to authorize him or her to write off the loss exceeding one percent of the county government entity's approved budget in any one incidence;
- (ii) The approval of the County Executive Committee shall be communicated to the Accounting Officer through the County Executive Committee Member in writing with a copy to the Auditor General;
- (iii) The accounting officer shall also make a disclosure in the financial statements of that county government entity.

(9) The accounting officer shall also make a disclosure in the financial statements of that county government entity.

142. (1) For the purposes of this regulation, cash deficiency is a loss arising from a deficiency of cash or other negotiable instrument, whether it arises from a simple cash shortage or from the use of fictitious entries or vouchers to conceal the existence of a deficiency.

Categories of losses.

(2) Revenue losses may arise from—

- (a) uncollectable revenue when debts due to county government cannot be collected by reason that the debtor cannot be traced or is insolvent; and
- (b) loss of revenue, arising from failure to assess or collect in circumstances which preclude subsequent assessment or collection, and include any loss of interest caused by delay in making payments into the appropriate public funds or from the making of irregular advances.

(3) Expenditure losses may arise from—

- (a) irrecoverable overpayments, when an excess payment has been made by error and recovery cannot be effected because the recipient cannot be traced or is otherwise incapable of making repayment; or
- (b) nugatory payments, which arise in circumstances such as, the incurrance of a penalty in which a county government entity has been legally obliged to make payment, but for which no corresponding receipt of goods or services has been derived; or
- (c) fraudulent payments which arise from transactions which involve a breach of the criminal code, by the use of falsified documents or certificates to steal money or other property belonging to a county government and it is not recoverable.

(4) Inventory and equipment losses may arise from—

- (a) deficiencies, including fraudulent issues of stores from stock and issues of stores without proper evidence of use; or

- (b) damage or deterioration of goods in stock; or
  - (c) loss by accident in so far as they relate to equipment and inventories in use.
- (5) Financial losses may arise from—
- (a) irrecoverable advances and loans when money due to a county government entity cannot be recovered by reason of a debtors default and include default on county government guarantees; or
  - (b) irregular advances and loans when money cannot be recovered because a county government entity cannot establish a claim against any person or institution, as in the case of expenditure wrongly charged to advances, or advances and loans made without agreement for recovery;
  - (c) reduction of financial asset where the value of any financial asset has to be reduced by reason of failure or capital restructuring of an enterprise; or
  - (d) losses on sale of securities where the losses are aggregated with gains over the financial year, and any net loss is written off at the end of the year.
- (6) Miscellaneous losses may arise from—
- (a) loss of fixed fee receipts; or
  - (b) the loss of safe keys of any county government safe or the compromise of any combination lock; or
  - (c) the cost of altering locks and providing new keys or combinations;
  - (d) the value of any missing items from the safe; or
  - (e) irrecoverable claims dealt with as laid down in these Regulations.

143. (1) The accounting officer of a county government entity shall cause an investigation to be conducted into every reported case of loss, and where the accounting officer of that entity is implicated in the loss, the County Executive Committee Member shall be the appropriate authority to cause investigation to be conducted.

Investigation of every case of loss.

(2) In the case where the investigation report implicates the accounting officer, the County Executive Committee Member shall revoke the designation and also report the matter to the relevant authority.

144. If the report of the investigating authority indicates that systems currently in operation, including those for the training of staff are defective, the accounting officer of the county government entity shall consult with the County Treasury to consider measures for rectification.

Defective systems.

145. (1) Recovery of the value of a loss, whether by recovery proceedings under these Regulations, shall constitute a settlement of a civil claim against the officer arising from the loss.

Financial liability of officers.

(2) Recovery of a loss shall not be a substitute for criminal prosecution or disciplinary proceedings.

146. The Accounting officer shall maintain a register of all losses incurred by his or her county government entity and attach a list of all losses incurred during that year to the financial statements submitted to the Auditor-General for audit with a copy to the County Treasury.

Annual statement of losses.

147. Where any doubt arises on the correct classification of a loss or the accounting procedure required the directions of the County Treasury shall be sought.

Clarifications on classification of losses.

148. Where goods are received damaged or incomplete and such goods are subject to a claim on suppliers, insurers or carriers, they shall not constitute a loss until the claims prove irrecoverable.

Claims on damaged or incomplete goods.

149. (1) The fact that losses arise from uncollectable revenue, irrecoverable overpayments, or irrecoverable claims at the time of disposal does not preclude the prior investigation of circumstances of the losses.

Investigation of losses.

(2) Applications for write-off shall be accompanied by an investigation report indicating whether remedial accounting or other action is necessary.

150. (1) An Accounting Officer may only write off losses owed to the State if he or she is satisfied that—

Writing off of losses.

- (a) all reasonable steps have been taken to recover the loss and the loss is irrecoverable; or
- (b) he or she is convinced that—
  - (i) recovery of the losses would be uneconomical; and
  - (ii) it would be to the advantage of the county government entity to effect a settlement of its claim or to waive the claim.

(2) An Accounting Officer shall ensure that all losses written off are done in accordance with this Act, these Regulations or any other relevant legislation.

151. Interest may be charged on recoverable losses arising from cases of losses reported to the county government at the Central Bank Rate.

Interest payable on recoverable losses.

152. The authorization of disposal of a case of loss does not prejudice the right of the Auditor-General to carry out further investigation.

Right of the Auditor-General.

#### PART XIII—INTERNAL AUDIT AND AUDIT COMMITTEES

153. (1) Internal auditors shall—

Mandate of internal auditors.

- (a) review and evaluate budgetary performance, financial management, transparency and accountability mechanisms and processes in county government entities, including County Assembly;

- (b) have a duty to give reasonable assurance through the audit committee on the state of risk management, control and governance within the organization; and
- (c) review the effectiveness of the financial and non-financial performance management systems of the entities.

154. Internal auditors shall comply with the International Professional Practices Framework as issued by the Institute of Internal Auditors from time to time and shall conduct audits in accordance with policies and guidelines issued by the Public Sector Accounting Standards Board to ensure uniformity and consistency across county government.

Compliance with professional standards and code of ethics.

155. (1) The Head of Internal Audit unit in a county government entity shall enjoy operational independence through the reporting structure by reporting administratively to the Accounting Officer and functionally to the Audit Committee.

Independence of the internal auditor.

(2) An Accounting Officer shall ensure that the organizational structure of the internal audit unit facilitates—

- (a) the entity to accomplish its internal audit responsibilities;
- (b) internal auditor with sufficient authority to promote independence and to ensure broad internal audit coverage, adequate consideration of audit reports;
- (c) appropriate action to be taken on internal audit recommendations; and
- (d) the internal auditor to be independent of the programs, operations and activities he or she audits to ensure the impartiality and credibility of the audit work undertaken.

(3) The internal auditor shall have unrestricted, direct and prompt access to all records, officials or personnel holding any contractual status and to all the premises and properties of the entity.

(4) The internal auditor shall respect the confidential nature of information and shall use such information with discretion and only in so far as it is relevant to reach an audit opinion.

(5) All internal audit activities shall remain free of influence by any element in the organization, including matters of audit selection, scope, procedures, frequency, timing, or report content to permit maintenance of an independent and objective mental attitude necessary in rendering reports.

(6) Internal Auditors shall have no direct operational responsibility or authority over any of the activities they review. Accordingly, they shall not develop nor install systems or procedures, prepare records, or engage in any other activity which would normally be audited.

*The County Head of Internal Audit Services of the County Treasury*

156. The County Head of Internal Audit Services shall be an office in the County Treasury.

Independence of County Head of Internal Audit Services.



157. (1) The County Head of Internal Audit Services, in leading the internal audit function within the County Treasury, is responsible for operational aspects of internal audit function within the county government entities including—

Functions of County Head of Internal Audit Services.

- (a) advising the County Executive Committee Member and the Chief Officer on emerging issues in internal auditing;
- (b) developing and implementing the use of innovative approaches in performing independent assessment of systems, controls and efficiencies guided by professional standards;
- (c) promoting county government-wide risk management and provide the management with consulting services to improve the overall county government operations;
- (d) providing capacity building for county government entities including developing curriculum, training materials and undertake training for audit committees; and
- (e) reporting annually to the County Treasury on the internal audit function performance.

158. (1) The Accounting Officer shall ensure that—

The role of Accounting Officer in risk management.

- (a) the county government entity develops risk management strategies, which include fraud prevention mechanism; and
- (b) the county government entity develops a system of risk management and internal control that builds robust business operations.

159. (1) Each year the head of internal audit unit shall assess its own effectiveness through an internal performance appraisal and shall carry out annual review of the performance of the internal audit activity commenting on its effectiveness in the annual report to County Treasury.

Performance appraisal.

(2) Each year the Audit Committee shall carry out annual review of the independence, performance and competency of the internal audit unit and comment on their effectiveness in the annual report.

(3) At least once every three years, but not more than five years, internal audit unit shall undergo a professional assessment of its effectiveness undertaken by a professionally recognized body or institution.

160. (1) When indications of fraud, material breaches and wasteful expenditure have been identified in a county government entity in accordance with section 92 of the Act, the head of the internal audit unit shall immediately notify the County Executive Committee Member.

Reporting material breaches and persistent material breaches.

(2) The County Executive Committee Member may notify the Cabinet Secretary of the findings of paragraph (1) in this regulation with a copy to the Auditor-General.

161. An internal auditor shall not perform audit assignments for providing assurance relating to activities and structures on which he or

Prohibition from conducting assurance services.

she has provided consulting services or in which he or she had been employed over in the last twenty four months.

162. Heads of internal audit and the internal auditors shall bear legal and disciplinary liability for failure to discharge their responsibilities under the Act and these Regulations:

Disciplinary liability on internal auditors

Provided that assurance procedures alone even when performed with due professional care shall not be a guarantee that all significant risk shall be identified.

*Internal Audit Planning, Performance and Reporting*

163. (1) Internal audit planning shall be carried out on the basis of risk assessment and shall be set out in a three-year strategic plan, on the basis of which an annual internal audit activity plan shall be developed.

Risk based audit assessment strategic plan.

(2) The annual work plan developed in paragraph (1) shall be—

- (a) submitted to the audit committee by 15<sup>th</sup> February each financial year; and
- (b) approved by the audit committee and shared with the Accounting Officer of that entity, in sufficient time for inclusion in the budget of that entity.

164. (1) The findings and recommendations arising from each internal audit assignment shall be promptly reported to the accounting officer.

Communicating results.

(2) The final report, including the actions taken by the accounting officer should be reported to the audit committee in a format to be gazetted by the Cabinet Secretary;

(3) When updating the management of the progress of an audit assignment, the internal auditor shall—

- (a) give an oral preliminary report which shall be confirmed in writing within seven (7) days;
- (b) discuss the findings, conclusions and recommendations with the auditee;
- (c) issue a signed written report after each internal audit assignment that is objective, clear, concise and timely;
- (d) give reports which clearly present the purpose, scope and results of the audit; and
- (e) give reports with recommendations for potential improvement, suggestions of corrective actions and acknowledgement of satisfactory performance;

*Implementation of audit recommendations*

165. (1) The accounting officer of the concerned entity shall be responsible for the implementation of the recommendations made in the audit reports and shall develop response and action plan which they shall submit to the chairperson of the audit committee within fourteen days.

Enforcement of Internal Audit recommendations.

(2) The response and action plan submitted to chairperson of internal audit committee in paragraph (1) of this regulation shall be followed up to ensure its implementation.

166. (1) Each head of internal audit unit shall prepare a quarterly internal audit report which shall cover areas provided for in guidelines and shall be in a format issued by the Cabinet Secretary.

Preparation and submission of quarterly and annual audit reports.

(2) The quarterly report in paragraph (1) of this regulation shall be submitted within 14 days of the end of the quarter to the Accounting Officer of the concerned entity, the Audit Committee and the County Treasury.

(3) At the end of each financial year, the County Head of Internal Audit Services shall prepare for the county government clear and comprehensible annual report that consolidates the quarterly audit assurance reports prepared by all internal audit units activities in county government entities, in accordance with formats prescribed by the Public Sector Accounting Standards Board.

#### *Audit Committees*

167. (1) Subject to paragraph (2) of this regulation, each county government entity shall establish an audit committee.

Establishment of audit committees.

(2) The County Treasury, where deemed necessary, may approve the sharing of one audit committee by two or more county government entities.

(3) In the case of a shared audit committee referred to in paragraph (2) of this regulation, the appointing authorities of the concerned entities shall jointly appoint the chairperson and members of the joint audit committee in consultation with the County Treasury.

(4) There shall be a minimum of three members, excluding a person who shall be appointed to represent the County Treasury in each audit committee and a maximum of five.

(5) The chairperson of an audit committee shall be independent to the County government entities, be knowledgeable of the organization, have the requisite business and leadership skills and shall not be a political office holder.

(6) In addition to paragraph (5) of this regulation, majority of members appointed to the audit committee shall not be past or present employees of the entity, and shall not have served as an employee or agent of a business organization which has carried out any business with the concerned entity in the last two years.

(7) All members of an audit committee shall—

- (a) have a good understanding of county government operating, financial reporting or auditing; and
- (b) have a good understanding of the objects, principles and functions of the entity to which they are to be appointed.

(8) Each accounting officer of a county government entity shall ensure that the audit committee is adequately funded and supported.

(9) The chairperson of an audit committee shall not serve concurrently as a member of any other committee of the concerned county government entity, however its members can serve in up to a maximum of three audit committees at the same time.

(10) The Public Sector Accounting Standards Board shall prescribe guidelines for appointment of audit committees to be approved and gazetted by the Cabinet Secretary.

168. The main function of the audit committee shall be to—

Duties of the audit committees.

- (a) support the accounting officers with regard to their responsibilities for issues of risk, control and governance and associated assurance:

Provided that the responsibility over the management of risk, control and governance processes remains with the management of the concerned county government entity; and

- (b) follow up on the implementation of the recommendations of internal and external auditors.

169. (1) The Accounting Officer of a county government entity shall not be a member of the audit committee, but shall attend meetings of the audit committee by the invitation of the chairperson of the committee.

Composition of audit committees.

(2) Audit committee members shall be persons of integrity and in compliance with the requirements of Chapter six of the Constitution.

170. (1) Members of audit committees shall be appointed, for a term of three years and shall be eligible for re-appointment for a further one term only.

Terms of appointment.

(2) Despite the provision of paragraph (1) of this regulation, after expiry of every term, at least one third of the committee shall retire and not be eligible for reappointment.

(3) The roles and responsibilities of the audit committee shall be laid out in the guidelines issued by the Public Sector Accounting Standards Board.

171. (1) A person shall cease to be a member of an audit committee if—

Vacancy of office.

- (a) that person is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months; or
- (b) that person is absent from three consecutive regular meetings of the committee without leave of absence; or
- (c) that person resigns, in writing, from the audit committee; or
- (d) that persons' term of office expires; or
- (e) that person ceases to be a member by virtue of withdrawal of his or her nomination to the board by the nominating institution; or

- (f) that person becomes an employee or officer of the concerned entity; or
- (g) that person is discovered to have a conflict of interest as described in his or her letter of appointment at the time of his or her appointment and failed to disclose it; or
- (h) the audit committee is disbanded.

(2) The County Treasury shall be informed of any contemplated termination of the services of a person serving on an audit committee for its concurrence.

*Functions and responsibilities of the audit committee*

172. (1) The audit committee shall meet at least once in every three months.

Meetings of the audit committee

(2) Each member of the audit committee shall have one vote.

(3) The audit committee shall make decisions by resolution.

(4) In the event of a tie vote, the chair shall be entitled to cast a second vote.

(5) A majority of the members of the audit committee that includes at least fifty percent plus one member shall constitute a quorum for the meetings of the committee.

(6) The chair of the audit committee shall—

(a) ensure that minutes are taken at each meeting and provided to the members of the committee before the next meeting;

(b) have access to management, the head of internal audit and external auditors; and

(c) send or cause to be sent—

(i) notice of audit committee meetings at least fourteen days before the meeting; and

(ii) all minutes of audit committee meetings.

(7) If at any meeting of the audit committee the chair is not present, the members shall elect a chair for purposes of conducting that meeting.

173. Any code of conduct of public officers shall also apply to members of the audit committee in relations to their functions, powers and duties as members of the committee.

Code of conduct.

174. (1) Members of the audit committee shall be paid an allowance on account of attendance of audit committee meetings as determined by County Treasury in consultation with other relevant entities.

Remuneration and compensation.

(2) A county government entity shall reimburse members of its audit committee for expenses incurred while attending to audit committee duties.

175. The accounting officer shall—

Capacity building for audit committees.

- (a) provide capacity building to all public county government entity audit committees;
- (b) provide policies and guidelines on audit committees;
- (c) monitor the effectiveness of audit committees; and
- (d) provide periodic updates of audit committee activities through the website.

#### PART XIV—PUBLIC DEBT MANAGEMENT

176. County government borrowing shall be guided by the following principles—

Guiding principles for county government borrowing.

- (a) need to ensure stability of domestic financial markets;
- (b) promotion of inter-generational equity in the sharing of burdens and benefits of public borrowing;
- (c) determination of thresholds of borrowing rights for both levels of government;
- (d) use of objective criteria for evaluating county government eligibility for national government debt guarantee; and
- (e) prudence and equity in setting limits for debt stock levels for each county government.

177. (1) The County Executive Committee Member derives powers to raise loans for the County Government from section 140 of the Act.

Borrowing powers for county governments.

(2) A county government may from time to time borrow within and outside Kenya such sums of money in such amount and on such terms and conditions as to interest, repayment, disbursement or otherwise as the County Executive Committee Member may think fit, in any of the following manners—

- (a) by issuing County Treasury bonds;
- (b) by bank overdraft facility from the Central Bank of Kenya; and
- (c) by any other loan or credit evidenced by instruments in writing.

(3) Any borrowing by a county government under paragraph (2) (a) and (c) of this regulation shall require a national government guarantee pursuant to section 58 of the Act.

(4) Any borrowing under paragraph (2) (b) of this regulation, shall be in accordance with section 142 of the Act and shall be deemed guaranteed by the Cabinet Secretary and that guarantee shall be secured by the county equitable share of the revenue raised nationally.

178. The county governments may borrow in pursuant to the requirements of sections 140 of the Act for the purpose of—

Borrowing purposes.

- (a) financing county government budget deficits; or
- (b) cash management; or

- (c) refinancing outstanding debt or repaying a loan prior to its date of repayment; or
- (d) mitigation against adverse effects caused by an urgent and unforeseen event in cases where the Emergency Fund has been depleted; or
- (e) meeting any other development policy objectives that the County Executive Committee Member shall deem necessary, consistent with the law, and as County Assembly may approve.

179. (1) Pursuant to section 50(5) of the Act, a county public debt shall not exceed twenty percent (20%) of the county government's most recent audited revenues, as approved by county assembly.

County total public debt threshold.

(2) The annual debt service cost of a county government shall not exceed fifteen (15%) percent of the most recent audited revenue of that county government, as approved by county assembly.

(3) Parliament may review the limit under paragraph (1) of this regulation five years after the commencement date of these Regulations.

180. (1) Pursuant to Section 141 (2) of the Act, 2012, the debt limit at any given time shall not exceed the nominal value of the total county public debt that is determined county assembly within the limits set under Section 50 (5) of the Act and in accordance with fiscal responsibility principles under regulation 25 of the these Regulations.

Setting Debt Limit in the County Medium Term Debt Management Strategy

Section 141

(2) The debt limit under paragraph (1) of this regulation shall be specified annually in the county fiscal strategy paper and the medium term debt management strategy paper.

(3) The annual new government debt shall be consistent with the debt limits set out under paragraph (1) of this regulation.

(4) For the purposes of monitoring compliance with the limits under paragraph (1), the amount of county government debts which are not denominated in Kenya shillings shall be recalculated at the prevailing exchange rate of the Central Bank of Kenya.

181. (1) Pursuant to the provisions of section 58 of the Act, the capital project expenditures of county governments for which a guarantee for issuance of domestic government security is requested, shall meet the following requirements—

Eligibility and evaluation criteria for guarantee requests by county government.

- (a) the county government shall demonstrate that the project could not be financed on reasonable terms and conditions without a county government loan;
- (b) an economic analysis is made demonstrating the projects cash flow clearly setting out a borrowing and repayment plan;
- (c) it is a feasible project that has been approved by the county government entity as may be required by county legislation;

- (d) the county government meets all the fiscal responsibility principles set out in the Act and these Regulations.
- (e) the borrowing shall be for financing a devolved function capital project; and
- (f) any other requirements as the Cabinet Secretary may prescribe in the gazette.

(2) Pursuant to the provisions of section 58 of the Act, the capital project expenditures of county governments for which a guarantee is requested, shall meet the following requirements—

- (a) the county government shall demonstrate that the project could not be financed on reasonable terms and conditions without a government loan;
- (b) provide the projected cash flow clearly setting out a projected disbursement schedule and repayment plan;
- (c) the county government shall contribute a substantial portion of project funds from their own resources and in any case not less than fifteen (15) percent;
- (d) a county government that defaults on a loan shall not be eligible for a loan guarantee and shall only be eligible upon successful completion a financial recovery programme agreed by the County Treasury and National Treasury;
- (e) it is a feasible project that has been approved by the county government entity as may be required by national or county legislation;
- (f) the application of the guarantee shall be submitted with a signed loan agreement but only for loans on concessional terms in the case of external loans;
- (g) any county government applying for a national government guarantee shall meet all the fiscal responsibility principles set out in the Act and these Regulations unless exempted under certain conditions by the Cabinet Secretary;
- (h) the borrowing shall be financing a devolved function capital project in line with the Fourth Schedule of the Constitution;
- (i) the lender is of good credibility and standing with the Government of Kenya;
- (j) the guarantee is in the public interest; and
- (k) any other guidelines as Cabinet Secretary may prescribe in the gazette.

182. (1) The issuance of county government securities to raise debt capital shall be by way of auction or such other method as County Executive Committee Member may determine with the concurrence of the Cabinet Secretary.

Criteria for issuance of county government securities.

(2) Despite the provisions of paragraph (1) of this regulation, the auction of domestic county government securities shall take into account the following factors—



- (a) pricing of the domestic county government securities;
- (b) refinancing risk of the domestic county government securities;
- (c) the domestic market stability when taking up domestic county government securities; and
- (d) the borrowing programme which is consistent with the county medium term debt strategy and county fiscal strategy paper.

183. (1) Pursuant to section 144 of the Act, a county government which intends to issue a Treasury Bond shall be guided by the following procedures—

Process of issuance of Treasury Bonds on behalf of county governments.

- (a) before seeking the national government guarantee, the County Executive Committee Member for finance shall develop and submit the cash plan, indicating the borrowing requirements to the County Executive Committee for approval of the borrowing including its terms and conditions;
- (b) after approval by the County Executive Committee, the County Executive Committee Member shall submit the cash plan referred to above to the County Assembly for approval of the borrowing including its terms and conditions;
- (c) upon approval by the County Assembly, the County Executive Committee Member shall submit the final cash plan and the approval of the County Assembly to the Cabinet Secretary requesting for the guarantee of the Treasury Bond and their inclusion in the issuance calendar;
- (d) the Cabinet Secretary to the National Treasury, after receiving the request from the county government, shall seek the recommendations of the Intergovernmental Budget and Economic Council in fulfillment of the requirements of section 58(2)(i) of the Act;
- (e) the Cabinet Secretary to the National Treasury may, upon taking into account the recommendations of the Intergovernmental Budget and Economic Council, approve or reject the request;
- (f) the Cabinet Secretary shall reject a request for loan guarantee with reasons and communicate the same to the concerned County Executive Member ;
- (g) upon approval of a loan guarantee request, the Cabinet Secretary to the National Treasury shall submit the request to Parliament with recommendations seeking its approval;
- (h) the Cabinet Secretary to the National Treasury shall communicate the decision of Parliament on the draft loan guarantee to the respective County Executive Committee Member for finance;

- (i) upon approval by Parliament, the Cabinet Secretary shall include such authorized Treasury Bonds in the overall national issuance calendar;
  - (j) once the issuance calendar is known, when the national governments advertises its bond issuance for a specific month it shall also incorporate those to be issued on behalf of county governments;
  - (k) on the issuance day, the county whose bond is being issued, shall be represented in the auction committee meeting by the County Executive Committee Member or his or her representative; and
  - (l) after the National Treasury and the county government sign an on-lending agreement, the National Treasury shall transfer the proceeds of the Treasury Bond to the Revenue Fund of that county government and such on-lending transactions shall attract a fee to be determined by the National Treasury.
- (2) The cash plan prepared under paragraph (1) above shall indicate—
- (a) financing amounts from the issuance of Treasury Bond;
  - (b) the timing of the bond issuance;
  - (c) redemption and interest payment of previously issued Treasury Bonds plus the interest payment of the intended Treasury Bond; and
  - (d) the county government's cash plan to be integrated into the national government borrowing program to prepare the market for issuance.

184.(1) Pursuant to the provisions of section 58 of the Act and before a county government seeks a guarantee from the national government, the following requirements shall be met—

- (a) the County Executive Committee member for finance shall submit the borrowing proposal to the County Executive Committee for approval of the borrowing including its terms and conditions;
- (b) after approval by the County Executive Committee, the County Executive Committee member for finance shall submit the signed loan agreement and a sessional paper to the County Assembly for approval of the borrowing, including its broad terms and conditions;
- (c) after obtaining the approval of the County Assembly, the County Executive Committee member for finance shall submit the final draft loan financing agreement and the approval of the County Assembly to the Cabinet Secretary requesting for the guarantee of the final loan financing agreement;

Process for applying for a national government guarantee for external borrowing.

- (d) the Cabinet Secretary, after receiving the request from the county government, shall seek the recommendations of the Intergovernmental Budget and Economic Council in fulfillment of the requirements of section 58(2)(i) of the Act;
- (e) the Cabinet Secretary to the National Treasury, after receiving recommendations of IBEC, shall seek the recommendations of the Attorney-General;
- (f) the Cabinet Secretary may, upon taking into account the recommendations of the Intergovernmental Budget and Economic Council and the Attorney-General, approve or reject the request;
- (g) the Cabinet Secretary shall reject a request for loan guarantee with reasons and communicate the same to the concerned County Executive Member for finance.
- (h) upon approval of a loan guarantee request, the Cabinet Secretary shall submit a sessional paper to Parliament with recommendations seeking its approval;
- (i) the Cabinet Secretary shall communicate the decision of Parliament on the draft loan guarantee to the respective County Executive Committee Member for finance; and
- (j) upon approval by Parliament the Cabinet Secretary shall issue a loan guarantee.

(7) After receiving the communication of the decision of Parliament on the draft loan guarantee, the County Executive Committee member shall report to the County Assembly of the decision.

185. All sums borrowed under the Act shall be expended only on the activities included in the approved estimates of expenditure of the county government entities.

Use of moneys borrowed and credits obtained.

186. The objectives of public debt management are to ensure that the county government's financing needs and payment obligations are met at the lowest possible cost over the medium to long term, with a prudent degree of risk, and to promote development of the domestic debt market while ensuring the equitable sharing of benefits and burdens of public debt between the current and future generation.

Objectives of county public debt management.

187.(1) Any borrowing by the county government shall be informed by the county government medium term debt management strategy and shall set out the framework for the management of county public debt.

County government medium term debt management strategy.

(2) The medium term debt management strategy, which is reviewed annually, shall be prepared and executed by the County Treasury.

(3) Medium term debt management strategy shall be formulated annually on a three year rolling basis.

(4) The Strategy shall be approved by the County Executive Committee.

(5) The county medium term debt management strategy shall be prepared taking into account—

- (a) the borrowing needs of the county governments;
- (b) fiscal responsibility principles set out in section 107 of the Act and regulation 25 of these Regulations;
- (c) prevailing macro-economic conditions;
- (d) prevailing conditions of the financial markets; and
- (e) any other relevant factors.

(6) The county medium term debt management strategy shall include measures for minimising borrowing costs with a prudent degree of risks.

188. (1) The county medium term debt management strategy shall be implemented through the annual county government borrowing programme for each fiscal year.

Annual county government borrowing programme.

(2) The annual borrowing programme shall include issuance of county government securities, external guaranteed loans and disbursements for the fiscal year and show indicative dates of such issuance and disbursements.

189. Negotiation with foreign governments and agencies for external loans shall culminate into and shall be formalized into one of the following recognized instruments in addition to the national government guarantee—

Formalization of agreements for loans.

- (a) loan agreements; or
- (b) exchange of letters that constitute an agreement; or
- (c) subscription statement in regard to domestic government securities; or
- (d) national government guarantee.

190. The procedure to be followed in the disbursement of loan funds shall be defined in the respective agreement and shall generally assume one or more of the following methods—

Modes of payment (disbursement) of loan funds.

- (a) credit purchase; or
- (b) direct disbursement to the County Revenue Fund; or
- (c) reimbursement, where the county government pays for goods and services supplied and later on claim reimbursement from the financier.

191. Where development partner have opted to give loans through credit purchase or commodity loan arrangements, for the purposes of budgeting and accounting, the following procedures shall be followed—

Credit purchases.

- (a) the amount of expenditure and matching direct payment as agreed and as applicable, shall be included in the development estimates under separate items;
- (b) accounting officer shall apply through the County Treasury for utilisation of the credit purchase facility in the prescribed manner as set-out in the loan instrument;
- (c) after supplying goods or services, the development partner shall notify County Treasury of the amount disbursed against the loan;
- (d) the County Treasury shall record the amounts disbursed as a drawing against each loan facility;
- (e) the County Treasury shall forward invoices and debit advices to the accounting officer concerned to bring the expenditure involved into account;
- (f) the accounting officer shall, on satisfying herself or himself of receipt of goods and services, record the transactions in the stores ledger card and the accounting officer shall notify the County Treasury on the receipt of goods and services; and
- (g) upon receipts of the notification under paragraph (f) of this regulation, the County Treasury shall notify the Cabinet Secretary of the receipt of goods and services.

192. (1) The County Executive Committee Member may, on such terms and conditions as he or she may determine, and when necessary, with the concurrence of the lender and the Cabinet Secretary—

Redemption, conversion, and consolidation of loans.

- (a) repay any loan prior to the redemption date of that loan; or
- (b) convert the loan into any other loan; or
- (c) consolidate two or more loans into an existing or new loan.

193. A County Treasury shall submit to the National Treasury a report on county public debt as prescribed in these Regulations.

County government entities to provide data on debt.

194. (1) Not later than three months after the end of each financial year, the County Executive Committee Member shall prepare and submit an annual report to the county assembly on public debt.

County annual debt reporting.

(2) The annual public debt report shall be in the format gazetted by the Cabinet Secretary and shall include the following information—

- (a) review of previous year's financing of budget deficit;
- (b) composition of domestic debt;
- (c) composition of external debt;
- (d) on-lent loans and contingent liabilities;
- (e) debt strategy and debt sustainability;
- (f) outlook for the medium term; and
- (g) any commitment fees and penalties paid on any undisbursed amounts of a loan.

(3) The County Treasury shall maintain an inventory of all loans made to the county government and make the record available to the county assembly within seven days of request.

(4) The following information shall be included in the inventory under paragraph 3 of this regulation—

- (a) the principal of the loan and the terms and conditions of the loan, including interest and other charges payable and terms of repayment and location of the project financed; and
- (b) the amount of the loan advanced at any particular time.

195. For the purposes of debt management operations and loan administration, the accounting officers of a county government entity shall be responsible for the following—

- (a) preparing project proposals and submitting them for approval to the County Treasury;
- (b) where authorisation has been granted for the project to start, the accounting officer shall ensure public disclosure to intended beneficiaries within thirty days of the allocation and disbursement of the loan;
- (c) after disbursement of loans, the loan recipient accounting officer shall report within fifteen days after the end of each quarter to the intended beneficiaries on the expenditures and performance achieved in relation to the loan;
- (d) during the project identification and design, the intended beneficiaries shall be involved through the public participatory approach to planning through public forums to enhance leadership, ownership, social accountability and sustainability of the project;
- (e) preparing expected disbursements profiles;
- (f) submitting loan disbursement claims for approval by the County Treasury;
- (g) making comments on draft loan agreement from the County Treasury;
- (h) participating in all consultations and negotiations of all loan agreements for projects and programmes under their jurisdiction; and
- (i) implementing, monitoring and evaluating, in close collaboration with the county government entity responsible for county planning, all projects and programmes within their jurisdiction.

Roles and responsibilities of accounting officers in debt management operations and loan administration.

196. In case of default of payment of a guaranteed loan by a county government, the provisions of section 61 and 94 of the Act shall apply.

Default of payment of guaranteed loan.

## PART XV – PUBLIC FUNDS

197. (1) The establishment of a county public Fund shall at the minimum meet the following requirements –

Criteria for the establishment of a county public fund.

- (a) be initiated through a proposal by the County Executive Committee Member responsible for the county government entity under which the functions of the Fund fall, clearly setting out the justifications and submit it to the County Executive Committee Member;
- (b) the County Executive Committee Member responsible for the county government entity shall certify in writing that the functions and the public services to be delivered through the Fund cannot be delivered through the structure of budget appropriations;
- (c) provide a clear justification as to why a Fund structure is deemed appropriate for improved service delivery in light of the legislative and policy mandate of the county government entity;
- (d) the administration costs of the Fund shall be a maximum of three (3%) percent of the approved budgets of the Fund;
- (e) the County Executive Committee Member responsible for the county government entity functions shall confirm in writing that the establishment of the Fund and its continued existence will not depend on annual financing from the county exchequer;
- (f) a Fund that has a lifespan of less than two years shall not be approved unless it is for unforeseen and urgent need;
- (g) the County Executive Committee Member shall grant approval in writing before establishment of the Fund;
- (h) the County Executive Committee Member responsible for the entity shall demonstrate how the activities of the proposed County Public Fund will fit in the overall Medium Term Plan and County Fiscal Strategy Paper; and
- (i) the initial approval for establishment of a county public Fund shall be for a maximum period of ten (10) years, beyond which the County Executive Committee and County Assembly approvals shall be sought.

(2) Despite the provisions of paragraph (1) of this regulation, the County Executive Committee Member may from time to time issue further guidelines on the establishment of county public Funds.

198. The County Executive Committee Member shall provide for the management, operation and winding up procedure in the guidelines for establishing each Fund which shall be in accordance with the Act and these Regulations.

Management and winding up of a county public fund.

199. (1) Where the lifespan of a Fund lapses, the process of winding up shall commence within six (6) months from the date of the lapse.

Winding up of a county public Fund.

(2) The final report after winding up the Fund shall be submitted to the Auditor-General for audit and the County Assembly.

(3) A county public Fund may also be dissolved if the County Executive Committee Member responsible for a department operating a county public Fund considers that the county public Fund has successfully completed the specific objective for which it was created.

#### PART XVI—COUNTY CORPORATIONS

200. (1) For the purposes of this Part—

Definitions.

“governing body” in relation to a public entity means a commission, a board of directors, a board of trustees, board of governors, and council.

“government owned enterprise” means an organisation which—

- (a) is a legal person under the ownership and control of a county government;
- (b) has been assigned financial and operational powers to carry on a business activity;
- (c) as its main business, supplies goods or services in accordance with ordinary commercial principles; and
- (d) is financed wholly or substantially from sources that do not require annual appropriation by County Assembly, or imposition of a tax, levy or other charge under legislation.

201. (1) Pursuant to section 5 of the Act, the County Committee Member may by notice in the Gazette declare and classify county government entities in accordance with the Schedules as indicated in this Regulation.

Declaration of county government entities and classification of state corporations.

(2) County Government owned enterprises operating on the basis of commercial principles shall be listed as Schedule 2 county government entities.

(3) Regulatory agencies shall be categorised as Schedule 3 county government entities.

(4) Executive agencies, and county referral health institutions, boards and commissions fully or partially funded through the county government budget shall be categorised as Schedule 4 county government entities.

(5) County Public Funds established under the county legislation or subsidiary county legislation shall be classified as Schedule 5 county government entities.

(6) The County Executive Committee Member for Finance shall have powers to amend the Schedules classified under this regulation in accordance with the provisions of the Act and this regulation.

202. The following principles shall apply when determining the need for the establishment of a county corporation under section 182 of the Act—

Guiding principles for the establishment of county corporations.



- (a) there shall be a role for a county government entity to fill a gap left by the market forces through—
  - (i) social inclusion, where the county government entity addresses social inequity by redistributing resources in ways that improve opportunity and support for individuals, families and communities, allowing them to participate in the economy and society consistent with the county government's social inclusion agenda; or
  - (ii) correction of market failure, where the county government entity's activity shall address market failures by improving social and economic welfare through improved resource allocation, where the benefits of county government intervention outweigh its cost;
- (b) activities promoted by the county corporation shall have clear and consistent objectives and be effective in achieving their county objectives and represent value for money for the expenditure of taxpayer funds;
- (c) a county government owned enterprise shall operate on commercial principles and with a defined commercial income stream that substantially supports the associated commercial activities;
- (d) where activities involving tax expenditures demonstrate that public expenditure is less effective in achieving the county government objective but can effectively be undertaken on a commercial basis; and
- (e) there is no overlap or duplication of functions when establishing a county corporation within the county government.

203.(1) In exercising the powers under section 182 of the Act, the County Executive Committee and County Assembly shall be guided by regulation 202, this regulation and any other relevant regulation of these Regulations.

Criteria for establishing county corporations.

(2) A County corporation may be established only with the prior approval of the County Executive Committee, with reference to a legislation enacted to govern the establishment, management and dissolution of such county corporation.

(3) In order to establish a county corporation or a subsidiary of a county corporation—

- (a) the responsible County Executive Committee Member shall submit a written business case to the County Executive Committee Member, with detailed justification for establishing the county corporation or the subsidiary; and
- (b) the business case in paragraph 3(a) shall be informed by a feasibility assessment of the proposed county corporation or the subsidiary for the purpose of ascertaining—

- (i) the economic and financial viability of establishing a county corporation;
- (ii) whether the proposed activity cannot be conducted through an existing corporation or the parent department;
- (iii) whether or not there is need to establish a new corporation;
- (iv) the functions and objective that its establishment is supposed to attain;
- (v) how the activities of the proposed corporation will fit in the county department's legislative mandate and medium term strategy, and aid the realization of the objectives of the programmes associated with that department;
- (vi) how the activities of the proposed county corporation will fit in the overall medium term plan of county government;
- (vii) how they impact the fiscal position of the county government; and
- (viii) the amount of county government share.

(4) The feasibility and viability assessment conducted under paragraph (3)(b) of this regulation shall be submitted to the County Executive Committee for approval.

(5) Upon approval of the business case by the County Executive Committee, the necessary establishment processes shall be undertaken by the relevant department as required by a legislation on formation, management and dissolution of County corporations to allow it perform the functions stipulated in the instruments for incorporation.

(6) The county government entity responsible for investment portfolio management in the County Treasury shall be constantly updated on the progress of a county corporation.

(7) The County Executive Committee Member responsible for investment portfolio management in the County Treasury shall conduct regular review of county corporation to assess the relevance of the mandate and the justification for their continued existence and where necessary make recommendations to the County Executive Committee for the dissolution or merger of corporations.

204. (1) A County corporation may be dissolved only with the prior approval of the County Executive Committee, with reference to a legislation enacted to govern the establishment, management and dissolution of such county corporation.

Dissolution of  
County corporations.

(2) Subject to the provisions of a legislation enacted for the formation, management and dissolution of a county corporation, a county corporation may be dissolved—

- (a) upon expiry of the lifespan of the county corporation as may be defined in the instrument of establishment;

- (b) where a county corporation has carried out the mandate for which it was created;
- (c) upon reorganization of the corporation and associated government functions, and
- (d) upon a merger of the corporation with another.

(3) The accounting officer responsible for the corporation in question shall follow-up implementation of the findings and eventual recommendations for dissolution to ensure compliance.

(4) The County Executive Committee member may by notice in the gazette prescribe guidelines for dissolution and mergers of county corporations.

(5) Upon approval by County Executive Committee of the recommendations to dissolve or merge a county corporation, the County Executive Committee Member shall cause the dissolution or merge the corporation with another.

(6) Upon dissolution of a county corporation, the funds corresponding to county government equity in the county corporation shall be deposited into the County Revenue Fund.

(7) Upon ceasing of an entity to be a public entity, the County Executive Committee Member shall vest all the assets and liabilities of the county government entity concerned to the responsible county government entity.

(8) No county corporation shall vest its assets in another entity without prior approval of the County Executive Committee Member.

205.(1) The County Executive Committee Member responsible for the county corporation shall approve the estimates of budget of the county corporation and shall, not later than end of January every year, submit to the County Treasury for approval of those estimates for the following financial year.

Annual budget.

(2) The National Treasury shall provide guidelines and the format on which the budget shall be prepared.

(3) Budget estimates submitted under paragraph (1) of this regulation shall be classified as follows—

- (a) compensation of employees;
- (b) use of goods and services;
- (c) transfers to other levels of government; and
- (d) capital.

206. (1) The County Treasury shall prepare and issue dividend policy guidelines on how county government entities shall declare and remit dividends and surplus funds to the County Treasury.

Dividend policy and surplus funds.

(2) A regulatory authority established by an Act of Parliament and referred to under regulation 201(3), shall remit into County Revenue Fund, ninety per centum of its surplus funds reported in the audited financial statements after the end of each financial year.

(3) A regulatory authority to which this section applies shall be exempt from the income tax.

(4) The governing body of a public entity listed in Schedule 2 referred to under regulation 201(2), shall formulate an appropriate dividend policy in line with the policy guidelines referred under paragraph (1) of this regulation, and submit to the National Treasury and the respective County Treasury.

207.(1) An accounting officer of a county corporation shall prepare and submit quarterly financial and non-financial statements in the format gazetted by the Cabinet Secretary within 15 days after the end of each quarter to the County Executive Committee Member responsible for the county corporation with a copy to the County Treasury and the Auditor-General.

Quarterly reporting  
by county  
corporations.

(2) The quarterly reports prepared under paragraph (1) of this regulation shall include information on—

- (a) revenue, including funding from grants;
- (b) expenditure;
- (c) borrowing, including any outstanding loan arrears; and
- (d) amount of profit or loss of the county corporation for the quarter.

208. Pursuant to section 165(5) of the Act, the accounting officer for a county corporation shall prepare and submit annual financial and non-financial statements in the format gazetted by the Cabinet Secretary within three months after the end of the financial year to the Auditor-General with copies to the responsible County Executive Committee member and the County Treasury.

Annual financial  
statements.

#### PART XVII—COUNTY BUDGET AND ECONOMIC FORUM

209. (1) For certainty, County Budget and Economic Forums established under section 137 of the Act, shall consult on—

The role of County  
Budget and  
Economic Forum

- (a) national and county government policies and legislations relating to planning and financial matters affecting county government interests;
- (b) matters arising from Intergovernmental Budget and Economic Council and other intergovernmental forums;
- (c) consult on planning and financial matters relating to cities and urban areas affecting the county government; and
- (d) any other matter as may be referred to the forum by the Governor.

(2) The forum shall meet at least twice a year and the Governor shall decide the time and agenda for the meeting of the forum in consultation with other members of the forum.

(3) The forum may determine its own rules and procedures in such a manner as it considers appropriate.

(4) The forum may invite other persons with relevant expertise to attend any of its meetings.

(5) The County Treasury shall provide secretarial services to forum for effective performance of its functions.

#### PART XVIII—COMPLIANCE AND ENFORCEMENT

210.(1) A public officer employed by a county government or a county government entity commits an offence of financial misconduct if, without lawful authority, the officer—

Offences of financial misconduct.

- (a) issues public government securities, or varies their terms and conditions; or
- (b) opens a bank account in the name of the government; or
- (c) lends money on behalf of the government; or
- (d) issues guarantees or indemnities on behalf of the county government; or
- (e) issues securities for loans made to the government; or
- (f) disposes of property belonging to, or under the control of that government or entity; or
- (g) fails to pay into a government bank account any public money entrusted to the officer or received by the officer for or on behalf of that government or that entity; or
- (h) incurs expenditure or makes a commitment on behalf of that government or entity; or
- (i) incurs wasteful expenditure on behalf of that county government or entity; or
- (j) fails to deliver to that government or entity a gift or donation made on a public or official occasion in accordance with the Public Officers Ethics Act, 2003; or
- (k) fails to provide any information in the officer's possession, or under the officer's control, in relation to the financial management, financial performance, or banking activities of that government or entity or in relation to the management or control of an asset or liability of that government or entity when required to do so, except where such refusal or failure is required or authorised by this Act or any other written law; or
- (l) fails to keep proper records or conceals, or wrongfully destroys, information that is required to be recorded; or
- (m) intentionally or recklessly obstructs or hinders a person while that person is acting in the performance or exercise of the person's functions or powers under this Act; or
- (n) makes any statement or declaration, or gives any information or certificate, lawfully required by or under this Act knowing it to be false or misleading in a material

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respect for the purpose of procuring for the public officer or any other person or organisation; or

- (o) makes improper payment of public money belonging to or entrusted to that government or entity, or makes improper use of any public property of that government or entity; or
- (p) fails to remit revenue received contrary to the provisions of sections 158(2) of this Act.

#### PART XIX—MISCELLANEOUS

211. (1) The Cabinet Secretary shall gazette the financial, accounting and reporting formats listed for use by county governments and county government entities soon upon commencement date of these Regulations.

Gazettement of financial accounting and reporting formats.

#### EXPLANATORY MEMORANDUM TO THE PUBLIC FINANCE MANAGEMENT (COUNTY GOVERNMENT) REGULATIONS, 2015

1. The Purpose of Public Finance Management (County Government) Regulations, 2015.

The purpose of these Regulations is to:

- (i) to provide means of administering the powers vested in the Cabinet Secretary for the National Treasury under the Constitution, the Act and any other related legislation;
- (ii) to harmonize and standardize their application throughout government service in controlling and managing the finances;;
- (iii) to set out a standardized financial management system for use in Government service which is capable of producing accurate and reliable accounts free from errors, fraud and which will be useful in management decisions and statutory reporting;;
- (iv) to provide for the conduct of fiscal relations between the county governments;; and
- (v) to ensure accountability, transparency and the effective, economic and efficient collection and utilization of public resources.

2. The Legislative Context

The process of developing a comprehensive PFM Regulations started in 2012 after enactment of the Public Finance Management Act, 2012 which consolidated all Public Finance Management legislations catering for both the National and County Governments.

The development of the PFM Regulations, 2014 was guided by the following considerations; (i) ensuring financial autonomy of National and County Governments within a unitary system of government and guided by provisions in the Constitution such as Article 6 and the Public Finance Management Act, 2012. As a result, functions of PFM institutions at the national and county levels of government were mirrored; (ii) ensuring the PFM Regulations encapsulates best international practices; and (iii) the need to separate the PFM Regulations for national and county governments to capture the unique needs of each level of government

These PFM Regulations, 2015 are therefore firmly anchored in Chapter 12 of the Constitution and gives effect to the provisions of the Public Finance Management Act, 2012.

### 3. Policy Background.

Parliament enacted the Public Finance Management (PFM) Act, 2012 in August, 2012 and over the past two years Kenya has been rolling out devolution as envisaged in the Constitution. The Act on its own, however, is not sufficient since it does not provide guidelines on all matters relating to public finance management at the national and county levels of government. In order to provide further clarity on various aspects of public finance management, it is therefore necessary to have regulations.

An efficient and effective PFM system is a necessary condition for achieving Vision 2030 and our development objectives. Investors, both foreign and local, require assurance that a country's PFM system can be relied upon to maintain fiscal discipline and in particular contain public debt both at the National and County level. Without a credible public financial management system, our ability to borrow or even attract donor funds will be curtailed. In addition, an effective PFM system is very critical in supporting the mobilization of resources to be equitably shared between the two levels of government.

In order to make the regulations user friendly and to capture the unique needs of the two levels of government, two volumes of Regulations have been prepared — one for the National Government and the other for the County Governments. The provisions of Parts I to XVI in the two sets of Regulations are largely mirrored but tailored to each level of government. Parts XVII onwards, however, include provisions that are specific to each level of government.

Further, there is need to ensure prudent use of public resources in line with Article 201 of the Constitution by providing ceilings in both the Public Finance Management Act, 2012 and PFM (County) Regulations, 2014 for expenditures of County Assemblies.

It is considered that the provisions of the proposed Public Finance Management (County Governments) Regulations, 2014 will provide a sufficient level of economic, fiscal and financial detail and adequate time for the legislatures at the National and County Governments to perform their oversight role in an effective manner.

On the basis of the foregoing, it is considered prudent to anchor the fundamental concepts of a modern public financial management system and its application in Kenya in a comprehensive PFM law.

Some of the salient features of these regulations are:-

- The Regulations provide additional Fiscal responsibility principles such as—
  - compensation of national and county government employees shall not exceed 35% of either level of government equitable revenue share;
  - the approved expenditures of a county assembly shall not exceed seven per cent of the total revenues of the county government or twice the personnel emoluments of that county assembly, whichever is lower; and

- national public debt shall not exceed 50% of GDP in terms of NPV among others;
- Provides for expenditures before approval of budget estimates by national and county assemblies under extreme circumstances.
- Provides any request for expenditures from the Emergency Fund to have a certificate of the relevant County Executive Committee Member for Finance confirming compliance with PFM Act provisions.
- Provides all Government Bank Accounts for County Governments will be held at the Central Bank of Kenya except where the cabinet Secretary has expressly granted exemption and approved.
- Provides that the Cabinet Secretary shall provide further guidelines for loans and advances including benefits and allowances for public officers and the County Executive Committee Members for Finance may provide further guidelines for their respective counties in line with the Cabinet Secretaries guidelines.
- provides for lease financing transactions by accounting officers.
- Provides for equitable transfers before approval of County Allocation of Revenue Bill.
- Provides for various thresholds for approval of losses and write-offs including responsibility for Accounting Officers, County Executive Committee Member for Finance, County Executive Committee and County Assembly.
- Provides for guiding principles for county government borrowing; borrowing purposes and objectives of public debt management, the criteria for issuance of government securities both domestic and external, sets the overall debt limit for the country at 50% of the net present value of GDP while the debt limit for county governments is set at 20% of the audited total annual revenue and approved by the county assembly.
- Provides for establishment of a Sinking Fund for debt redemption county level of government.
- Provides for criteria for establishment of public funds, management and winding up of a county public fund.
- Provides the guiding principles for establishment of county corporations, criteria for establishment of a state or county corporations as well as dissolution of county corporations; evaluation of state or county corporation performance.
- Provides for the powers of the Cabinet Secretary to gazette financial, accounting and reporting formats.



#### 4. Public Consultations

The PFM Regulations have taken into account the views of key stakeholders such as the Commission on Revenue Allocation, the Commission for the Implementation of the Constitution, Accounting Officers, Council of Governors, County Executive Committee Members of finance, civil society, the general public and international and local experts on public financial management.

It is important to appreciate that one of the key recommendation from different stakeholders was to separate the Regulations governing National and County levels of Governments. In order to address this recommendation, the Regulations were separated to deal each level of Government, hence the reason why we have submitted two volumes of Public Finance Management Regulations; PFM (National Government) Regulations, 2015 and PFM (County Government) Regulations, 2015. This will give flexibility on the application of the Regulations to each level of Government and ensure maximum impact of the Regulations on public finance accountability architecture.

#### 5. Guidance

The National Treasury and County Treasuries will sensitize stakeholders including Parliament, accounting officers of national and county governments and the general public, on the provisions of the public finance management (County Governments) Regulations, 2015, the accountability mechanism, the monitoring and evaluation mechanism and the need to ensure regular reporting to Parliament and the relevant County Assemblies.

#### 6. Review of the Regulations.

The National Treasury shall monitor the application of the PFM Regulations. This will be done through quarterly reports sent by the relevant accounting officer of the county government. In addition, the National and County Treasury will also carry out regular monitoring and evaluation of the specific provisions of these Regulations through interaction with the implementers of these Regulations, studying various reports by Constitutional Commissions, Independent Offices, Civil Society and the general public.

It is important to note that the Regulations shall apply to the level of government as indicated in their headings from the commencement date of these Regulations. In this respect, a review thereof will be done by the National Treasury with the approval of Parliament in line with Section 205 of the Public Finance Management Act, 2012.

#### 7. National Treasury Contact Person.

The contact person at the National Treasury is the Cabinet Secretary, Mr. Henry Rotich or the Principal Secretary, Dr. Kamau Thugge, EBS

Dated the 20th March, 2015.

HENRY ROTICH,  
*Cabinet Secretary for the National Treasury*