NTA
National Taxpayers Association
pesa zetu, haki yetu

Promoting good governance in Kenya

BUDGET TRANSPARENCY AND CITIZEN PARTICIPATION IN COUNTIES IN KENYA

A Guide by National Taxpayers Association (NTA)

First Edition April 2013

www.nta.or.ke

IBP INTERNATIONAL BUDGET PARTNERSHIP
Open Budgets. Transform Lives.

Contents

Acknowledgements

The National Taxpayers Association (NTA) wishes to acknowledge the contribution of various individuals who made this publication possible. This guide emerged out of the need to assess the various aspects of budget transparency and citizen participation, as the country adopts devolution. It draws from the vast experience NTA has in implementing governance programmes and monitoring devolved funds.

We wish to acknowledge the valuable contribution of Jason Lakin, Ph.D., a Senior Program Officer and Research Fellow at Hivos Foundation and International Budget Partnership for his insight and information that contributed to shaping the content of this guide. We also appreciate the technical support of Mr. Jules Dumas Nguebou, a Participatory Budgeting expert from Cameroon.

Special thanks to Mr. Kennedy Masime, the Executive Director of the Centre for Governance and Development (CGD), and National Secretary NTA and Mr. Michael Otieno, NTA Advisor. We also thank the NTA National Governing Council under the leadership of Mr. Peter Kubebea for their continued support.

We acknowledge Hellen Muchunu, Project Officer for the IBP Project and Regional Coordinator Central Region who managed this project, as well as all the NTA staff at the secretariat and the regional coordinators for its successful implementation.

Our sincere gratitude goes to International Budget Partnership (IBP) whose financial support made this project and guide possible.

Mr. Martin Napisa
National Coordinator
National Taxpayers Association

Letter to the new governor

Dear Governor,

Congratulations on your successful election after a grueling campaign. It is now time to get down to business and we hope you will hit the ground running. As a governor, you must adhere to the constitution and other legal frameworks as may be provided. Public participation in county affairs is now a constitutional requirement. Your will need to consult your people on how will engage with them, what role you will play and what role they will play to achieve satisfactory results. More importantly, after you engage with them you will need to safeguard their interests and needs.

The success or failure of devolution will depend almost entirely on your political goodwill and full implementation of the constitution. You cannot do it on your own. Forging partnerships will be a key aspect of your day to day operations. Remember the most important partnership you can establish is a partnership with the people you lead. You will also need to reach out to others who might help you achieve your desired vision.

In the past, our public funds have been misused or looted through corruption by unscrupulous individuals. You are now entrusted with billions of taxpayers' funds and therefore you must enforce fiscal discipline. Please involve citizens in exercising oversight by opening channels that help you receive information on fiscal indiscipline. You must also continually inform the public on a regular basis about the state of affairs in the county by publishing and publicizing information that affects them. Citizens now have a right to access information held by your office.

We have prepared in greater detail some key guidelines that might help you achieve success in your new challenging position. You will find them in this publication. These are based on our experience in governance and programmes that empower citizens to demand accountability from duty bearers. We hope you will find them useful.

Thank you and good luck in your first term.

National Taxpayers Association (NTA)

Letter to the citizen

Dear Citizen,

You have just elected into office a new President, Governor, Senator, Member of Parliament, Women Representative and County Ward Representative. Please understand the roles and responsibilities of each of these leaders, since you have employed them to work for you.

As you may know, the current constitution lays emphasis on citizen participation as a key component of decision making especially in the budget process. In other words, opportunities have been opened up for you to participate in this process and influence how decisions that affect your life are made.

We have specifically prepared this guide with you in mind and highlighted available opportunities for you to engage with the budget process at the county level, please read it carefully. But remember, even as you seek to engage and participate in the budget process you must endeavour to:

1. Understand the constitution and other legal frameworks governing the processes.
2. Demand constitutional and other rights.
3. Get the right information from the right sources.
4. Verify and interrogate the information.
5. Use the power of numbers: mobilize, forge networks/groups and get other citizens involved.
6. Attend and actively participate in public meetings.
7. Demand feedback for any queries you raise.
8. Closely monitor county structures and processes.
9. Exercise oversight on projects and demand accountability.
10. Follow up on promises by leaders.

We believe that if you are guided by these basic principles, you will participate objectively, more effectively and express your needs and priorities to influence decision making and resource allocation in your county. We also hope you will find this guide useful and pro actively participate in the budget making process. Thank you.

National Taxpayers Association (NTA)

Introduction

The centralized system of government in Kenya can be traced to the colonial days when it was meant to exclusively serve the interests of colonial masters. Post independence saw the introduction of a quasi-federal system that never was. Political support for the system dwindled and the independence government actively reverted to recentralization of the state reintroducing challenges of a centralized system the country had struggled with until the promulgation of the current constitution in 2010. As a result, Kenyans have invested high hopes in devolution as a means of eliminating development imbalance and poverty.

The constitution introduces devolution with the arrangement of a national government and 47 county governments as a way of bringing the government closer to the grassroots. It also clarifies the roles and responsibilities for the three arms of government; the executive, the legislature and the judiciary who will each independently prepare and submit their respective budgets to parliament. Parliament is now split into the National Assembly and the Senate and the constitution strengthens accountability mechanisms by providing for checks and balances in public finance management. It is anticipated that devolution will decentralize both economic and political power to the county governments by promoting democratic and accountable exercise of power and ensuring equitable sharing of national and local resources.

In spite of these hopes, when we look at the history of decentralization in

Kenya we must recognize the risk of decentralizing corruption and impunity to the counties unless urgent measures are put in place to safeguard against this. Kenya has operated devolved funds for a number of years, including the Constituency Development Fund (CDF) and the Local Authority Transfer Fund (LATF). Yet these have not always performed to expectation. They were operated in an opaque fashion, were subject to multiple abuses, and fell short in the area of public participation. Citizen participation in CDF and LATF through the Local Authority Service Delivery Action Plan (LASDAP) process was next to zero. Tough lessons can be drawn from the successes or failures of these two funds to inform participation at the county level. It is evident that the quality of participation in financial matters both at the national and local levels was insufficient to impact any change on decision making or resource allocation.

Across the border in Uganda, devolution was implemented several years ago. Unfortunately it has faced serious resistance to date[1]. Central government continues to exert control over both political and economic powers. As a result over the years in practical terms the country has slowly recentralized, even as devolution remains defined on paper. Kenya must be careful to avoid the same potential pitfall by adhering to the letter and spirit of the constitution. The cornerstone for this is to empower citizens to participate in all matters of the state, to determine their destiny and hold duty bearers to account.

1. REFLECTION ON CITIZEN PARTICIPATION IN DECENTRALIZED FINANCING IN KENYA: CDF AND LATF

1.1 Constituency Development Fund (CDF)

1.1.1 The CDF Act 2013

Since establishment in 2003 through an Act of Parliament the government of Kenya has cumulatively allocated a whopping KSh.107 Billion to CDF[2]. When President Mwai Kibaki first became President in 2002, the National Alliance Rainbow Coalition (NARC) government promised to devolve power away from the centre and to share political power among Kenya's diverse groups. With this hope, the CDF was established to fight poverty at the grassroots level. To achieve this goal the CDF was structured to ensure that constituencies receive 2.5% of the Government annual ordinary revenue, besides monies to be received from other sources by the CDF Board[3].

Over the years, it has emerged that the core problem with CDF is directly attributable to a weak legal framework and near absent oversight mechanisms that limit citizen participation in decision making and project implementation. Members of Parliament, the de-facto patrons of CDF, had taken advantage of the legal loopholes to use CDF as a political tool.[4]

The 2013 Act[5] aims at re-aligning CDF to the Constitution. All the provisions regarding citizen participation remain virtually the same, with a few administrative changes introduced. It attempts to curtail the role of MPs as administrators, limiting them to mobilizing community meetings and coordination of selection of committee members by citizens. The administration of CDF will now fall in the hands of a Board official dispatched to the constituency, while MPs exercise oversight over projects. The new Act reduces the number of CDF Committee members down to 10 from 15, while at the same time providing for citizens to nominate who sits in the CDF committees. The MP still sits on the committee ex-officio with voting powers.

Members of Parliament are by constitutional mandate law makers. The contention previously has been how can MPs formulate stringent laws that will tie them down while exercising executive powers through CDF? The proposed amendments in the 2013 Act are being challenged by the newly ushered in 11th Parliament. The Commission for Implementation of the Constitution (CIC) on the other hand is rejecting the Act in its present form, citing non-conformity with the current constitution. CIC contends that the Act has issues which fundamentally undermine the Constitution and in particular the devolved government. One of the key issues CIC raises is that it does not respect or facilitate devolution or the separation of powers[6]. CIC is right.

Public participation in decision making is still not clearly defined and no safeguards are in place to prioritize community needs. Important questions on how CDF links with decision making at the County level must be addressed. It creates a parallel channel of disbursing funds to the County level and interferes with the distribution of functions against constitutional provisions by assuming development responsibilities assigned to counties. The other problem is the fact that it creates two competing bodies with participation claims: the CDF committee and the county committee. So the CDF Act may purport to have participation, but what laws provide for it to be above other county participation mechanisms? The focus right now should be greater investment in strengthening institutions that will enhance citizen participation at the county level.

1. Participation through representation: CDF Committee

The 2013 Act provides for the establishment of the CDF Committee by the MP within the first forty five days of being sworn in[7]. The MP shall convene open public meetings of registered voters in each of the elective wards in the constituency. Each ward shall then elect five persons whose names shall be forwarded to the officer of the Board in the constituency. Upon receiving the names from all the wards in the constituency, the Member of Parliament in consultation with the officer of the Board and the sub county administrator for the constituency, shall appoint eight persons to the Board, taking into account the geographical diversity within the constituency, communal, religious, social and cultural interests in the constituency and the requirements of gender, youth and representation of persons with disabilities.

By defining these groups, the Act encourages representation of various interests in the management of the affairs of the fund. To a certain extent this can facilitate public participation. In the past, in constituencies where the MPs properly constituted these committees there was a higher level of success in prioritization, ownership of projects and overall success in management. The pitfall in the 2013 Act remains that the MP still retains the power to appoint the committee members[8]. Often, political cronies were rewarded through these appointments and there is likelihood they will still find their way into the committee under the current framework. According to the National Taxpayers Association's (NTA) social audits, there was widespread bias with members drawn predominantly from the MPs location within the constituency, leading to biased distribution of development projects.

2. Participation through selection: Citizens

The CDF Act 2013 provides that the Chairperson of the Constituency Development Fund Committee (CDFC) in consultation with the Member of Parliament (MP) for the Constituency, the sub-county administrator for the Constituency and the ward administrator for every ward shall, within the first year of a new parliament and at least once every two years thereafter, convene open forum public meetings at in every ward in the constituency to deliberate on development matters in the ward and the constituency[9]. Each ward shall come up with a list of priority projects to be submitted to the CDFC. The CDFC shall rank the projects in order of priority and whenever, in the opinion of the Board, the total cost of the projects listed exceed the ceiling for a particular constituency, then the order in which they are listed shall be taken as the order of priority for purposes of allocation of funds, provided that on-going projects are considered over all other projects.

The priority projects list for both immediate and long term priorities is submitted to Parliament for approval and allocation of funding. This provision within the Act is meant to prioritize the development needs of constituents. 3. Participation through oversight: Project Management Committees (PMCs) CDF projects have to be communal in nature. The CDF Act 2013 recognizes the value of community involvement in project implementation and provides for PMCs. The 2013 Act provides that projects shall be implemented by the project management committee in each case, with the assistance of the relevant department of Government. It further provides that the CDFC and the Board shall be responsible for monitoring the implementation of projects and may designate a sub-committee, a ward committee or a project committee, the functions of monitoring on-going projects and shall submit a report on the ongoing projects to the ward administrator, sub-county administrator, and the County Projects Committee (CPC).

PMCs are community members nominated by the MP or elected by the community. In certain circumstances it was necessary to include direct stakeholders like school boards for school projects. Apart from overseeing project financial allocations, procurement processes and project implementation, the PMCs play an important role in raising proposals for additional funding for ongoing projects and documenting progress. They exercise oversight at the project site, coordinate community contributions and ensure long term monitoring. They represent community interests in projects hence a certain level of participation.

The Act provides for projects initiated by the community to be submitted and supported as provided and that if a community requested, it should be given a chance to nominate representatives to represent their interests in any project being undertaken in their area. The PMCs are however in most instances guided by the interests of the MP, his or her committee once nominated and bound by government procurement procedures. This therefore limits the extent to which they would take the views of the community on board in project implementation or oversight.

1.1.2 Lessons from CDF

Notwithstanding the constitutional and legal ambiguities, CDF stands out as perhaps the most focused attempt to address inequality and target poverty at the local level. It has been responsible for the transformation of communities all over the country. CDF has built classrooms, health centres and dispensaries, roads, police posts, bridges, dug boreholes and provided water, supplied electricity, irrigated farms and educated children from poor and vulnerable families[11]. Indeed no other fund has been responsible for transforming infrastructure among rural populations in Kenya. In instances where political goodwill existed, the MP was development conscious and citizens effectively involved, CDF has played a pivotal role in socio-economic transformation of those communities. The CDF structure and management model is fairly straight forward and this makes it easy to track project proposals, disbursements and expenditures. It is also easy to monitor project implementation. The "locking" of funds to specific projects limits the extent to which they may be diverted to other purposes without the express approval of the CDF Board. This has made citizen oversight by CSOs like the National Taxpayers Association (NTA)[12] possible.

1.2 Citizen participation in Local Authorities; Local Authority Service Delivery Action Plan (LASDAP)

1.2.1 About LATF

The Local Authorities Transfer Fund (LATF) was established through the LATF Act 1998 to enable Local Authorities to *"supplement the financing of the services and facilities they are required to provide under the Local Government Act."*[13] Through LATF, disbursements were made directly to LAs for use in improving service delivery to the public, improving financial management and accountability, and resolving outstanding debts. LATF allocation was 5% of the National Income Tax transferred from the Ministry of Local Government under the supervision of the Ministry of Finance to Local Authorities.

LATF was essentially a grant used at the discretion of local authorities as defined by the Act. Just like CDF, LATF targeted poverty at the local level. The local authorities collected their own revenues and combined this with disbursement from central government to provide services and deliver development projects. The fund has been in operation since FY 1999/2000 until the March 2013 general elections[14] ushered the new 47 county governments in Kenya. The Ministry of Local Government (MOLG) contends that LATF has generated a steady flow of financial information on both planned and actual revenues and expenditures, which provides the basis for improving policy analysis, management, and operations. Unfortunately this information is not publicly available for widespread use.

1.2.3 Citizen participation through the LASDAP process

The Local Authority Service Delivery Action Plan (LASDAP) was introduced in 2000 in order to enhance citizen participation in identifying their priorities and needs and streamline the planning process to encourage the development of capital plans and enhance accountability[15]. On paper the LASDAP process is perhaps the most comprehensive tool encompassing citizen participation in planning, selection, implementation and oversight of projects in local authorities. It was envisaged that the bottom-up approach of LASDAP would engage citizenry and provide ownership of the projects identified through the LATF.

According to the Kenya Local Government Reform Programme (KLGRP), introduction of LASDAP enhanced citizen participation as well asequitable and participatory allocation of resources. In certain instances this helped councils to provide services more effectively and increase revenue. LASDAP attempted to institutionalise citizen participation in governance and service provision at the local level through critically highlighting the role of citizens in these processes. Various opportunities for citizen participation were provided for in the LASDAP process, at least on paper, like information gathering, consultation and consensus meetings, formation of LASDAP monitoring groups, participating in feedback meetings, participation in the LAs budget day, community budget day and formation of project committees. In addition it envisaged participation in project implementation and evaluation.

1.2.4 The NTA case study

LASDAP did not yield the results that neither the government nor citizens anticipated and continued to fund mainly personnel, operations, maintenance and debts. It achieved low capital investment in small pockets mainly funding basic community infrastructure. Citizen participation was limited and most times 'stage-managed' which nurtured cynicism and disinterest in the process. Enhancing participation would require more than just consultations, but provide an opportunity for citizens to holistically engage with the planning, approval, implementation and monitoring processes to their benefit. *"A single consultation meeting of hundreds of people in a ward does not constitute participation neither does it inspire confidence in the citizens."- KLGRP.*

In 2012, the National Taxpayers Association with support from the International Budget Partnership (IBP) sought to enhance quality citizen participation in the LASDAP process through piloting the Participatory

Budgeting (PB) model in Kenya. The project sought to promote sub national budget transparency and accountability at the County level to enable effective citizen participation and oversight. NTA has conducted social audits in LATF and found massive wastage of public funds. An audit of LATF carried out in Bungoma, Mbita and Murang'a in partnership with KLGRP for example revealed that over 50% of the resources were found to have been wasted on badly implemented, unaccounted or stalled projects. NTA empowered citizens to participate in the LASDAP process and documented the outcome in order to inform quality participation at the county level.

To initiate the project, a series of meetings were held with the Town Clerks and Mayors of several Local Authorities where the idea of Participatory Budgeting was introduced and a request for partnership made. Following these meetings, NTA was able to effectively establish partnerships with five local authorities across the country namely Eldoret Municipal Council, Narok County Council, County Council of Makueni, Municipal Council of Nyeri and Municipal Council of Malindi. NTA then formed Citizen Budget Monitoring Groups (CBMGs). The rationale behind these groups was to mobilize citizens to participate in budget meetings, use available forums to disseminate information as well as perform social audits to inform and influence development of future budgets. In addition, they would pay visits to LA offices and hold meetings with officials to scrutinize official documents to certify actual budget revenues and expenditure while certifying that their recommendations were incorporated during the budget process.

The entry points for the monitoring groups were the consensus and consultative meetings held by the local authorities under the LASDAP process in November 2012. The consultative meeting aims to have community members' input into the projects that they want prioritized depending on the funds available. Two community representatives arechosen from each ward to represent the wards during the consensus meetings. One consensus meeting is held for the whole municipality or county council to select the final list of projects to be implemented. It is during this meeting that the viability of the project is assessed as well as the expected budget and implementation procedures.

The consultative meetings attended by NTA essentially focused on reading of the resource envelope, the status of projects funded in the 2012/2013 financial year and prioritization of projects for the 2013/2014 financial year. Citizen participation varied widely depending on the region. In Eastern region, the number of participants ranged from 40 to 90 per ward while in Narok, the average number of participants per meeting was 100. All the 3 wards in Rift Valley region had a total estimated number of 150 participants. Central region recorded the lowest turnout with participants ranging from 10 to 40 for each meeting. The turnout for these meetings was low, perhaps as a result of lack of proper mobilization by the LAs or disinterest by citizens.

According to the LASDAP guidelines[17], the public notice is supposed to be out 21 days before the meetings commence. The public notice is a means of communicating to the citizens the commencement of the LASDAP process. It is used to mobilize citizens to attend the consultative meeting. The Nyeri Municipal Council posted notices in wards in good time but this did not translate to actual turnout. The County Council of Makueni had placed its public notice in the local newspaper (Daily Nation) on 12th October 2012, at least 21 days before the meeting. The LASDAP guidelines required the notice be posted as widely as possible to encourage participation. Public areas are defined to include the market place, bus stops, health centres, churches, mosques, temples, the district/chief's offices and educational institutions. LA officials were to certify that the public notices had been posted in public places by completing a form. Most of the LAs did not adhere to this requirement. NTA noted that none of the Local Authorities took it upon themselves to explain to participants how the figures in the resource envelop and ward allocations were arrived at during these consultative meetings

Participants in all Local Authorities were given a chance to prioritize projects and it is important to note that local leaders in all the meetings were influential in determining the projects selected. Wards in Rift Valley got the highest number of projects with 5 to 7 projects. Wards in other regions got about 2 to 3 projects each. The variation in the number of projects depended on the resource envelope available to each local authority. As a means of maintaining contact with the citizens, the County Council of Makueni had provided an SMS number for community members to enquire about the LATF funded projects as well as other services offered. Though it was is not clear how effective the SMS line was, this was an encouraging initiative. Most of the other councils had websites but these lacked critical budgetary and other information. Though the LASDAP guidelines require Local Authorities to hold follow up meetings with community members, this did not happen, neither did citizens demand for the same.

During the consensus meetings the priority projects and activities were discussed and proposals presented from the technical consultation meeting but most of the community representatives in all the regions did not understand the process well. Furthermore there were complaints that they did not participate in any other activities beyond the consensus meeting, a clear indication that they were not involved after endorsing the projects and budgets. NTA further observed effective participation had to go beyond mere consultations to ensure citizens were involved in both planning and implementation. While most budget documents were availed during the consensus meeting, very little could be done by citizens to influence the process at this point. Provision of timely information allows proper scrutiny and empowers citizens to participate objectively.

There were complaints from all the regions about the status of some of the ongoing projects, most of which had either taken too long to be completed or abandoned all together. Additionally, there were serious delays in commencement of the LASDAP process in all the councils under the project. Most started the process in mid October and not September, as provided for in guidelines. The consequence of this is a rush to beat the deadline without sufficient consultations.

As Kenya devolves, LASDAP will definitely be a good reference point of how paper processes can yield near nought in practical terms, if not well implemented or checks and balances are not in place. Is Kenya going to repeat these same mistakes at the county level? The failures of LASDAP bring to the fore an important aspect of citizen participation, overall institutional and government support, coupled with political goodwill. This cannot be overlooked if transparency, efficiency and effectiveness in public service is to be achieved at the county level. There is no room for mistakes.


2. ENHANCING CITIZEN PARTICIPATION IN THE COUNTY BUDGET PROCESS

2.1 Lessons from the past

2.1.1 Avoiding pitfalls from the past

Guided by lessons from the past we MUST AVOID doing the following at county level:

1. Failing to define citizen participation holistically. Assuming that a gathering or meeting of people constitutes citizen participation. Remember, *"A single consultation meeting of hundreds of people in a ward does not constitute participation neither does it inspire confidence in the citizens." - Kenya Local Government Reform Programme (KLGRP) on the LASDAP Process.* Citizens have been used to rubberstamp pre-determined outcomes in the budget making process in the past. Limiting or 'stage-managing' participation in the County Budget process must be avoided at all costs since this will nurture cynicism and disinterest in the process.
2. Failing to participate as citizens as provided for in the constitution. It is one thing to provide opportunities for participation and

another to get citizens to participate. Citizens must be proactive and seize opportunities to influence decision making and resource allocation.

3. Allowing weak legal frameworks and interpretations to undermine the constitution. The CDF Act 2013 is one such law that goes against the spirit and letter of the constitution. Judicial interpretations can offer guidance to safeguard against this.
4. Failing to align county plans to national development plans. Proper and synchronized planning must be done to ensure that county priorities contribute to overall national development plans. Counties must also be consulted in the development of national plans. This can facilitate joint projects and minimize duplication of efforts.
5. Failing to conduct civic education for citizens at the sub-national level. Effective participation requires that citizens and other actors understand county operations, processes and opportunities available for them to engage.
6. Having insufficient dispute resolution mechanisms. Disputes will arise given that counties will be dealing with vast interests from diverse constituencies. Conflicts will arise from time to time with the national government on various pertinent issues. Inter-county disputes may also arise. Sufficient and progressive dispute resolution mechanisms must be in place to overcome this challenge.
7. Playing cat and mouse games with county processes. In the past local authority officials would mischievously shift dates for consultative meetings at the last minute and fail to notify citizens to evade public participation and scrutiny. Laid down procedures will be flouted if citizens fail to exercise oversight and ensure they are followed.
8. Failing to take advantage of the emerging ICT revolution to provide information and facilitate citizen participation. According to the Communications Commission of Kenya, the mobile phone market had 30.4 million mobile subscribers as at 30th September 2012 up from 29.7 million in the three months proceeding July 2012. The country now boasts a mobile penetration of 77.2 per cent. The uptake of data/internet services continued to display an upward trend with 34.2 per cent of the population accessing the internet mainly via the mobile phone. In total, the estimated number of internet users stood at 13.53 million in September 2012. Such rapid

ICT development continues to offer a huge opportunity for social and economic development if combined with political action. The counties must adapt fast and innovate to use ICT and social media to relay key messages and mobilize participation.

9. Failing to disclose to the public in a timely manner, all budget and other relevant information that could facilitate objective and effective participation. Counties must publish and publicize information using efficient and practical means highlighting the importance of the citizen's role in decision making. Related to this is delays in processes that justify bad rush decisions by duty bearers.
10. Failing to monitor and evaluate decisions and appointments by the county government. No individual or group of individuals should be allowed to run the affairs of the county to the exclusion of others. This may lead to biased allocation of resources and partial development of certain sections of counties.
11. Initiate projects that cannot be completed. Adequate financial planning involves getting the right information about planned projects and allocating resources appropriately. Citizen needs and priorities must be taken into account to ensure ownership.
12. Allowing the County Revenue Fund (CRF)[18] to be misused. Revenues and expenditures must be guided by the law.
13. Ignoring gender, the vulnerable and marginalized groups in planning. The county strategy must incorporate both the short term and long term priorities of special groups in both planning and budgeting.

2.1.2 Ten principles to guide citizen participation in public finance

The following 10 principles were jointly developed as part of a policy brief issued on 13 August 2012 by International Budget Partnership (IBP), The Institute of Social Accountability (TISA), HAKIJAMII, Africa Centre for Open Governance (AFRICOG), National Taxpayers Association (NTA), Kenya Land Alliance, CLARION, Muslims for Human Rights (MUHURI), Institute of Economic Affairs (IEA) and Twaweza in Kenya to provide guidance on what MUST be done to enhance citizen participation in public finance:

1. **Public consultations should be open to the widest spectrum of citizens and taxpayers, without discrimination**. The "public"

refers to citizens and taxpayers who are not government officials.

2. **Safeguards should be established to prevent consultative forums from being dominated by any one political group, organized interest, or politician**. These safeguards should include open and transparent proceedings and competitively selected technical staff empowered to manage procedures. Where appropriate, there may be a need for vetting of participants.
3. **Public consultations must have clear and specific purposes, and these purposes should generally be; to seek feedback on government plans, budgets and budget implementation, to seek specific preferences over a defined set of priorities, such as prioritizing a list of capital investments, and to present and seek feedback on audit reports and queries raised by auditors**. The purpose of the consultation should be made known in advance to the public, along with relevant documentation, so that they can prepare.
4. **The timeline and venues for public consultations should be made known at least two weeks in advance of the consultation to ensure that people can prepare themselves to participate**. The venue for consultations should be consistent, wherever possible, so people know where they need to be in advance. The venue selection should take into consideration citizen preferences for where they feel most comfortable expressing their views.
5. **Public consultations must set aside dedicated time for public feedback and questions**. A meeting at which officials simply present to the public without receiving any feedback or questions does not constitute public participation.
6. **Public participation in the planning and budget process should occur at all stages in this process, including formulation, enactment, implementation, and oversight/evaluation**. This means that there must be consultations on at least a quarterly basis for any ongoing financial management processes.
7. **The public must have access to all relevant plan and budget documents in a timely fashion, meaning at least two weeks before any decisions are taken about draft plans or budgets**. Relevant documents include all strategic plans, budget proposals, enacted budgets, quarterly or monthly implementation reports, audit reports, supplementary budgets, project plans and implementation reports, and contract and tender documents.
8. **All plan and budget documents should contain an executive**

summary and a narrative explanation of tables and figures. All of these documents should be written in a user-friendly, simple format, or should be accompanied by simplified versions that are readily accessible.

9. **Citizens should be able to provide input into public consultations through direct participation, through representatives, and through written comments.** It is not possible for every citizen to participate in every forum, and there must be other ways to provide input besides direct, physical participation.
10. **Where the public is asked for input, there should be a feedback mechanism so that citizens know whether or not their inputs were received, and whether and why they were or were not incorporated into the relevant plans or budgets.** This mechanism should take the form of a written document and, where possible a, public forum. The feedback must also be made available in a timely manner so that citizens know before decisions are taken whether they have been heard or not.

2.2 Important considerations for governors in county management

2.2.1 Adhere to the constitution and provided legal framework

The Constitution is the supreme law of Kenya and it binds all persons and all state organs at the national and county levels[19.] The governor exercises the sovereign power of the people at the county level. The success or failure of devolution will depend almost entirely on political goodwill and the full and proper implementation of the constitution. In order to succeed, the governor must follow the law. He or she can only do so if he or she understands its provisions and those of other legal frameworks implementing it. Impunity is a problem in Kenya only because those entrusted with power choose to ignore the laid down laws and procedures and get away with it. The governor must assert his or her authority under the law and defend it at all costs.

2.2.2 Provide leadership

The governor will be testing new ground in both political and economic management, a guinea pig of sorts. He or she must learn and adapt to the new demanding position very fast. There are high expectations by citizens at the local level. There are immediate, pressing problems that the governor must deal with, hence the need to hit the ground running with solutions. He or she has a golden opportunity to do things differently and break from the murky politics of the past. The governor must unite the people, inspire and provide leadership to lift citizens from the pangs of hunger and chronic poverty.

2.2.3 Build capacity of county staff

The county is also uncharted territory. Almost everything will be done differently. The governor must ensure that the people he or she works with not only understand what needs to be done, but possess the necessary skills to deliver services to the electorate. He or she will be as good as the team working with him or her. In the past many CDF committees across the country were full of political cronies of the MPs and did not necessarily have the necessary qualifications and skills to run the affairs of the kitty, with disastrous consequences[20]. The governor must ensure his team is properly inducted and trained to do the job. He or she must design a capacity building programme that constantly keeps the county officials abreast on the latest in county management and service to the people. He or she must seek international best practices and adopt them to the benefit of the people.

2.2.4 Forge partnerships

The most important partnership the governor can establish is a partnership with the people he or she serves. He or she must be seen to be fair to all. Adopting a top-down approach and unnecessary hierarchy that separates him or her from the people will ultimately make life very difficult for them. A successful governor will look beyond the confines of his county and the national government to seek strategic partnerships to benefit the people. He or she must establish a strategic partnership unit that constantly scopes for innovative and unique ideas that can enhance efficiency and effectiveness. The unit must reach out to the corporate sector, work with CSOs, religious institutions, other non-state actors, development partners and community groups to further the interest of the county and achieve the desired vision.

2.2.5 Ensure fiscal discipline and prudence

The county governments will be entrusted with billions of taxpayers' funds. The Commission on Revenue Allocation (CRA) formula[21] provides a weight of 2% for revenue allocated to a given county on the basis of fiscal responsibility. The governor must strengthen internal audit functions and act on recommendations of the auditor general. He or she must involve citizens in enforcing fiscal discipline and open up channels that receive information on indiscipline. As earlier stated the country is at risk of decentralizing corruption, the governor must avoid falling into temptation given the huge financial and other resources entrusted to them. Abuse of office will not be tolerated in the new dispensation. Corruption networks must be nipped in the bud by the county government opening its internal procedures and processes to wider public scrutiny. This will enhance transparency and minimise corruption. The governor must act on corruption and use the reforms in the judiciary to punish perpetrators. He or she must name and shame those who plunder public resources and be seen to act to safeguard public interests.

2.2.6 Provide information

In Kenya, lack of transparency and accountability in the management of public resources coupled with the absence of public information on actual government revenue and expenditure has directly contributed to corruption, ineptitude and inadequate public service delivery for the taxpayers. The budget process has been shrouded in mystery with little or no citizen engagement in its preparation. Article 35 of the constitution provides for the right to access to information held by the state and the county government must live to this expectation. The governor must continually inform the public about the state of affairs in the county by publishing and publicizing information that affects them on a regular basis. He or she must adapt a timetable that is publicly available and obligates his officials to provide information within set timelines. In case of delays citizens can hold his or her office to account. Provision of information should be a way of life at the sub-national level.

2.2.7 Enforce citizen participation

Article 174 of the constitution gives the powers of self-governance to the people and enhances the participation of the people in the exercise of the powers of the State and in making decisions affecting them. Citizen participation is not a favour but a constitutional obligation that the governor must adhere to. It must however be clearly defined by the county government in agreement with the citizens to achieve satisfactory results. The governor must agree with the citizens on processes, procedures, entry levels, safeguards to citizens' decisions and guarantees that their needs and priorities will come first.

2.2.8 Formulate strategy: align county strategy to national development plans

The County Fiscal Strategy Paper[22] and the County Budget Review and Outlook Paper[23] provide a solid ground for sound budget planning for the county. These are, however, not enough for long term planning. The county must develop in a participatory manner, the integrated development plan, spatial development plan, county sectoral plan and urban areas and cities plan. It must establish a baseline and conduct a SWOT analysis to define the strategy. The governor must align it to the Vision 2030[24] and provide details of how the county will contribute to the key pillars of economic, social, political and macro enablers. The strategy must be developed with input of all stakeholders to ensure ownership and shared with the public. The governor must inspire his or her people to work towards the realization of the strategy.

2.2.9 Minimize waste and maximize revenue

Article 209(3) of the constitution mandates counties to generate own revenues. This ability is limited by area available, population, physical infrastructure, poverty levels and natural resources among other factors. Unfortunately the revenue sources availed to the counties are similar to those initially available to local authorities. How can these sources sustain the county? There will be revenue from the national government but it is highly unlikely this will be enough to finance all county operations and capital investments. Given the limited resources the governor must innovate. He or she must adopt a business model that emphasises efficiency and effectiveness. The model should exploit investment opportunities and optimally use available human and other resources to maximize revenue generation for capital investment. He or she must make the county an attractive investment destination.

2.2.10 Invest in monitoring and evaluation

The governor can track performance by developing and implementing a monitoring and evaluation system. The system should incorporate key performance indicators and means of verifying that are publicly made available for collaborative monitoring. Citizens should be included in the M&E committee to play a central role in verification of project implementation at the community level. M&E reports must be periodically produced and shared in scheduled public forums for review and public deliberations. These may be produced alongside the county quarterly report.

3. GUIDE FOR CITIZEN PARTICIPATION IN THE BUDGET PROCESS AT THE COUNTY LEVEL

Kenya has now devolved and radical changes have been introduced by the constitution in the budget making process both at the national and county level. In this chapter the constitutional and legal provisions for citizen participation are examined and proposals drawn from past experiences to inform better processes moving forward.

3.1 Public Financial Management at the county level

Article 201 of the constitution lays down some key public finance principles including the need to ensure that there is openness and accountability in all public financial matters and that public participation will be emphasized in the whole budget process and decision making processes. The constitution further provides that public finance should promote an equitable society where burdens and benefits from the use of public resource will be shared equitably. Public money shall be used in a prudent and responsible manner and this should be accompanied by clear financial reporting. Chapter 12 of the constitution on public finance and the Act that gives it effect, the Public Financial Management (PFM) Act 2012, have transformed the budget process in Kenya. The legal responsibility to manage finances allocated by the national government now rest with the

County governments. Other institutions like the Commission on Revenue Allocation (CRA) will now play a significant role in financial allocations to counties. Part IV of the PFM Act establishes County Treasuries. In a bid to build capacity and ensure smooth transition the national government is expected to second officials to the counties to assist as needed[25]. The County Revenue Fund will also be established by all counties as the golden pot for all revenues received or raised by or on behalf of county governments.

3.2 Sources of revenue for the county government

The fourth schedule of the constitution provides for the functions of the county governments as follows. By exercising these functions the counties will derive revenue from taxes, fees, levies, penalties and other forms of revenue;

1. Agriculture: crop and animal husbandry, livestock sale yards, county abattoirs, plant and animal disease control and fisheries.
2. County health services: health facilities and pharmacies, ambulance services, promotion of primary health care, licensing and control of undertakings that sell food to the public, veterinary services (excluding regulation of the profession), cemeteries, funeral parlours and crematoria and refuse removal, refuse dumps and solid waste disposal.
3. Control of: air pollution, noise pollution, other public nuisances and outdoor advertising.
4. Cultural activities, public entertainment and public amenities: betting, casinos and other forms of gambling, racing, liquor licensing, cinemas, video shows and hiring, libraries, museums, sports and cultural activities and facilities and county parks, beaches and recreation facilities.
5. County transport: county roads, street lighting, traffic and parking, public road transport, ferries and harbours, excluding the regulation of international and national shipping and matters related thereto.
6. Animal control and welfare: licensing of dogs and facilities for the accommodation, care and burial of animals.
7. Trade development and regulation: markets, trade licences (excluding regulation of professions), fair trading practices, local tourism; and cooperative societies.
8. County planning and development: statistics, land survey and mapping, boundaries and fencing, housing and electricity and gas

reticulation and energy regulation.

9. Pre-primary education, village polytechnics, home craft centres and childcare facilities.
10. Implementation of specific national government policies on natural resources and environmental conservation: soil and water conservation and forestry.
11. County public works and services: storm water management systems in built-up areas and water and sanitation services.
12. Fire fighting services and disaster management.
13. Control of drugs and pornography.

3.3 Constitutional and legal provisions for citizen participation

3.3.1 Access to Information and Citizen Awareness

Article 35(1) of the constitution states that every citizen has the right to access information held by the State. Article 35(3) states that the State shall publish and publicize any important information affecting the nation. Effective citizen participation can be facilitated by the provision of quality information to citizens. Public bodies are entrusted with public information funded by taxpayers hence owe an obligation to provide this to the public. There is a window of opportunity to guarantee access to information through the freedom of information law pending in parliament. Intensive civic education to familiarize citizens with the provisions of the constitution, devolution and PFM Act must be carried by CSOs, independent commissions and the government as a start.

3.3.2 County Budget and Economic Forum (CBEF)

Article 137(1) of the PFM Act provides that as soon as practicable after the commencement of this Act, a county government shall establish a forum to be known as the County Budget and Economic Forum. The County Budget and Economic Forum shall consist of (a) the Governor of the county who shall be the chairperson; (b) other members of the county executive committee; (c) a number of representatives, not being county public officers, equal to the number of executive committee members appointed by the Governor from persons nominated by organisations representing professionals, business, labour issues, women, persons with disabilities, the elderly and faith based groups at the county level

The purpose of the Forum is to provide a means for consultation by the county government on (a) preparation of county plans, the County Fiscal Strategy Paper and the Budget Review and Outlook Paper for the county; and (b) matters relating to budgeting, the economy and financial management at the county level. In addition to the above, consultations shall be in accordance with the consultation process provided in the law relating to county governments. The forum is an opportunity for citizen participation with a broad mandate.

The question is however, on whose side does it stand? Is its role that of a facilitator or a representative of the people? The PFM Act seems to champion the latter. The guideline for the implementation of the Act must clearly define the role of this forum as a facilitator of consultations to avoid creating an amorphous politicized body. The principal role of the CBEF should be to convene public consultations, rather than to represent the public. If not checked the CBEF might end up being an extension of the Governor's power. Though an important forum a number of regulations must be put in place to ensure it facilitates effective citizen participation.

Citizens must participate in its establishment by ensuring that vetting of members is done, term limits are set and that they facilitate open and transparent meetings. The CBEF must be a voice of the people that facilitates the flow of information, convenes meetings at different points during the budget cycle to both explain plans and budgets and get feedback on budget implementation from the public. There are both formal and informal processes that can facilitate citizen participation at the county level. Formal processes include laid down constitutional and legal provisions within the PFM Act. These are however not adequate and tend to favour the government. Informal processes supplement government efforts to enhance transparency and these may include initiatives by citizens, community groups, CSOs and other non-state actors.

The governors can lead the way in identifying opportunities provided for within the law and define public participation. The formal processes entrenched within the PFM Act could provide a good starting point. This means that the rules of engagement, laws and regulations that govern the consultative processes are drafted in a manner that enhances, rather than undermines, the mandates of the constitution. This would provide an opportunity for citizens to directly decide their destiny rather than passively awaiting for development. As is the case in participatory budgeting, citizen participation in the county budget making process must be a process with various critical stages right from inception to conclusion. This process must provide for participation in the planning, approval, implementation and exercising oversight over development projects. The process must at the same time be sustainable. Participation must be entrenched as a normal way of doing business and everyone gets involved as an obligation, but an obligation that yield returns for the time and money invested.

3.4 Formal processes

3.4.1 Circular for citizen participation

Article 128(2) of the PFM Act provides that not later than the 30th August in each year, the County Executive Committee member for finance shall issue a circular setting out guidelines to be followed by all of the county government's entities in the budget process. The County Executive Committee member for finance shall include in the circular; (a) a schedule for preparation of the budget, specifying the key dates by which the various processes are to be completed; (b) the methodology for the review and projection of revenues and expenditures; (c) key policy areas and issues to be taken into consideration when preparing the budget; (d) the procedures to be followed by members of the public who wish to participate in the budget process; (e) the format in which information and documents relating to the budget are to be submitted; (f) the information to be in conformity with standard budget classification systems as prescribed by regulations; and (g) any other information relevant to the budget process.

The circular should provide details of how citizens can participate in the county budget making process. Just like the national budget process, the county government should provide various opportunities for citizens to participate in the county budget process. The County Executive Committee (CEC) member for finance[26] and the County Budget and Economic Forum (CBEF) should design a comprehensive consultative programme that is circulated to all county organs and publicly made available to citizens. The detailed programme should include scheduled public hearings by the county budget committee at the constituency level to consolidate views that inform the plan from the ward level. CSOs, citizens and other non-state actors must obtain a copy of the detailed programme, highlight the opportunities and dates for participation in the development plan consultative hearings and adequately prepare themselves to make submissions. Preparations could be through structured focus group discussions or local level meetings in which citizens are educated on the process and consolidate views for presentation. Participation in these hearings can be by individuals, groups of people, CSOs and other non-state actors. CSOs can play an important role in mobilizing, training and preparing citizens to objectively participate by providing the necessary information and guiding on how the process will be undertaken.

CSOs and other organized groups can collect the views of citizens at the local level on their needs and priorities and draft a memorandum by sectors like health, licensing, veterinary services, crop and animal husbandry. The memo should be signed and presented at the public hearings convened to collect views by the county budget committee. This can also be done by individual citizens. Further personal consultations for support can be held in meetings with members of the CBEF to impress upon them to support the recommendations and include them in the county development plan. Citizens must exert pressure on the governor to ensure the CBEF plays the role of facilitator of consultations rather than representative of the people making decisions on their behalf.

3.4.2 County Fiscal Strategy Paper (CFSP)[27]

The CFSP is the equivalent of the national Budget Policy Statement (BPS) at the county level. In February of every year counties are given about two weeks to study the BPS and take it into account in preparing the CFSP. The CFSP is tabled in the County Assembly by February 28 and thereafter the County Treasury has 7 days to make it available to the public. It provides information on planned expenditure and revenue and the key priority areas. It is a legal requirement for the CFSP to collect public views on its proposals. Citizens either as individuals, groups of people, CSOs and other non-state actors must obtain copies of the CFSP, read it carefully and check whether their needs and priorities, as presented at the public hearings to collect views at the county development plan consultative meetings, have been considered. They can enlist the services of a budget specialist or work with a CSO knowledgeable in budget matters to provide guidance on the analysis.

After reading the CFSP, citizens should draft a memorandum highlighting their views on the proposals within 14 days after February 28. Remember according to the PFM Act 117(6) and 117(8) the County Assembly has 14 days after February 28 to approve the CFSP. Intensive lobbying and engagement with the CBEF and the County Assembly should therefore be carried out at this critical stage to push for citizens agenda. This may be done by hosting round table meetings, one-on-one meeting with influential members of the County Assembly and CBEF to persuade them to buy their agenda. Citizens must be keen on the type of investments the county intends to make and monitor the budget deficits as presented to them. CSOs and citizens must freely express their views and use mass media channels like local FM stations, SMS, twitter, facebook and public gatherings to bring to the attention of the wider public any pertinent issues that are likely to impact them as a result of the proposals.

3.4.3 County Budget Proposal

Article 129(2) of the PFM Act requires that the county budget proposal be tabled in the County Assembly on April 30. A huge opportunity for citizen participation is provided between May and June 30 when the County Assembly debates and amends the county budget proposal. However the PFM Act does not provide a specific time for release of the county budget proposal to public. CSOs should use available networks to obtain this vital document. Citizens must demand that it be made public within the shortest time after its tabling in the Assembly to allow sufficient time for public consultations.

Again citizens must seek audience with influential members of the county budget committee to hold consultations and lobby for their agendas through sensitization meetings, retreats and presentation of joint memos to the County Assembly. Citizens must ensure that the fiscal responsibility principles provided for under the PFM Act are adhered to. Article 107(1) of the Act states that a County Treasury shall manage its public finances in accordance with the principles of fiscal responsibility set out in subsection (2), Subsection 107(2) outlines the principles.

3.4.4 Monitoring Budget Implementation

Article 131(5) of the PFM Act provides that not later than twenty-one days after the county assembly has approved the budget estimates, the County Treasury shall consolidate the estimates and publish and publicise them. The said estimates are provided for in the form of an Appropriations Act approved by the County Assembly and availed to citizens within 21 days or sometime in late July. Citizens must scrutinize the estimates with the help of a budget specialist to prepare themselves to monitor budget implementation. This analysis would include sectors and identifying projects earmarked for funding. CSOs can at this point prepare social accountability tools, train research assistants or county budget monitoring groups and strategically place them in localities of planned expenditure in readiness for monitoring implementation.

Once implementation begins the PFM Act also provides a comprehensive quarterly reporting schedule under article 166 as follows:

1. An accounting officer for a county government entity shall prepare a report for each quarter of the financial year in respect of the entity.
2. In preparing a quarterly report for a county government entity, the accounting officer shall ensure that the report— (a) contains information on the financial and non-financial performance of the entity; and (b) is in a form determined by the Accounting Standards Board.
3. Not later than fifteen days after the end of each quarter, the accounting officer shall submit the quarterly report to the County Treasury.
4. Not later than one month after the end of each quarter, the County Treasury shall— (a) consolidate the quarterly reports and submit them to the county assembly; (b) deliver copies to the Controller of Budget, National Treasury and the Commission on Revenue Allocation; and (c) publish and publicise them.
5. In the case of an entity that is a county corporation, the accounting officer for the corporation shall also submit a copy of the quarterly report to the County Executive Committee member responsible for the corporation, who, upon approving it, shall submit a copy to the County Treasury.

CSOs and citizens in general must pay attention to sub-section 4(c) that requires the accounting officer to publish and publicise the quarterly reports. Having trained, prepared, equipped them with the necessary tools and deploying the monitoring groups, they can monitor implementation and make a comparative analysis of progress in the reports and what is actually happening on the ground. This analysis can be consolidated in a citizen’s annual county budget monitoring report that consolidates quarterly findings to be publicly launched and presented to county officials for further action. The monitoring groups must follow up on promised action to ensure value for money for public funds.

3.4.5 Budget Review and Outlook Paper

The paper should be of interest to citizens since it explains any discrepancies between the previous year's budget and the actual performance or variations that may have occurred. Article 118(1) of the PFM Act provides that a County Treasury shall; (a) prepare a County Budget Review and Outlook Paper in respect of the county for each financial year; and (b) submit the paper to the County Executive Committee by the 30th September of that year. Article 118(4) provide that not later than seven days after the County Budget Review and Outlook Paper is approved by the County Executive Committee, the County Treasury shall; (a) arrange for the Paper to be laid before the County Assembly; and (b) as soon as practicable after having done so, publish and publicise the Paper. Citizens must grab a copy of the Outlook Paper as part of their budget monitoring exercise to support or explain discrepancies they may have witnessed on the ground and consolidate this in the citizen's annual budget monitoring report.

3.5 Informal processes

3.5.1 County strategic plans

Many counties across the country are currently in the process of developing strategic plans[28]. These forums form the basis of initial citizen engagement to define the county's destiny and prepare short term and long term plans. All citizens must endeavour to be part of this citizen driven initiatives since they prepare the ground for prioritization of needs in the budget making process. The forums better prepare citizens to participate in county processes with a sense of ownership.

3.5.2 Social audits and citizen report cards[29]

Social audits piggy back on official processes to obtain information as reported by formal government institutions then conduct citizen driven independent assessments to verify official reports. Citizen Report Cards are participatory survey tools that capture and provide public service providers with systematic user feedback on their performance. They were developed for the first time in Bangalore, India, in 1994 by the Public Affairs Centre (PAC)[30]. They mimic private sector customer feedback survey. Because resources are finite, CRCs target critical sectors in terms of the amount of resources spent, impact on poverty and incidences of corruption and provide feedback to duty bearers to hold them to account. CRCs are tools that can be used by county budget monitoring groups to assess progress in project implementation and would provide information to be compiled into the citizen's annual budget monitoring report.

3.5.3 Participatory Budgeting (PB)

Participatory Budgeting (PB) is now globally recognized for transforming citizens from being simple observers in public administration, to full active and demanding participants. This results in re-ordering social priorities and promoting social justice. The benefits of PB includes; it improves the transparency of public administration and efficiency in public expenditures, encourages citizen participation in decision making and in the allocation and oversight of public funds. It leads to increased demand for accountability of public leaders and managers, enables collective prioritization and co-management of resources, generates increased trust between the government and the population and creates a democratic culture within the community to strengthen the social fabric.

PB has been successfully carried out in Brazil[32], Yaoundé in Cameroon and South Kivu. South Kivu is a province in the Democratic Republic of the Congo that is internationally recognized for its pioneer projects in Participatory Budgeting (PB). PB was implemented in South Kivu in order to improve governance and to strengthen the political and macroeconomic stability from the bottom to the top. This was done following the enactment of the 2006 Constitution which introduced decentralization as a new mode of management of the affairs of the state. The participatory approach allowed *Entités Territoriales Décentralisées* (ETDs) to improve their local governance through social accountability, effective participation of citizens in the management of the public affairs and monitoring of government investments.

PB if well structured and adopted can play an important role in dedicating a percentage of county funds to target specific priority needs at the community level.

3.5.4 Measuring sub-national budget transparency

The PFM Act provides for publishing and publicizing of various critical documents during the county budget process. Measuring budget transparency and assessment at the sub-national level involves conducting assessment to monitor which documents are made available to the public, when are they made available, how and in what format are they made available and if they conform to laid down procedures for release to the public. The different counties can be assigned scores that inform an index that shows which counties are the most transparent. International Budget Partnership (IBP) has championed global efforts towards enhancing budget transparency though its global and national indices[33]. IBP global efforts are also channelled towards promoting sub-national budget transparency and their tools can be used to measure transparency at the county level in Kenya.

Budget Timeline at National (and County) Level

August 30. National Treasury releases a circular to all government agencies starting the process, and setting out guidelines for public participation. The County Executive Member for finance must also release a circular by this date doing the same at county level.

September 1 to February 15. During this time, the National Treasury and the various ministries and agencies should undertake some type of consultation with the public and other stakeholders. This can include sector hearings as in the past, or visits by Treasury to counties to solicit views. Views from the public should feed into the formulation of the Budget Policy Statement.

January 1. By January of every year, the Commission on Revenue Allocation should submit its recommendations for the division of revenue between national and county governments, and among the counties, to the rest of government.

February 15. Cabinet Secretary for Finance to submit the Budget Policy Statement to Parliament. Also the deadline for the debt management strategy paper, and the Division of Revenue and County Allocation of Revenue Bills to go to Parliament.

February 28. Deadline for Budget Policy Statement to be approved by Parliament. This is also the deadline for the County Fiscal Strategy Paper to be tabled in each County Assembly.

March 1. Deadline for Budget Policy Statement to be made available to public.

March 16. This is the deadline for passing the Division of Revenue and County Allocation of Revenue Bills.

April 30. This is the deadline for the Cabinet Secretary to submit the budget proposal, or Budget Estimates to Parliament. It is also the deadline for the Judiciary and the Parliamentary Services Commission to submit their own budgets to Parliament. This is also the date for the county budget proposal to be submitted to the County Assembly. May. This is likely when the Budget Committee will begin to hold public hearings on the budget. May-June. This is when the Budget Committee will table its recommendations on the budget in Parliament.

May 15. This is the deadline for the Cabinet Secretary to give any comments on the Judiciary and Parliamentary budget requests. June. The national Finance Bill to authorize tax and revenue collection is tabled in Parliament. A County Finance Bill is to be tabled at this time in the County Assembly.

June 30. This is the end of the financial year, and the deadline for the Appropriations Bill to be passed by Parliament to authorize spending for the new budget year. July. Sometime in the latter half of July, the final approved budget estimates should be available to the public. November. Government must publish the Budget Review and Outlook Paper, reviewing last year's budget performance and this budget year's initial forecasts from the Budget Policy Statement in February. There is no deadline for the County Budget Review and Outlook Paper, but it should be available around this time as well.

December 15. Government must publish an implementation report on the first quarter of budget implementation from July-September no later than 45 days after the end of the quarter.

Adopted from The Kenyan Public Finance Management Act 2012 FAQ (Frequently Asked Questions) For Citizens by International Budget Partnership (IBP): http://internationalbudget.org/publications/the-kenyan-public-financial-management-act-2012-faq-frequently-asked-questions-for-citizens/

4 REFERENCES

1 Political Decentralization in Africa: Experiences of Uganda, Rwanda and South Africa http://unpan1.un.org/intradoc/groups/public/documents/un/unpan028411.pdf (Pg.7-8)

2 http://www.cdf.go.ke/allocations

3 http://www.cdf.go.ke/

4 http://www.nta.or.ke/nta-reports

5 http://www.cdf.go.ke/downloads/viewdownload/6-cdf-circulars/88-the-constituencies-development-fund-act-2013

6 http://www.cickenya.org/index.php/newsroom/press-releases/item/308-constituencies-development-fund-cdf-act-2013-is-unconstitutional#.UXpe7bVTC3w

7 CDF Act 2013 article 24

8 CDF Act 2013 article 24(3)(c)

9 CDF Act 2013 article 24(6 & 7)

10 CDF Act 2013 article 31(1)

11 http://www.cdf.go.ke/projects

12 www.nta.or.ke

13 Local Authority Transfer Fund Advisory Committee Strategic Plan 2008-2012, February 2008, Pg.3

14 http://www.iebc.or.ke

15 Revised guidelines for the Preparation, Implementation and Monitoring of the Local Authority Service Delivery Action Plan, May 2009, Pg.2

16 http://internationalbudget.org

17 Revised guidelines for the Preparation, Implementation and Monitoring of the Local Authority Service Delivery Action Plan, May 2009

18 PFM Act article 109

19 Constitution of Kenya 2010, article 2

20 http://www.nta.or.ke/nta-reports

21 http://www.crakenya.org/information/revenue-allocation-formula/

22 PFM Act article 117(1)

23 PFM Act article 118(1)

24 www.vision2030.go.ke/

25 PFM Act article 14

26 PFM Act article 111

27 PFM Act article 117(1)

28 http://www.kenyampya.com/index.php?county=Bomet&page=Strategic_Plan

29 http://www.nta.or.ke/nta-reports

30 http://siteresources.worldbank.org/INTEMPOWERMENT/Resources/14832_Bangalore-web.pdf

32 http://siteresources.worldbank.org/INTEMPOWERMENT/Resources/14657_Partic-Budg-Brazil-web.pdf

33 http://internationalbudget.org/what-we-do/major-ibp-initiatives/open-budget-initiative/

34 http://internationalbudget.org/publications/the-kenyan-public-financial-management-act-2012-faq-frequently-asked-questions-for-citizens/

5 GLOSSARY[34]

Accounting officers. Every government agency must have an accounting officer. This person is appointed at the national level by the Cabinet Secretary for Finance, or at the county level by the County Executive Committee member for finance. This person is responsible for managing the finances of the agency and reporting on them. They are to be held accountable for any misuse of funds.

Appropriations Bill/Act. This is the bill/law that the National Assembly must approve to allow the government to start spending the money that is in the budget. It is the official authorization to spend government funds. The county must also pass an Appropriations Act to authorize spending the county budget funds.

Budget Estimates. This is the executive's budget proposal, tabled in the National Assembly by April 30. The budget proposal lays out all of the spending for all ministries (or votes) and is normally several volumes, including separate volumes for recurrent and development (or capital) spending.

Budget Policy Statement (BPS). This is the first official document released by government laying out its broad plans for the next budget year. It normally includes a discussion of economic trends and an estimate of overall spending and revenues. The BPS must be tabled in Parliament by mid-February, and published for the public by end of February.

Budget Review and Outlook Paper (BROP). This paper is to be produced every year by end of September, and published by November. The paper assesses how well the government did in meeting its revenue and spending targets during the previous year. It is also supposed to update the forecasts for the current year that were contained in the Budget Policy Statement (see previous definition). This is an important document to assess whether government is keeping its promises and why or why not.

Cabinet Secretary for Finance. This is the name of the new position that will replace the Minister of Finance. Recall that Cabinet Secretaries will no longer be drawn from Parliament and will no longer be referred to as Ministers.

Contingencies Fund. This is a special fund set aside for emergencies that were not foreseen when the budget was passed. It is only to be used in cases of serious disasters that can cause "damage to human life or welfare."

Controller of Budget. This is a new position that is designed to ensure that someone is accountable for the flow of funds into and out of government accounts. The Controller must ensure that money is used only for legal and approved purposes and must report on budget implementation.

County Allocation of Revenue Bill. This is a bill that must be tabled in Parliament to determine how much each county will get of the total amount that is allocated for all 47 counties. The total for all counties is contained in the Division of Revenue Bill (see below). The Commission on Revenue Allocation has recommended that the sharing of resources among the 47 counties be done through a formula, which is likely to be contained in the County Allocation of Revenue Bill. County Budget and Economic Forum. This is a new body at the county level that is supposed to serve as a forum to consult on county plans and budgets. It is to consist of government officials and appointees from outside of government.

County Emergency Fund. This is a fund in the counties that is similar to the Contingencies Fund at national level and follows the same rules (see Contingencies Fund above). County Executive member for finance. The equivalent of the Cabinet Secretary for Finance at county level. County Fiscal Strategy Paper. This is the county equivalent of the national Budget Policy Statement (see above).

County Treasury. The County Treasury is composed of the County Executive Member for finance, the Chief Officer for finance, and the departments responsible for financial and fiscal matters.

Division of Revenue Bill. This is the bill that is tabled in Parliament to establish how much of national revenue will be given to the national government, and how much will go to all the counties together. After this is decided, the County Allocation of Revenue Bill determines how much each individual county receives from the overall share for counties.

Finance Bill. This is the bill tabled in the National Assembly to authorize tax and other revenue measures. In Kenya, this is presented and passed separately from the budget. A County Finance Bill must also be passed to authorize tax and revenue measures at county level. Intergovernmental Budget and Economic Council. This is a new body composed of the Cabinet Secretary for Finance and all of the county level Executive Committee members for finance to discuss finance and budget issues affecting both levels of government.

National Assembly. The lower house of Parliament. Parliament under the new Constitution consists of two houses: the National Assembly and the Senate. The National Assembly is similar to the current Parliament, with members drawn from constituencies. The Senate consists mainly of representatives drawn from each of the counties.

National Treasury. The National Treasury is composed of the Cabinet Secretary for Finance, the Principal Secretary for Finance, and additional departments responsible for economic and financial matters. Parliamentary Budget Office. This is a research office that supports Parliament's role in the budget process, and directly supports the Budget Committee in Parliament. They conduct analysis and help Parliament to read and understand the budget proposals tabled each year by the various arms of government. Senate. The upper house of Parliament. See the entry for National Assembly.

Supplementary budget. A supplementary budget is generally passed sometime during the budget year, after the budget has been approved, to make changes due to a failure to plan fully for the needs of the government. The supplementary budget is limited to 10 percent of the total budget that was approved, unless in exceptional circumstances Parliament authorizes a larger supplementary budget.

Glossary courtesy of International Budget Partnership (IBP): The Kenyan Public Finance Management Act 2012 FAQ (Frequently Asked Questions) For Citizens, http://internationalbudget.org/publications/the-kenyan-public-financial-management-act-2012-faq-frequently-asked-questions-for-citizens/

REGIONAL OFFICES

Nairobi Regional Office
Riara Gardens, Off Riara Road
P. O. Box 27527-00506, Nairobi.
Cell Phone: +254-(0)738-992660
E-mail: nairobi@nta.or.ke

Eastern Regional Office
Town Plaza,
P. O. Box 2046-90100, Machakos.
Cell Phone: +254-(0)738-992666
E-mail: eastern@nta.or.ke

Western Regional Office
Kakamoni Plaza, First Floor
P. O. Box 2365-50100, Kakamega.
Cell Phone: +254-(0)738-992667
E-mail: western@nta.or.ke

Rift Valley Regional Office
Meadows Hse,
Opposite Sirikwa Hotel
P. O. Box 4956-30100, Eldoret.
Cell Phone: +254-(0)738-992663
E-mail: riftvalley@nta.or.ke

Central Regional Office
Nyeri Teachers Plaza,
P. O. Box 567-10100, Nyeri.
Cell Phone: +254-(0)738-992661
E-mail: central@nta.or.ke

Coast Regional Office
Kanderbhouy Building,
Opp. Co-operative Bank,
P. O. Box 98860, Mombasa.
Cell Phone: +254-(0)738-992664
E-mail: coast@nta.or.ke

Nyanza Regional Office
Mega City Plaza, Mezzanine Floor
P. O. Box 204-40123, Kisumu.
Cell Phone: +254-(0)738-992668
E-mail: nyanza@nta.or.ke

North Eastern Regional Office
Jihan Centre, Harambee Road,
P. O. Box 1235-70100, Garissa.
Cell Phone: +254-(0)738-992665
E-mail: northeastern@nta.or.ke

NTA
National Taxpayers Association
pesa zetu, haki yetu

National Taxpayers Association (NTA)
Riara Gardens, Off Riara Road. P.O. Box 4037-00506, Nairobi
Telephone: +254-(0)20-3861813/4. TeleFax: +254-(0)20-3861813/4
Cell Phone: +254-(0)734-500940 / (0)720-238904
Email: admin@nta.or.ke Website: www.nta.or.ke