



**LEGAL NOTICE NO.....**

**CONTROLLER OF BUDGET ACT**

*(No. 26 of 2016)*

**CONTROLLER OF BUDGET REGULATIONS, 2021**

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*Regulations*

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## CONTROLLER OF BUDGET ACT

(No. 26 of 2016)

IN EXERCISE of the powers conferred by section 25 of the Controller of Budget Act, the Controller of Budget makes the following Regulations—

### CONTROLLER OF BUDGET REGULATIONS, 2021

#### PART I—PRELIMINARY

Citation	1. These Regulations may be cited as the Controller of Budget Regulations, 2021.
Interpretation	2. In these Regulations, unless the context otherwise requires—
No. 26 of 2016	“Act” means the Controller of Budget Act, 2016;
No. 18 of 2012	“accounting officer” has the meaning assigned to it under section 2 of the Public Finance Management Act, 2012;
	“any other public funds” has the meaning assigned to it under Section 2 of the Act;
	“budgetary ceilings” has the same meaning assigned to it under Regulation 2 of the Public Finance Management (National Government) Regulations, 2015;
	“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to finance;
	“consolidated fund services” has the same meaning assigned to it under Regulation 2 of the Public Finance Management (National Government) Regulations, 2015;
	“Controller of Budget” means the Controller of Budget appointed under Article 228 of the Constitution;
	“control ledger” means the Consolidated Fund Control Ledger, the Equalization Fund Control Ledger, County Revenue Fund Control Ledger and Control Ledger for any other public fund that show the vote, appropriated amounts, revenue receipts, and cumulative approved withdrawal amounts;
	“County Executive Committee Member” means the County Executive Committee Member responsible for matters relating to finance;
	“county exchequer account” has the same meaning as provided for under section 2 of the Public Finance Management Act, 2012;

“county government entity” has the meaning assigned to it under Section 2 of the Public Finance Management Act, 2012;

“County Treasury” has the meaning assigned to it under section 2 of the Public Finance Management Act, 2012;

“exchequer ledger” means a record of revenue receipts into and withdrawals from the exchequer account maintained by the National Treasury or a County Treasury;

“National Exchequer Account” has the meaning assigned to it under Section 2 of the Public Finance Management Act, 2012;

“National government entity” has the meaning assigned to it under section 2 of the Public Finance Management Act, 2012;

“National Treasury” has the meaning assigned to it under Section 2 of the Public Finance Management Act, 2012;

“Office” means the office of the Controller of Budget appointed under Article 228 (1) of the Constitution;

“pending bills” means unsettled financial obligations by the national and county government entities at the close of financial year;

“Public Debt Management Office” means the office established under section 62(1) of the Public Finance Management Act, 2012;

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

“publicise” has the meaning assigned to it under section 2 of the Public Finance Management Act, 2012;

“publish” has the meaning assigned to it under section 2 of the Public Finance Management Act, 2012;

“vote” has the meaning assigned to it under section 2 of the Public Finance Management Act, 2012;

“vote-on-account” has the meaning assigned to it under regulation 2 of the Public Finance Management Act (National Government Regulations), 2015;

Application

**3. These Regulations shall apply to—**

(a) Parliament;

(b) Judiciary;

- (c) a County Assembly;
- (d) the National Treasury;
- (e) a County Treasury;
- (f) a National Government entity;
- (g) a County Government entity;
- (h) Commissions and Independent offices;
- (i) state officers;
- (j) accounting officers; and
- (k) public officers.

Object of the Regulations

**4. (1)** The object of these Regulations is to set out the procedure for—

- (a) authorization of withdrawal of funds from—
  - (i) the Consolidated Fund;
  - (ii) the Equalization Fund;
  - (iii) a County Revenue Fund; and
  - (iv) any other public funds.
- (b) enforcement of budgetary ceilings on national and county government expenditure;
- (c) monitoring, evaluating, reporting and making recommendations to the national and county governments on measures to improve budget implementation;
- (d) preparation and submission of quarterly reports and special reports;
- (e) conduct of investigations as provided under Article 252(1) (a) of the Constitution; and
- (f) conciliation, mediation and negotiation as provided under Article 252(1) (b) of the Constitution.

(2) Notwithstanding the provisions of regulation 4(1) these Regulations shall also provide for—

- (a) documentation to be provided to the Controller of Budget in the exercise of his or her powers and functions; and

- (b) format for requisition and approval of withdrawal of funds from the funds listed under regulation 4(1).

Review of national government planning and budget documents.

**5. (1)** Within fourteen days of the approval by the relevant authority or publication, the National Treasury shall submit the following planning and budget documents to the Controller of Budget—

- (a) Medium Term Plan;
- (b) Budget Review and Outlook Paper;
- (c) Debt Management Strategy Paper;
- (d) Budget Policy Statement;
- (e) approved budget estimates or vote-on-account;
- (f) submitted budget estimates and Appropriation Bill in case of a vote-on-account;
- (g) Appropriation Act;
- (h) Presidential Warrant;
- (i) Annual Cash Flow plan;
- (j) authorized signatories for national exchequer account and their specimen signatures;
- (k) Division of Revenue Act;
- (l) approved Cash Disbursement Schedules for County Governments;
- (m) County Allocation of Revenue Act;
- (n) evidence that the approved budget estimates or vote-on-account has been uploaded in the financial management system prescribed by the National Treasury;
- (o) a report on unspent cash balances from the previous financial year;
- (p) a report by the National Treasury on adherence with advisories by Controller of Budget on budget issues; and
- (q) proof of public participation undertaken in the development of the planning and budget documents.

(2) Where a supplementary budget is passed within a financial year, the National Treasury shall submit the following planning and budget documents to the Controller of Budget—

- (a) the relevant Supplementary Appropriation Act;
- (b) Presidential Warrant;
- (c) supplementary budget estimates approved by the National Assembly; and
- (d) confirmation in writing that the approved supplementary budget estimates has been uploaded in the financial management system prescribed by the National Treasury.

(3) Where a national government entity revises its planning and budget documents in any given financial year, the Cabinet Secretary shall submit the documents to the Controller of Budget within fourteen days from the date of approval of revision.

(4) Upon receipt, the Controller of Budget shall review the documents to ensure compliance with these Regulations and may —

- (a) make recommendations to the national government entity on measures to improve budget implementation and such recommendation shall be binding on the entity and its public officers; and
- (b) request for any other information that is required in ensuring compliance of the planning and budget documents with the provisions of the Constitution and any other written law.

Review of county  
government  
planning  
budgeting  
documents.

**6.** (1) Within fourteen days of the approval by the relevant authority or publication, a County Treasury shall submit the following documents to the Controller of Budget—

- (a) County Integrated Development Plan;
- (b) Annual Development Plan;
- (c) County Budget Review and Outlook Paper;
- (d) County Debt Management Strategy Paper;
- (e) County Fiscal Strategy Paper;
- (f) approved budget estimates or vote-on-account;
- (g) an Appropriation Act;



- (h) Governor's Warrant;
- (i) Annual Cash Flow plan;
- (j) refund statement for unspent cash for the previous financial year;
- (k) proof that public participation was undertaken in the development of the planning and budget documents;
- (l) evidence of budget estimates uploaded in the in the financial management system prescribed by the National Treasury; and
- (m) authorized signatories for county exchequer account and their specimen signatures.

(2) Where a supplementary budget is passed within a financial year, a County Treasury shall submit the following planning and budget documents to the Controller of Budget—

- (a) the relevant supplementary Appropriation Act;
- (b) Governor's Warrant;
- (c) supplementary budget estimates approved by a County Assembly; and
- (d) confirmation in writing that the approved supplementary budget estimates has been uploaded in the financial management system prescribed by the National Treasury.

(3) Where a county government entity revises its planning and budget documents in any given financial year, the County Treasury shall submit the revised documents to the Controller within seven days from the date of approval of revision.

(4) Upon receipt, the Controller of Budget shall review the documents to ensure compliance with these Regulations and may —

- (a) make recommendations to a county government entity on measures to improve budget implementation and such recommendation shall be binding on the entity and its public officers; and
- (b) request for any other information that the Controller of Budget may require in ensuring compliance with the provisions of the Constitution and any other written law.

**PART II—PROCEDURE FOR APPROVAL OF WITHDRAWAL FROM PUBLIC FUNDS**

Authorization of withdrawal of funds.

**7. Money shall not be withdrawn from—**

- (a) the Consolidated fund;
- (b) the Equalization Fund;
- (c) a County Revenue Fund; or
- (d) any other public fund;

unless the Controller of Budget has approved the withdrawal.

Request for approval of withdrawal from the Consolidated Fund

**8. (1) For every request for approval for withdrawal of funds from the Consolidated Fund, the National Treasury shall provide to the Controller of Budget—**

- (a) a request for withdrawal of funds, in Requisition Form A, prescribed in the schedule;
- (b) national exchequer account balances and reconciled national exchequer ledgers;
- (c) a record from Central Bank of Kenya of payments pending approval;
- (d) revenue receipts; and
- (e) up to date national exchequer account statements.

**(2) In addition to the documents listed in sub regulation (1)—**

- (a) a request for approval of withdrawal for development expenditure, shall be supported by—
  - (i) a schedule of development expenditure in line with the request;
  - (ii) project implementation status report including ongoing and stalled projects;
  - (iii) up to date schedule of pending bills and payment plan;
  - (iv) vote book for development expenditure; and
  - (v) an extract of budget estimates approved by the National Assembly relating to the request.

- (b) a request for approval for withdrawal for recurrent expenditure, shall be supported by—
  - (i) a summary of the monthly payroll report from the Integrated Personnel and Payroll Database, for payment of salaries;
  - (ii) a schedule of salaries for staff to be paid outside the Integrated Personnel and Payroll Database and the reasons thereof;
  - (iii) a schedule of operation and maintenance expenditure, in compliance with the Standard Chart of Accounts, in line with the request;
  - (iv) analysis of the salaries or operations and maintenance expenditure;
  - (v) up to date schedule of pending bills and payment plan;
  - (vi) vote book for recurrent expenditure; and
  - (vii) an extract of budget estimates approved by the National Assembly relating to the request;
- (c) a request for approval for withdrawal of funds on vote-on-account, shall be supported by—
  - (i) communication from the Speaker of the National Assembly confirming the approval of the vote-on-account;
  - (ii) budget estimates submitted to the National Assembly by the Cabinet Secretary;
  - (iii) budget estimates approved by the National Assembly, if any;
  - (iv) exchequer ledgers showing the one-half ceiling of the budget estimates;
  - (v) confirmation of upload of one-half of the budget estimates to the financial management system prescribed by the National Treasury; and
  - (vi) Appropriation Bill;
- (d) a request for approval for withdrawal of funds where there has been stoppage of funds shall be supported by—

- (i) an assessment of the national government's entity's financial state; or
  - (ii) in case of a county government, a recovery plan in accordance with section 99 of the Public Finance Management Act, 2012 provided that for subsequent requests for approval for withdrawal of funds, a county government shall submit a status of implementation of the recovery plan.
- (3) In addition to the documents listed in sub regulation (1) a request for approval of withdrawal for Consolidated Fund Services—
  - (a) for withdrawal into the Judiciary Fund, Parliamentary Fund and any other public funds established under Section 24(4) of the Public Finance Management Act, 2012, shall be supported by—
    - (i) published legislation establishing the Fund in accordance with the Public Finance Management Act, 2012 and relevant subsidiary legislation;
    - (ii) an extract of budget estimates approved by the National Assembly; and
    - (iii) an approved annual work plan;
  - (b) for payment of domestic debt shall be supported by—
    - (i) a schedule prepared by the Public Debt Management Office stating principal payment, principal amount, interest, bank charges, commitment fee if any, and any other fees and expenses relating to the loan;
    - (ii) Central Bank of Kenya cash call ups;
    - (iii) an up to date schedule of repayments; and
    - (iv) analysis of debt level in relation with set ceilings as provided in Section 15 of the Public Finance Management Act, 2012.
  - (c) for payment of external debt shall be supported by—
    - (i) a loan agreement stipulating the terms and conditions;
    - (ii) a schedule of the loan agreement prepared by the Public Debt Management Office stating principal payment, principal amount, interest, bank charges, commitment fee, if any, and any other fees and expenses relating to the loan;

- (iii) an up to date schedule of repayments;
  - (iv) analysis of debt level in relation with set ceilings as provided in Section 15 of the Public Finance Management Act, 2012;
  - (v) a legal opinion from the Office of the Attorney General; and
  - (vi) demand note or invoice for settlement of the principal amount or loan interest;
- (d) for payment of remuneration of constitutional office holders, shall be supported by a monthly payment schedule of constitutional office holders being remunerated;
- (e) for subscription to an international organization, shall be supported by an invoice from the international organization;
- (f) for payment of pension, shall be supported by schedule of pensioners for monthly and lump-sum payment.
- (4) For every request for approval for withdrawal of funds from the Consolidated Fund, the National Treasury shall ensure the request submitted to the Controller of Budget—
- (a) is in line with the planning and budget documents;
  - (b) contains information by—
    - (i) vote and sub-vote;
    - (ii) programme and sub-programme; and
    - (iii) project.
  - (c) does not exceed budgetary ceilings.
- (5) The Controller of Budget may request additional information from the National Treasury for purposes of ensuring compliance before authorizing any withdrawal from the Consolidated Fund.
- (6) Where the Controller of Budget is not satisfied that the request for withdrawal of funds complies with the law, he or she shall decline to approve the requisition and give reasons thereof.
- (7) Where the Controller of Budget declines to approve the request for withdrawal of funds, the National Treasury may resubmit the request upon addressing the issues raised by the Controller of Budget.

(8) Where the Controller of Budget is satisfied that the request complies with the law, he or she shall approve the request for withdrawal of funds and submit the approval, in Form B prescribed in the Schedule, to the Central Bank of Kenya and a copy to the National Treasury.

Request for approval of withdrawal from the Equalization Fund.

**9.** (1) For every request for approval for withdrawal from the Equalization Fund, the National Treasury shall provide to the Controller of Budget—

- (a) a request for withdrawal of funds, in Requisition Form A, prescribed in the schedule;
- (b) Equalization Fund Appropriation Act;
- (c) up to date Equalization Fund bank statement;
- (d) an approved annual work plan; and
- (e) a list of authorized signatories to the Equalization Fund account and their specimen signatures.

Request for approval of withdrawal of funds from County Revenue Fund

**10.** (1) For every request for approval for withdrawal of funds from the County Revenue Fund, a County Treasury shall provide to the Controller of Budget—

- (a) a request for withdrawal of funds, in Requisition Form A, prescribed in the schedule;
- (b) county exchequer account balances and reconciled exchequer ledgers;
- (c) a record from Central Bank of Kenya of payments pending approval;
- (d) revenue receipts; and
- (e) up to date county exchequer account statements.

(2) In addition to the documents listed in sub regulation (1)—

- (a) a request for approval for withdrawal of funds for development expenditure, shall be supported by—
  - (i) a schedule of development expenditure in line with the request;
  - (ii) project implementation status report including ongoing and stalled projects;

- (iii) up to date schedule of pending bills and payment plan;
  - (iv) vote book for development expenditure; and
  - (v) an extracts of budget estimates approved by a County Assembly relating to the request.
- (b) a request for approval for withdrawal of funds for recurrent expenditure, shall be supported by—
- (i) a summary of the monthly payroll report from the Integrated Personnel and Payroll Database, for payment for salaries;
  - (ii) a schedule of salaries for staff paid outside the Integrated Personnel and Payroll Database and the reasons thereof; and
  - (iii) a schedule of operation and maintenance expenditure, in compliance with the Standard Chart of accounts, in line with the request;
  - (iv) analysis of the salaries or operations and maintenance expenditure;
  - (v) up to date schedule of pending bills and payment plans;
  - (vi) vote book for recurrent expenditure; and
  - (vii) an extract of budget estimates approved by a County Assembly relating to the request.
- (c) a request for approval for withdrawal of funds into public funds established under Section 110 or 116 of the Public Finance Management Act, 2012, shall be supported by—
- (i) published legislation establishing the Fund in accordance with the Public Finance Management Act, 2012 and relevant subsidiary legislation;
  - (ii) an extract of the budget estimates approved by a County Assembly; and
  - (iii) an approved annual work plan.

(d) a request for approval for withdrawal of funds for conditional grants shall be supported by—

- (i) a county exchequer statement confirming receipt of the conditional grant;
- (ii) a bank statement for the Special Purpose Account;
- (iii) an extract of the budget estimates approved by the County Assembly;
- (iv) an approved annual work plan; and
- (v) an extract from the approved annual work plan showing how the funds being requested shall be applied.

(e) a request for approval for withdrawal of funds under vote-on-account, shall be accompanied by—

- (i) communication from the Speaker of a County Assembly confirming the approval of the vote on account;
- (ii) budget estimates submitted to a County Assembly by the County Executive Committee Member;
- (iii) budget estimates approved by a County Assembly, if any;
- (iv) County Exchequer Ledgers showing the one-half ceiling of the budget estimates;
- (v) confirmation of upload of the one-half budget estimates to the financial management system prescribed by the National Treasury; and
- (vi) Appropriation Bill.

(3) For every request for approval for withdrawal of funds from the County Revenue Fund, the County Treasury shall ensure the request submitted to the Controller of Budget—

(a) is in line with the planning and budget documents;

(b) contains information by—

- (i) vote and sub-vote;
- (ii) programme and sub-programme; and



(iii) project.

(c) does not exceed budgetary ceilings.

(4) The Controller of Budget may request additional information from a County Treasury for purposes of ensuring compliance before authorizing any withdrawal from a County Revenue Fund.

(5) Where the Controller of Budget is not satisfied that the request for withdrawal of funds complies with the law, he or she shall decline to approve the request and give reasons thereof.

(6) Where the Controller of Budget declines to approve the request of withdrawal of funds, a County Treasury may resubmit the request upon addressing the issues raised by the Controller of Budget.

(7) Where the Controller of Budget is satisfied that the request complies with the law, he or she shall approve the request for withdrawal of funds and submit the approval, in Form B prescribed in the Schedule, to the Central Bank and a copy to the County Treasury.

Request for  
approval of  
withdrawal of funds  
under Article 223 of  
the Constitution,  
2010.

**11.** (1) Where the amount appropriated for under the Appropriation Act is insufficient or a need has arisen for expenditure for a purpose for which no amount has been appropriated by that Appropriation Act, the National Treasury shall submit to the Controller of Budget the following documents for justification of expenditure—

- (a) the request from the national government entity, together with reasons indicating that the amount appropriated is insufficient or a need has arisen for expenditure for a purpose for which no amount had been appropriated;
- (b) proposed source of funding for the additional expenditure;
- (c) an approval issued by the Cabinet Secretary for expenditure together with the justification for approval; and
- (d) national exchequer account balances and reconciled exchequer ledgers.

(2) Where a request for approval for withdrawal of funds under supplementary appropriation has been submitted, the Controller of Budget shall consider the following factors—

- (a) the reason for the request was unforeseen and unavoidable in circumstances where no budget provision was made;
- (b) the need was unavoidable, in circumstances where there is an existing budgetary provision which however is inadequate:

Provided that the expenditure, although known when finalising the estimates of the original budget, could not be accommodated within allocations and tariff adjustments and price increases;

- (c) the historical trend of utilization of funds under supplementary appropriation under Article 223 by the respective national government entity;
- (d) that in any particular financial year, the national government may not spend more than ten per cent of the sum appropriated by Parliament for that financial year unless, in special circumstances, Parliament has approved a higher percentage; and
- (e) any other factors as may be relevant in the circumstance.

(3) For every request for approval for withdrawal of funds under Regulation 11(1) the National Treasury shall provide to the Controller of Budget a request, in duly filled requisition Form A, prescribed in the schedule.

(4) The Controller of Budget may request additional information from the National Treasury for purposes of ensuring compliance before authorizing any withdrawal under supplementary appropriation from the Consolidated Fund.

(5) Where the Controller of Budget is not satisfied that the request for approval for withdrawal of funds complies with the law, he or she may decline to approve the requisition and give reasons thereof.

(6) Where the Controller of Budget declines to approve the request of withdrawal of funds, the National Treasury may resubmit the request upon addressing the issues raised by the Controller of Budget.

(7) Where the Controller of Budget is satisfied that the request complies with the law, he or she shall approve the request for withdrawal of funds and submit the approval, in Form B prescribed in the Schedule, to the Central Bank of Kenya and a copy to the National Treasury.

Request for approval of withdrawal of funds under section 135 of the Public Finance Management Act, 2012.

**12. (1)** Where the amount appropriated for under the relevant Appropriation Act is insufficient or a need has arisen for expenditure for a purpose which no amount has been appropriated by that Appropriation Act, a County Treasury shall submit to the Controller of Budget the following documents for justification of expenditure—

- (a) the request from the county government entity, together with reasons indicating that the amount appropriated is insufficient or a need has arisen for expenditure which no amount had been appropriated;
- (b) proposed source of funding for the additional expenditure;

- (c) approval issued by the County Executive Committee Member for expenditure together with the justification for approval; and
- (d) county exchequer account balances and reconciled exchequer ledgers.

(2) Where a request for approval for withdrawal of funds under Supplementary Appropriation has been submitted, the Controller of Budget shall consider the following factors—

- (a) the reason for the request was unforeseen and unavoidable in circumstances where no budget provision was made;
- (b) the need was unavoidable, in circumstances where there is an existing budgetary provision which however is inadequate:

Provided that the expenditure, although known when finalising the estimates of the original budget, could not be accommodated within allocations and tariff adjustments and price increases.

- (c) the historical trend of utilization of funds under section 135 of the Public Finance Management Act, 2012 by the respective county government entity;
- (d) that in any particular financial year, a county government may not spend more than ten per cent of the sum appropriated by a County Assembly for that financial year unless, in special circumstances, the County Assembly has approved a higher percentage; and
- (e) any other factors as may be relevant in the circumstance.

(3) For every request for approval for withdrawal of funds under Regulation 12(1) a County Treasury shall provide the Controller of Budget a request, in duly filled requisition Form A, prescribed in the schedule.

(4) The Controller of Budget may request additional information from a County Treasury for purposes of ensuring compliance before authorizing any withdrawal under supplementary appropriation from the respective County Revenue Fund.

(5) Where the Controller of Budget is not satisfied that the request for approval of withdrawal of funds complies with the law, he or she may decline to approve the request and give reasons thereof.

(6) Where the Controller of Budget declines to approve the request of withdrawal of funds, a County Treasury may resubmit the request upon addressing the issues raised by the Controller of Budget.

(7) Where the Controller of Budget is satisfied that the request complies with the law, he or she shall approve the request for withdrawal of funds and

submit the approval, in Form B prescribed in the Schedule, to the Central Bank of Kenya and a copy to the respective County Treasury.

Request for approval of withdrawal of funds from a public fund.

**13.** (1) For every request for approval of withdrawal of funds from a public fund which an Act of Parliament or an Act of a County Assembly requires approval of the Controller of Budget, an accounting officer of the fund shall submit the following to the Controller of Budget—

- (a) a request for withdrawal of funds, in Requisition Form A, prescribed in the schedule;
- (b) published legislation establishing the Fund in accordance with the Public Finance Management Act, 2012 and relevant subsidiary legislation
- (c) fund account balance and reconciled ledger of the fund;
- (d) a record from Central Bank of Kenya of payment pending approval;
- (e) up to date fund account statements;
- (f) authorized signatories for the fund account and their specimen signatures; and
- (g) an approved annual workplan.

(2) The Controller of Budget may request additional information from an accounting officer of the fund for purposes of ensuring compliance before authorizing any withdrawal under the fund.

(3) Where the Controller of Budget is not satisfied that the request for approval of withdrawal of funds complies with the law, he or she may decline to approve the request and give reasons thereof.

(4) Where the Controller of Budget declines to approve the request of withdrawal of funds, an accounting officer may resubmit the request upon addressing the issues raised by the Controller of Budget.

(5) Where the Controller of Budget is satisfied that the request complies with the law, he or she shall approve the request for withdrawal of funds and submit the approval, in Form B prescribed in the Schedule, to the Central Bank of Kenya and a copy to the accounting officer.

Request for withdrawal of funds subsequent to transfer of power, functions or competencies between the two

**14.** (1) A request for approval of withdrawal of funds subsequent to transfer of power, functions or competencies between the two levels of government shall be accompanied by—

- (a) an Agreement on transfer or delegation of powers, functions or competencies duly executed by an authorized officer;

levels of  
Government.

- (b) a publication of the Agreement in the Kenya Gazette;
- (c) a copy of the notification to the National Assembly of the decision to transfer a national government power, function or competency; and
- (d) a copy of the notification to a county assembly of the decision to transfer the county government power, function or competency.

Validity of  
approvals by the  
Controller of  
Budget for  
withdrawal of  
funds

**15.** (1) The approval for withdrawal of funds issued by the Controller of Budget shall be valid for fourteen days.

(2) Upon expiry of the fourteen days, the National Treasury or a County Treasury shall resubmit the requisition for approval of withdrawal of funds in accordance with these Regulations.

Overdrawing of  
funds.

**16.** In order to ensure that the Consolidated Fund, Equalization Fund, County Revenue Fund and any other public funds are not overdrawn, the Central Bank of Kenya shall issue to the Controller of Budget real-time viewer rights to verify the exchequer account balances.

### **PART III—MONITORING, EVALUATION AND REPORTING ON BUDGET IMPLEMENTATION**

Compliance and  
enforcement of  
budgetary ceilings

**17.** (1) The Controller of Budget shall monitor, evaluate, report and make recommendations to Parliament, a County Assembly, the National Treasury and a County Treasury on measures to ensure compliance with budgetary ceilings.

(2) Where a national government entity or county government entity fails to comply with the budgetary ceilings, the Controller of Budget may—

- (a) decline to approve a request for withdrawal of funds giving reasons thereof; or
- (b) make a recommendation to the National Treasury for stoppage of funds.

Advisory on  
compliance and  
enforcement of  
budgetary ceilings.

**18.** The Controller of Budget may issue an advisory on compliance and enforcement of budgetary ceilings with recommendations to—

- (a) Parliament;
- (b) the National Treasury;
- (c) a County Treasury;
- (d) a County Assembly;
- (e) Auditor General;

- (f) Salaries and Remuneration Commission;
- (g) Commission on Revenue Allocation; or
- (h) any other relevant institution

Monitoring,  
evaluation  
and  
reporting.

**19.** (1) The Controller of Budget shall monitor, evaluate, report and make recommendations on measures to improve budget implementation for —

- (a) Parliament;
- (b) Judiciary;
- (c) County Assemblies;
- (d) Commissions and Independent Offices;
- (e) National Government entities; and
- (f) County Governments entities.

Monitoring,  
evaluation  
and  
reporting  
framework

**20.** Within one year of coming into force of these Regulations, the Controller of Budget shall develop a monitoring, evaluation and reporting framework for purposes of carrying out the functions and powers under the Act and these Regulations.

Factors to consider  
when conducting  
monitoring,  
evaluation  
and  
reporting.

**21.** When undertaking monitoring, evaluation and reporting, the Controller of Budget shall consider the following factors—

- (a) whether the budget estimates comply with the Program Based Budgeting Approach;
- (b) whether the budget is balanced as per Section 107 of the Public Finance Management Act, 2012;
- (c) the reasonableness of revenue estimates;
- (d) percentage resource allocation between recurrent and development expenditure as per Section 107 (2) (b) of the Public Finance Management Act, 2012;
- (e) classification and composition between recurrent and development expenditure;
- (f) linkage between budget and the planning framework;
- (g) prior year comparative data as the baseline for resource allocation in the subsequent periods;

- (h) adherence to Medium Term Expenditure Framework during budget making process;
- (i) adherence to approved budgetary ceilings;
- (j) information on geographical location of projects to monitor or ascertain equity in resource allocation across the country;
- (k) compliance with statutory timelines for budget documents;
- (l) public participation in the budget process;
- (m) actual expenditure against the budget estimates;
- (n) compliance with principles of public finance and fiscal responsibility principles;
- (o) whether the budget making process promotes the Bill of Rights espoused in Chapter 4 of the Constitution; and
- (p) any other factors that the Controller of Budget may consider necessary in executing this mandate.

Quarterly reports.

**22.** The Controller of Budget shall, in accordance with Article 228 (6) of the Constitution, submit to Parliament and County Assemblies, quarterly budget implementation reports for the national and county governments respectively within thirty days after the end of each quarter.

Submission of reports to the Controller of Budget.

**23.** (1) An accounting officer of a national government entity or a county government entity shall, not later than the 10<sup>th</sup> day of each month submit a cumulative monthly financial and non-financial budgetary report for the preceding month to the Controller of Budget.

(2) An accounting officer shall certify the reports before submitting to the Controller of Budget.

Content of the report.

**24.** The report submitted by the accounting officer under regulation 23 shall include—

- (a) actual revenues, including appropriation-in-aid against the projected revenue target;
- (b) report on funds released and expenditure by programme, sub-programme and project against the budget estimates;
- (c) expenditures classified in economic classification as follows—
  - (i) compensation to employees;
  - (ii) use of goods and services;

- (iii) transfer to other levels of government;
  - (iv) capital expenditure; and
  - (v) development expenditure;
- (d) report on outstanding payments, overdue for over ninety days;
  - (e) project implementation status report;
  - (f) report on stalled projects and work plan for completing the projects;
  - (g) report on established funds by Parliament or a County Assembly;
  - (h) projection of expected expenditure and revenue collection for the remainder of the financial year;
  - (i) report on the receipts and expenditure of conditional or non-conditional grants;
  - (j) report to demonstrate the entity obligation to observe, respect, protect, promote and fulfil the rights and fundamental freedoms in the Bill of Rights; and
  - (k) any other information that the Controller of Budget may require for reporting.

#### **PART IV—INVESTIGATIONS**

Power to  
investigate.

**25.** The Controller of Budget may conduct investigations on his or her own motion or upon a complaint made by a member of the public on any matter on implementation of the budgets of the national and county governments.

Guiding principles  
for conducting  
investigations

**26.** The guiding principles for conducting investigations under this part shall include—

- (a) independence;
- (b) objectivity;
- (c) impartiality;
- (d) procedural fairness; and
- (e) integrity



Investigating  
officers.

**27.** (1) The Controller of Budget shall be an investigating officer for purposes of the Act and these Regulations.

(2) The Controller of Budget may, in writing, delegate the performance of the power conferred on him or her under sub regulation (1) to an officer of the Office.

(3) In addition to the officers delegated under sub regulation (2), the Controller of Budget may designate, in writing, other public officers to be investigating officers for purposes of the Act and these Regulations.

(4) A delegation or designation under this regulation—

(a) shall be subject to any conditions that the Controller of Budget may impose;

(b) shall not relieve the Controller of Budget of responsibility concerning the exercise of the performance of the delegated power; and

(c) may be withdrawn or varied by the Controller of Budget.

(5) An officer delegated or designated under this regulation shall at all times, perform their functions under the superintendence and direction of the Controller of Budget.

Impersonating  
investigator.

**28.** (1) A person, other than an investigating officer under these Regulations, shall not present himself to be or act as an investigating officer.

(2) A person who contravenes sub-regulation (1) commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding six months, or to both.

Procedure  
conducting  
investigations.

for **29.** (1) The Controller of Budget shall conduct a preliminary investigation to determine whether a matter to be investigated raises substantive issues to warrant a full investigation.

(2) In this regulation, “a matter to be investigated raises substantive issues” where that matter—

(a) raises serious or persistent material breach in budget implementation including—

(i) failure of the budget to be in line with the planning documents;

(ii) failure to apply approved exchequer as authorized; or

(iii) where the budget exceeds the set ceilings;

(b) relates to falsification of documents.

(3) If the matter warrants full investigation, the investigating officer shall gather evidence through—

(a) oral examination;

(b) documentary and record evidence;

(c) expert evidence; or

(d) site inspection.

(4) An investigating officer shall—

(a) report on actual or potential conflict of interest, if any;

(b) ensure confidentiality;

(c) conduct the investigation expeditiously;

(d) base his or her findings on facts and related analysis including reasonable inferences;

(e) provide the entity or person against whom an allegation or complaint is made an opportunity to respond to the allegations or complaints; and

(f) provide any data, information or witnesses that may support their case.

Power to summon,  
enter and search.

**30.** An investigating officer may, with the consent of a person or a warrant, summon a person, enter upon and search any premises for any record, property or other thing reasonably suspected to be in or on the premises and that has not been produced by a person pursuant to a requirement under the provisions of the Act or these Regulations.

Conduct of  
investigation on  
stoppage of funds

**31. (1)** Where the Cabinet Secretary stops the transfer of funds to a national government entity or county government entity, the Controller of Budget shall conduct investigations and submit a report to Parliament.

(2) Within fourteen days of the decision of the Cabinet Secretary to stop the transfer of funds, the Controller of Budget shall conduct investigations to ascertain whether the reasons for the decision by the Cabinet Secretary meet the threshold for serious material breach or persistent material breach as, provided under section 94 of the Public Finance Management Act, 2012.

(3) The Controller of Budget shall submit the report to Parliament, giving an independent opinion on the findings and details of material breach or persistent material breach in such manner as to allow Parliament make a decision on whether or not to approve or rescind the Cabinet Secretary's decision to stop the transfer of funds.

(4) The report shall contain recommendations on measures to rectify the breach.

(5) Where the Cabinet Secretary has applied to Parliament to renew a decision to stop the transfer of funds for a period beyond the sixty days, the Controller of Budget shall investigate and prepare a report to Parliament within fourteen days after being informed of the decision to renew the period of stoppage of funds.

## **PART V—DISPUTE RESOLUTION AND COMPLAINT HANDLING**

Jurisdiction of Controller Budget. **32.** The Controller of Budget may resolve any matter, relating to budget implementation, brought before him or her by conciliation, mediation or negotiation as provided under Article 252(1) (b) of the Constitution.

Lodging complaint. of **33.** (1) A complaint may be lodged at the offices of the Controller of Budget or at such place or places and in such form as the Controller of Budget may from time to time determine.

(2) A complaint may be lodged by the complainant in person or by a person acting on behalf of the complainant or by any other person authorized by law to act for the complainant, provided that the Controller of Budget may admit anonymous complaints.

Register of Complaints. **34.** The Controller of Budget shall maintain a register of all complaints received and action taken including any resolution made.

Form of complaint. **35.** (1) Where the complaint is made orally, or otherwise, or the complainant cannot read or write, the complaint may be reduced to writing by an officer of the Office.

(2) A written complaint shall be in such form as the Controller of Budget may determine and shall include—

(a) the name and contact details of the complainant;

(b) the particulars of the respondent; and

(c) the substance of the complaint in sufficient detail to enable the Controller of Budget to act.

(3) The complainant may attach or provide any documents necessary to support the complaint.

(4) Despite the foregoing, a complaint may be made anonymously, or treated in such a manner as to protect the identity of, or particulars of, the complainant where necessary, as may be directed by the Controller of Budget.

Screening  
complaints.

of

**36.** (1) A complaint shall, upon being entered into the register under regulation 34, be forwarded to the appropriate department for screening.

(2) Upon screening the complaint, the Controller of Budget, may—

(a) admit the complaint;

(b) where appropriate, advise the complainant in writing that the matter is not within the mandate of the Controller of Budget; or

(c) advise the complainant that the matter lies for determination by another public body or institution and refer the same to that body or institution.

Discontinuation of a  
complaint.

**37.** (1) Where, in the opinion of the Controller of Budget, a complaint does not merit further consideration, he or she may discontinue further proceedings on the complaint, record his or her reasons and notify the complainant within 14 days.

(2) The Controller of Budget shall inform the complainant of the right to appeal the decision.

Review

**38.** (1) Where a complaint has been discontinued under regulation 37, the complainant may, in writing, apply to the Controller of Budget for a review of the decision.

(2) Where a review is disallowed, the complaint shall be closed and the complainant notified in writing.

(3) Where a review is allowed, the provisions of these Regulations shall apply.

Withdrawal and  
lapse of complaint

**39.** (1) A complainant may, in writing, withdraw a complaint pending before the Controller of Budget at any stage during its consideration.

(2) Where a complainant unjustifiably fails or neglects to respond to communication from the Controller of Budget within three months from the date of the last communication, the Controller of Budget may deem the complaint to have lapsed.

(3) Despite the provisions of paragraphs (1) and (2), the Controller of Budget may, in his or her discretion, proceed to deal with a complaint in the public interest.

(4) Where a complaint has lapsed, the complainant may apply to the Controller of Budget for re-admission of the complaint and give reasons in

support of the application for re-admission to the satisfaction of the Controller of Budget.

Joint consideration  
of complaint.

**40.** (1) Where two or more complaints are lodged in which the same or similar allegations are raised against a respondent or respondents, the Controller of Budget may—

(a) consolidate the complaints; or

(b) treat one complaint as a test complaint and stay further action on the other complaints pending resolution of the test complaint.

(2) The decision on a test complaint shall apply, *mutatis mutandis*, to all other complaints with which the test complaint was consolidated.

Action  
complaint.

on **41.** (1) Upon admission of a complaint, the Controller of Budget shall inform the respondent.

(2) Upon the expiry of fourteen days, if there is no response from the respondent, a reminder giving a further fourteen days to comply shall be communicated to the respondent.

(3) If there is still no response, the Controller of Budget may issue summons or make such other orders.

Failure to respond to  
summons.

**42.** If a respondent fails to respond to the summons or other orders, the Controller of Budget may proceed to determine the complaint in the absence of the respondent or issue any orders.

Resolution  
complaint.

of **43.** In resolving a complaint, the Controller of Budget may—

(a) conduct investigations in accordance with Part IV;

(b) request and obtain relevant information or documents;

(c) undertake mediation, negotiation or conciliation;

(d) refer the complaint to the appropriate public body for further action; or

(e) determine the complaint appropriately.

Mediation,  
conciliation  
negotiation.

and **44.** (1) The Controller of Budget may, in writing, advise the parties to a complaint that the dispute may be best resolved through mediation, conciliation or negotiation.

(2) Where both parties to a complaint consent to mediation, conciliation or negotiation the Controller of Budget shall, in consultation with the parties, fix an appropriate date, time and venue for the meeting.

Procedure mediation, conciliation or negotiation.	for	<p><b>45.</b> (1) The Controller of Budget shall issue a notice which shall include—</p> <p>(a) the names of the parties to the dispute; and</p> <p>(b) the date, time and venue of the meeting.</p> <p>(2) Upon the issuance of a notice, but before the date of the meeting, the Controller of Budget shall constitute a panel comprising officers of the Office or persons with relevant expertise in dispute resolution, as the Controller of Budget may consider necessary.</p> <p>(3) During the meeting, the panel appointed under sub regulation (2) may apply such procedures as it may, in the interests of the parties, deem appropriate in the circumstances.</p> <p>(4) At the conclusion of the process, both parties shall sign an agreement bearing the common seal and the signature of the Controller of Budget.</p> <p>(5) The agreement signed under this regulation, shall be deemed to be a determination of the Controller of Budget and shall be enforceable as such.</p>
Service of process.		<p><b>46.</b> (1) Any document required or authorized to be served under these Regulations shall, where practicable, be served personally on the person by delivering or tendering the document to that person.</p> <p>(2) Where it is not possible to effect personal service, the document may be served in such manner as the Controller of Budget may determine.</p> <p>(3) Any document requiring service under these Regulations shall be served by an officer of the Office or any other person authorized to do so by him or her.</p>
Principles of natural justice.		<p><b>47.</b> In the determination of complaints and dispute resolution under these Regulations, the Controller of Budget shall have due regard to the principles of natural justice and shall not be bound by any legal or technical rules of evidence applicable to proceedings before a court of law.</p>
Fees		<p><b>48.</b> The Controller of Budget shall not charge any fee in the lodging and determination of complaints and dispute resolution.</p>
<b>PART VI—MISCELLANEOUS PROVISIONS</b>		
Offence.		<p><b>49.</b> A person who fails to comply with these Regulations commits an offence under section 16 of the Act.</p>
Access information.	to	<p><b>50.</b> (1) The Controller of Budget shall provide information on budget implementation matters to the public, by publishing quarterly and special reports.</p>

(2) The Controller of Budget may avail the information to the public through—

- (a) the Office's official website;
- (b) print media;
- (c) electronic media;
- (d) verified social media; or
- (e) public fora.

(3) The Controller of Budget shall sensitize the public on budget implementation.

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(4) In exercising responsibilities under these Regulations, the Controller of Budget shall be bound by the provisions of the Access to information Act, 2016.

Issuance of circulars

**51.** The Controller of Budget may issue circulars to a national government entity or a county government entity on budget implementation on measures to improve budget implementation and for compliance purposes.

Management of information.

**52.** (1) The Controller of Budget and officers of the Office shall maintain confidence in respect of all matters that come to their knowledge in the exercise of their duties.

(2) Subject to the provisions of Article 35 of the Constitution, the Controller of Budget and the officers of the Office shall not be called to give evidence in respect of any matter that comes to their knowledge in the exercise of their duties.

(3) Notwithstanding subsection (1), the Controller of Budget may disclose in any report made by the Office under the Act, any matter that in the opinion of the Controller of Budget may be disclosed in order to establish grounds for the Controller of Budget's findings and recommendations.

Record  
management.

**53.** Subject to the Public Archives and Documentation Service Act, 1965, the Controller of Budget shall maintain a database of—

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- (a) planning and budget documents submitted under regulation 5 and 6;
- (b) requests for approval for withdrawal of funds;
- (c) authorization for withdrawal of funds;
- (d) reports prepared by the Controller of Budget under the Act and these Regulations; and
- (e) any other relevant information.

Digitization.

**54.** The Controller of Budget may digitize the processes involved in budget implementation including authorization for withdrawal of funds to enhance efficiency.



**SCHEDULE***[rr.8(1)(a), 9(1)(a), 10 (1)(a), 11(3), 12(3),13(1)]***REQUISITION FORM A***[Insert logo, physical and postal address]*

<b>PARLIAMENT</b>	<input type="checkbox"/>	<b>JUDICIARY</b>	<input type="checkbox"/>
<b>NATIONAL TREASURY</b>	<input type="checkbox"/>	<b>COUNTY TREASURY</b>	<input type="checkbox"/>
<b>EQUILIZATION FUND</b>	<input type="checkbox"/>	<b>ANY OTHER FUND</b>	<input type="checkbox"/>

*{Tick as appropriate}*

Ref. No.....

Date:.....

The Controller of Budget  
Office of the Controller of Budget  
P. O. Box 35616-00100  
NAIROBI

**REQUEST FOR APPROVAL TO WITHDRAW FUNDS****FROM**.....*{Insert name of appropriate Fund}*

In accordance with Article..... *{Insert appropriate Article}* of the Constitution of Kenya, Section 5 (a) of the Controller of Budget Act, 2016, Section ..... *{Insert as appropriate}* of the Public Finance Management Act, 2012 and the Appropriation Act No.\_\_\_\_ of 20\_\_\_\_*{Insert as appropriate}*, the National Treasury /County Treasury *{delete as appropriate}*, requests you to authorize the approval to withdraw of funds from the ..... *{Insert name of appropriate Fund}*, in the sum of **Ksh.**..... *{Insert amount in words}*, to meet the cost of services for..... *{Insert appropriate classification of expenditure}*, for the year ending 30<sup>th</sup> June 20\_\_\_\_\_.

**Authorized Signatory**Name:.....Designation:.....Signature:.....**Signed in.....on.....**

Encl.

**ANNEX**

<b>National/County Code</b>	<b>Account Number</b>	<b>Account Title</b>	<b>Amount (Kshs.)</b>

(rr.8(8), 10(7), 11(7), 12(7), 13(5))

**AUTHORIZATION FOR WITHDRAWAL OF FUNDS FORM B****OFFICE OF THE CONTROLLER OF BUDGET**

Tel: 020 2211068, 0738466721, 0709910000  
 Email: cob@cob.go.ke/Info@cob.go.ke  
 Website: www.cob.go.ke



Bima House, 12<sup>th</sup> Floor  
 Harambee Avenue  
 P.O Box 35616-00100  
 Nairobi Kenya

Ref. No. ....

Date: .....

The Governor  
 Central Bank of Kenya  
 P. O. Box \_\_\_\_\_  
NAIROBI

**APPROVAL TO WITHDRAW FUNDS FROM**

\_\_\_\_\_ {Insert name of appropriate fund}  
**FUND FOR THE FINANCIAL YEAR 20\_\_/20\_\_**

Ref No. \_\_\_\_\_ {Insert relevant Form A reference}      Date: \_\_\_\_\_ {Insert date of relevant Form A}

By virtue of Article \_\_\_\_\_ {Insert appropriate Article} of the Constitution of Kenya, Section 5 (a) of the Controller of Budget Act, 2016, Section \_\_\_\_\_ {Insert appropriate section} of the Public Finance Management Act, 2012 and the Appropriation Act No. \_\_\_\_ of 20\_\_ and the request for approval to withdraw funds from \_\_\_\_\_ {Insert name of appropriate fund} I hereby authorize the withdrawal of Kshs. \_\_\_\_\_ {Insert amount in words} from the \_\_\_\_\_ {Insert name of appropriate fund} to the \_\_\_\_\_ {Insert name of specific account of Parliament, Judiciary, a national government entity or a county government entity) for the services of the year ending 30<sup>th</sup> June, 20\_\_.

\_\_\_\_\_ {Signature}

**CONTROLLER OF BUDGET**

Copy to: National Treasury/County Treasury {delete as appropriate}  
 P.O BOX \_\_\_\_\_  
{Insert physical address}