

# REPUBLIC OF KENYA



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Ref No.: ES. 1/03'TY' (25)

Date: June 28, 2019

### **TREASURY CIRCULAR NO. 7/2019**

**TO: ALL CABINET SECRETARIES  
ALL ACCOUNTING OFFICERS/ PRINCIPAL SECRETARIES**

**RE: GUIDELINES FOR IMPLEMENTATION OF THE MEDIUM-TERM BUDGET  
FOR FINANCIAL YEAR 2019/20**

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#### **I. PURPOSE**

1. This Circular is issued in accordance to Section 12 of the Public Finance Management Act (PFM), 2012. The purpose of the Circular is to provide guidance on the implementation of the Medium-Term Budget for FY2019/20 and shall apply to all Ministries, Departments and Agencies (MDAs), the Judiciary, Parliamentary Service Commission, Constitutional Commissions and Independent Offices.
2. County Executive Members for Finance in the County Governments are required to customize and issue implementation guidelines for their respective Counties in line with Section 104 (1) (n) of the Public Finance Management Act (PFM), 2012.

## **II. BACKGROUND**

**3.** Although Kenya continues to enjoy macroeconomic stability with robust and broad based economic growth, the FY 2019/20 Budget is framed against a background of weakening global economic prospects.

**4.** Implementation of the policies and programmes under Big Four Plan is expected to accelerate and sustain inclusive growth, create opportunities for productive jobs, reduce poverty and income inequality and provide a better future for all Kenyans. These development outcomes can only be successfully achieved if planned programmes are implemented in good time guided by the principles of efficiency, effectiveness, and good governance.

**5.** During the FY2019/20, Accounting Officers should therefore ensure improvement in budget implementation by undertaking the following:

- (i) Ensuring that officers responsible for implementation process have a clear understanding of the existing laws, regulations and guidelines that govern budget implementation;
- (ii) Obtaining necessary approvals before the commencement of the procurement process to avoid delays;
- (iii) Processing payments to contractors and suppliers in time upon submission of completion certificates and supply of good and services;
- (iv) Remitting funds to Semi-Autonomous Government Agencies (SAGAs) without delay;
- (v) Observing timeliness/deadlines in submitting periodical reports as agreed with the development partners in cases of externally funded projects;
- (vi) Ensuring that ineligible expenditures on areas outside the project approval are not incurred;
- (vii) Providing adequate disclosures of material matters during reporting to avoid audit qualifications; and

- (viii) Ensuring that challenges in documentation and performance reporting are addressed.

### **III. SPECIFIC GUIDELINES**

**6.** The implementation of the FY2019/20 and Medium-Term Budget will commence on 1<sup>st</sup> July 2019. To facilitate smooth implementation of the Budget, all Accounting Officers, including the Heads of Semi-Autonomous Government Agencies (SAGAs) are required to undertake the following:

***(i) Constitute Budget Implementation Committees (BICs)***

**7.** Accounting Officers are required to reconstitute Budget Implementation Committees (BICs) by **7<sup>th</sup> July 2019** in their respective MDAs. The Committees' key responsibility will be to oversee the budget implementation. The Committees will also be required to regularly advise Accounting Officers on the performance of their respective budgets. The terms of reference of the BICs are indicated in Annex I of this Circular.

***(ii) Prepare Annual Work Plans***

**8.** Accounting Officers are required to prepare annual work plans for their respective entities to guide the implementation and achievement of the planned programme activities and outputs. The format for preparing the Annual Work Plans is provided in Annex 2 of this Circular.

***(iii) Prepare Annual Procurement Plans***

**9.** Accounting Officers, including Heads of SAGAs are reminded that all procurement processes will continue to be guided by Public Procurement & Disposal Act, 2015. The roles and responsibilities of the Accounting Officers of procuring entities is clearly spelt out in Section 44 of the Act. Specifically, attention is drawn to the Accounting Officers on the requirements of Section 53 (2) of the Act which requires preparation of a procurement plan before the commencement of each financial year. The format for preparing Procurement Plans is provided in Annex 3 of this Circular.

***(iv) Prepare Cash Flow Projections***

**10.** Cash flow planning is aimed at developing a framework for improved cash management decision making and liquidity planning in Government. In view of this, Accounting Officers are required to prepare Cash Flow Plans according to the expected timing for implementation of the planned activities which are consistent with the approved Budget, Work Plan and Procurement Plans. The format for preparing Cash Flow Plans is provided in Annex 4A of this Circular.

***(v) Submit Annual Work, Procurement, and Cash Plans***

**11.** Accounting Officers except for security organs are required to submit hard and soft copies of the Annual, Procurement and Cash Plans earlier indicated to the National Treasury by 7<sup>th</sup> July, 2019

***(vi) Categorization of Expenditures in Cash Plans and Exchequer Releases***

**12.** The National Treasury is strengthening its cash planning and setting of cash limits as a means of ensuring more predictable execution of the budget in a way which enables the delivering of services and public investments. In order to do so, the following expenditure categories have been identified:

- **Category 1;** expenditures represent statutory obligations, including debt outflows, salaries, pensions and the county equitable share,
- **Category 2;** comprises major social, economic, accountability, governance and security programmes, including core services and investments,
- **Category 3;** comprises all other Government of Kenya financed expenditures which are not category 1 or 2, and
- **Category 4;** comprises externally funded projects categorized as revenue in the budget and for which funds are transferred via the exchequer.

**13.** To enable the structured allocation of cash in the budget, the National Treasury will provide monthly cash limits each quarter based on likely cash available for category 1, 2 and 3 expenditures; and consequently meet requests related to

category 1 and 2 expenditure promptly and to category 3 when cash is available in line with withdrawal requests. Accounting Officers are in this regard required:

- To prepare cash flow projections for Category 1, 2, 3 and 4 (using the format in Annex 4B) and reflect the aggregate cash plan into the cash management system before the 31<sup>st</sup> July 2019;
- To review cash flow projections regularly based on actual exchequer releases and future cash flow needs within cash limits provided. The National Treasury should be informed at least one month in advance of any changes which may be required in each quarter; and
- To prepare separate exchequer requests for Category 1, 2, 3 and 4. Category 1, 2 and 3 requests must be within the limits provided, whilst Category 4 must have equivalent funding in the project's designated account (using the format in Annex 4C).

***(vii) Issuance of Authority to Incur Expenditure (A.I.E)***

**14.** Issuance of A.I.Es should be entered as a commitment in master vote book so as to ascertain at all times the availability of uncommitted funds. Accounting Officers whose Votes cover field programmes and projects, and SAGAs should issue A.I.Es to the respective officers not later than 15<sup>th</sup> day of each quarter. The actual expenditures should not exceed the limits authorized in the AIE's.

***(viii) Payment Instruction to Central Bank of Kenya***

**15.** Accounting Officers should note that payment instructions to Central Bank of Kenya (CBK) should only be issued against net exchequer and approved actual collected Appropriations– In–Aid. Payments should only be made for goods and services received/rendered.

**16.** Further, Accounting Officers should ensure that Internet Banking (IB) Schedule instructions are issued to the CBK on a daily basis and in the order posted in the IFMIS and cashbooks. This is to ease demand on the exchequer.

***(ix) Procurement of Goods and Services***

**17.** All public procurement should be conducted in accordance to the Public Procurement and Assets Disposal Act, 2015. Accounting Officers shall only be required to make expenditure commitment against the approved procurement plan based on the approved budget.

**18.** Accounting Officers should take measures to ensure maximum absorption of budgeted resources, including early initiation of procurement process to avoid last minute purchases and award of contracts towards the end of the financial year. The provisions of the procurement law and regulations must be followed in all procurement transactions.

***(x) Commitment Control***

**19.** No commitments should be entered into without adequate budgetary provision. Accounting Officers should ensure that unauthorized, irregular and wasteful expenditure are avoided, and corrective steps are taken where such expenditure has been incurred including disciplinary action against any public officer who has committed an act of financial delinquency. All Commitments for supply of goods and services shall be done by 31<sup>st</sup> of May 2020.

***(xi) Pending Bills and FY 2018/19 Carryover IB Commitments***

**20. Historical Pending Bills;** Cases of historical pending bills must be disposed of within the guidelines spelt out in **Gazette Notice 297 of 14th January, 2005**. These bills will continue to be dealt with by the National Treasury strictly on the basis of the recommendations made by the Pending Bills Closing Committee.

**21.** In order to ensure that there is no accrual in payment arrears (pending bills), Accounting Officers should ensure that carryover payments emanating from the FY 2018/19 are treated **as a first charge against** the FY 2019/20 budgetary allocation before entering into any new commitments. The pending bills should be accommodated strictly within the budgetary provision for respective MDAs without seeking additional funding from the National Treasury.

22. In addition, Accounting Officers are requested to document all outstanding pending bills incurred after the year 2005 and report the same to the National Treasury, by **12<sup>th</sup> July 2019**. The format for capturing the pending bills is shown in Annexes 5A and 5B of this Circular.

***(xii) Personnel Expenditures***

23. Accounting Officers should note that new recruitments remain frozen except for security agencies, health workers and education sector. **Recruitment of new staff including interns other than replacement should only take place after the MDA has obtained approval from the National Treasury.**

24. Following the implementation of Job Evaluation, and subsequent salary adjustment in the Public Service, adjustment of salaries and emoluments and upgrading of staff by MDAs is frozen. Where it is inevitable, this should only be done after receiving advice from the Salaries and Remuneration Commission (SRC). **MDAs are however reminded to first obtain a written approval on availability of funds from the National Treasury before putting the request to SRC.**

25. Revisions of Schemes of Service, Upgrading of Positions/Creation of New Ones, often lead to additional financial requirement. MDAs are reminded to seek the concurrence of the National Treasury on funding of the resultant cost before asking for approval from the relevant Government Departments/Commissions/Boards.

26. All Collective Bargaining Agreements (CBAs) with trade unions with additional cost implication must be referred to the National Treasury to confirm the availability of funds. **Such confirmation shall be communicated through duly signed letters by the Principal Secretary/National Treasury.** In addition, requisite advisory must be obtained from the Salaries and Remuneration Commission before any agreement is signed.

27. **Payroll;** Accounting Officers are also reminded to carry out regular staff and payroll audits to ascertain payroll accuracy and integrity. In addition, Accounting

Officers should ensure that spending by SAGAs on personnel emolument is reported (see Annex 6) to the National Treasury by 15<sup>th</sup> day of every month.

***(xiii) Capital Projects***

**28.** The FY 2019/20 development budget reflects the specific projects to be implemented with clearly set outputs, performance indicators and targets. To enhance project implementation, **Accounting Officers are required to appoint suitable Officers as project managers and AIE holders for their respective projects.** The project manager will be responsible for the achievement of the set targets and regular reporting on the implementation status of the project.

***29. Foreign Financed Projects***

It is the policy of the Government to absorb all funds both for domestically and foreign financed projects. In this regard, MDAs should implement development projects in the most efficient and effective manner with a view to improving absorption capacity which has been rather low especially in foreign financed projects.

***(xiv) Monitoring, Evaluation and Performance Reporting of Programmes and Projects***

**30.** To ensure effective implementation of the budgeted Programmes and projects, and achievement of the intended results, MDAs should ensure regular monitoring of the programmes and projects. Attention should be paid to both financial and non-financial performance for all programmes and projects in the Budget. The Status Report should clearly indicate the progress achieved, challenges faced and ways of mitigating the challenges.

**31.** Accounting Officers should ensure that returns submitted are accurate and timely as they will form the basis of determining credit limits for release of funds to MDAs. Each Accounting officer will be held responsible for the accuracy of the performance reports. These reports should be submitted to the National Treasury by the 10<sup>th</sup> day after the end of each quarter under the signature of the Accounting



Officers in person or a delegated senior officer not below the level of a Chief Finance Officer or a Senior Deputy Secretary. **Accounting Officers are requested to be submitting the quarterly reports to the National Treasury with copies to Presidential Delivery Unit.** The standard format for project, financial and non-financial reporting is as attached in Annexes 7, 9A and 9B respectively. In addition to the report sought through the standard reporting format provided, Accounting Officers are required to include the following in the reports: on a monthly basis (i.e. by the 10th day) the actual expenditure returns, Integrated Payroll and Personnel Database (IPPD) returns, pending bills and A-I-A returns.

***(xv) Reallocations of Funds***

**32.** Reallocations should only be done in the context of the provisions of Section 43 (1), (2) and (3) of the Public Finance Management Act, 2012. In addition, Accounting Officers should note that reallocations from the “Big 4” interventions to other expenditure Items will not be allowed.

**33.** Reallocation from statutory obligations/utilities, or specific allocations which were recommended in the “Budget & Appropriations Committee Report on the Estimates of Revenue and Expenditure for FY 2019/20” or earmarked by the National Treasury for specific purpose is also not allowed.

**34.** Accounting Officers are in accordance to Clause 48(2) of the PFMA Regulations, required to keep a register of all budgetary reallocations. The Register should be used to prepare a report of all reallocations to the National Treasury not later than 10<sup>th</sup> day of each month. The report should indicate measures undertaken to address recurrence of reallocations.

***(xvi) Supplementary/Additional Funding***

**35.** The FY 2019/20 Budget has been formulated under a tight fiscal framework. In this regard, Accounting Officers should avoid requesting for additional funding outside the budget framework approved by Parliament. MDAs will be granted additional expenditures only under special circumstances, under Article 223 of the

Constitution. MDAs granted additional funding will be required to prepare and submit a Supplementary Budget after making the first withdrawal against the additional Budget granted under Article 223 of the Constitution. To ensure accurate and timely reporting of these expenditures to Parliament, the Controller of Budget is required to immediately notify the Cabinet Secretary of the National Treasury where such withdrawals have been made. The format for reporting the additional expenditures granted under this provision of the Constitution is shown in Annex 8 of this circular.

***(xvii) IFMIS System***

**36.** All transactions during the implementation of FY 2019/20 budget must be carried out in IFMIS.

***(xviii) Consolidation of the Annual International Subscriptions and the ICT Expenditure***

**37.** The Budgeted Expenditures by MDAs for the Subscriptions to International Organization remain consolidated under the National Treasury. MDAs that budgeted for these expenditures are required to prepare and submit Cash Flow Plans for the subscriptions to the National Treasury. In addition, Accounting Officers will be required to be forwarding the demand note(s); banking details and justification for continuation of Kenya being a member of such organizations before payments are processed to respective organizations.

**38.** ICT expenditures remain consolidated under the Ministry of Information, Communication and Technology. These include purchase of computers, printers and other ICT equipment; purchase of ICT networking and other communication equipment; purchase of software; contracted ICT professional services; purchase of photocopiers; and purchase of specialized ICT equipment. To ensure smooth implementation, MDAs are required to prepare their Annual Work Plans, Procurement Plans and Cash Flow for all the ICT Expenditure for the FY 2019/20 and

submit to the State Department for Information, Communication and Technology, with a copy to the National Treasury.

***(xix) Conditional Grants and PforR***

**39.** MDAs that have conditional grants to Counties should prioritize these expenditures owing to the fact that County Governments have assumed the allocations as sources of revenue. Delay in disbursing the funds will lead to distorted budgets at the County level as well as delay in implementation of associated programs, projects and activities.

**40.** Similarly, MDAs implementing performance for results (PforR) programs as well as programs that have disbursement linked indicators (DLIs) should prioritize the associated expenditures. Accounting Officers are therefore requested to closely monitor implementation of PforRs as well as programs with DLIs so as to bring to the attention of the National Treasury any challenges they may be facing that require unlocking.

***(xx) Management of Contracts with Legal Implications***

**41.** The Office of the Attorney General is facing a challenge in the defence of international cases that currently expose the government to huge financial risks due to the nature of the colossal claims and non-payment of legal fees and costs by client Ministries. The international arbitrations are mostly brought about by cancellation of contracts and licenses held by investors which may be due to poor contract management.

**42.** The massive claims in international arbitrations and legal expenses pose a huge risk to the Government of Kenya. To mitigate future risks to international arbitrations, MDAs are required to follow due process in the management of contracts with investors as well as in the issuing and cancellation of licenses held by investors.

- ***Delayed Performance***

**43.** If at any time during the contract period, the service provider is unable to perform in a timely manner, the service provider must notify the MDA in writing of the cause of and the duration of the delay. Upon receipt of the notification, the MDA should evaluate the circumstances and, if deemed necessary, the MDA may extend the service provider's time for performance which will constitute an amendment to the contract in line with Section 139 of the PPADA, 2015. The MDA may decide to impose a delay penalty.

- ***Unsatisfactory Performance***

**44.** When an MDA is not satisfied or there are problems with the service provider's performance, the MDA must:

- (i) Review the conditions causing the problems and determine whether or not the MDA itself has significantly contributed to the problem;
- (ii) Review the contract and other relevant documentation in order to identify the rights and responsibilities of each party; and
- (iii) Notify the service provider in writing that their performance does not comply with the terms and conditions set out in the contract.

**45.** The written notification sent to the service provider should clearly identify the following:

- (i) The problem so as to avoid any misunderstanding;
- (ii) The corrective actions that are to be taken;
- (iii) The time frame allowed for the service provider to address and correct the problem; and
- (iv) The consequences that would arise in the event that the problem is not corrected within the specified period.

- ***Dispute Resolutions***

**46.** The MDA can apply different measures during the preparation and administrative phases of the contract in order to avoid any problems that may lead to a dispute. These measures include the following:

- (i) Stating the contractual requirements, such as specifications and delivery dates, as clearly as possible;
- (ii) Using plain and clear language in the contract itself, as well as all other contract documentation;
- (iii) Addressing issues or problems as and when they arise to prevent them escalating;
- (iv) Maintaining a good working relationship with the service provider; and
- (v) The policies and procedures with regards to dispute resolution should be detailed in the contract and agreed to by both parties. The resolution options should be listed in order of preference starting with the least severe method moving towards more severe methods.

***(xxi) The role of the PFM Staff in Budget Implementation***

**47.** The Public Finance Management staff play a key role in the preparation and implementation of the budget. In this regard, to ensure smooth implementation of the FY 2019/20 budget, Accounting Officers are required to ensure PFM staff are involved at all stages in budget implementation including drafting financial reports and correspondences.

#### **IV. CONCLUSION**

**48.** Finally, Accounting Officers are required to ensure strict adherence to these guidelines and to bring the contents of this Circular to the attention of all Public Officers working under them, including the Heads of Semi-Autonomous Government Agencies (SAGAs).



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**CABINET SECRETARY/NATIONAL TREASURY**

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**CEO**  
Council of Governors  
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**ALL COUNTY EXECUTIVE MEMBERS FOR FINANCE**

## **ANNEX I: TERMS OF REFERENCE FOR THE BUDGET IMPLEMENTATION COMMITTEE**

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There shall be established a Budget Implementation Committee (BIC) in all MDAs at the beginning of each financial year. The Committee will be required to be meeting once after every two weeks to review budget implementation progress. The terms of reference for the Committee shall be:

- 1) To review and consider the cash flow plans- this shall involve a regular review of the Ministerial cash plan and approval of any changes to the initial cash flow plan to be communicated to the National Treasury;
- 2) To review the utilization of cash limits and consider any changes as may be required;
- 3) To review the utilization of donor funds voted for the MDA;
- 4) To advise the Accounting Officer on any challenges related to the budget implementation;
- 5) To review and recommend reallocation of expenditures;
- 6) To review and approve the submission of the expenditure returns, IPPD, Pending bills and A-I-A returns for the MDAs and recommend actions to be taken;
- 7) To participate in Sector Working Groups; and
- 8) To prepare the budgets for MDAs in consultation with Heads of Departments.









ANNEX 4A: CASH FLOW PROJECTION		PROJECTED 2019												PROJECTED 2020					
		VOTE IFMIS CODE		DETAILS		Jul.	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	Jun.		
		1.0	TOTAL INFLOW																
		1.1	Property Income																
		1.2	Sale of Goods & Services																
		1.3	Other Revenue																
		1.4	Appropriations in Aid																
		2.0	TOTAL CASH OUTFLOW																
		2.1	CURRENT EXPENDITURE																
		2.1.1	Compensation to Employees																
		2.1.2	Use of Goods & Services																
		2.1.3	Current Transfers to Govt. Agencies																
		2.1.4	Other Current Expenditures																
		2.2	CAPITAL EXPENDITURE																
		2.2.1	Acquisition of Non Financial Assets																
		2.2.2	Capital Grants to Govt Agencies																
		2.2.3	Other Development																
			NET CASH FLOW REQUIREMENT																













ANNEX 6: TEMPLATE FOR SAGAS MONTHLY/QUARTER RETURNS													
FY 2019/20 BUDGET													
Name of the Ministry, Department & Agency.....													
Semi Autonomous Government Agency(SAGA).....													
	Approved Budget	Actual Expenditure/Payment( 1st Quarter)			Expenditure/Payment( 2nd Quarter)			Actual Expenditure/Payment( 3rd Quarter)			Expenditure/Payment(4th Quarter)		
		July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	March	April	May	June
<b>1. TOTAL INFLOW</b>													
1.1 Current Grant/Transfer													
1.2 Capital Grant/Transfer													
1.3 Appropriation in Aid													
<b>2. EXPENDITURE</b>													
<b>2.1 Current</b>													
Compensation of Employees													
Basic Salary													
House Allowance													
Commuter Allowance													
Any other allowance paid as part of the Salary													
Operations and Maintenance													
<b>2.2 Capital</b>													
Project I.....													
Project II.....													



**ANNEX 8: TEMPLATE FOR ADDITIONAL FUNDING REQUEST**

Description	Approved Budget	Actual Expenditure as at .....	Additional Expenditure Request	Source of Financing	Reasons for Additional Request
Vote Code & Vote Title Total					
Programme					
Sub-programme					
Activity/Project					

*NB: Provide analysis of the implications for the planned outputs and outcomes of the affected programmes*

ANNEX 9A: TEMPLATE FINANCIAL PROGRAMME /SUB-PROGRAMME PERFORMANCE REPORT

Quarterly Programme Performance Report for the Period ending .....

Ministry/Department/Agency .....

Programme Objective.....	Quarterly Performance					Variance between Total Expenditure & Target Expenditure	Remarks
	Approved Budget	Target Expenditure	Actual Expenditure	Commitment	Total Expenditure		
Programme							
Current Expenditure							
Compensation to Employees							
Use of goods and services							
Interest							
Subsidies							
Current Transfers to Govt. Agencies							
Social Benefits							
Other Expense							
Acquisition of Non-Financial Assets							
Acquisition of Financial Assets							
Capital Expenditure							
Compensation to Employees							
Use of goods and services							
Interest							
Subsidies							
Capital Transfers to Govt. Agencies							
Social Benefits							
Other Expense							
Acquisition of Non-Financial Assets							
Acquisition of Financial Assets							

**NB: Reporting should be every Quarter**

**Memo Notes:**

Target Expenditure is for the quarter

Total Expenditure for the quarter includes commitment

Variance= Total Expenditure - Target expenditure

Remarks should indicate the reasons of the findings in the above analysis



