

GOVERNMENT OF NAIROBI CITY COUNTY



THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

THIRD ASSEMBLY
(FIRST SESSION)

NCCA/TJ/PL/2022(19)

1st December, 2022

PAPER LAID

SUBJECT: SPECIAL AUDIT REPORT

Pursuant to Article 229 (7) of the Constitution of Kenya, I beg to lay the following Paper on the Table of this Assembly, today Thursday 1st December 2022.

— THE REPORT OF THE AUDITOR GENERAL ON SPECIAL AUDIT ON PUBLIC PARTICIPATION IN THE COUNTY BUDGET MAKING PROCESS FOR THE FINANCIAL YEAR 2021/2022.

(The Leader of Majority Party)

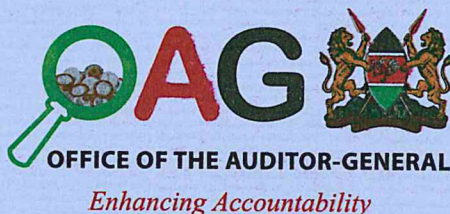
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*Paper laid
by the majority
leader
1/12/22*

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14 November, 2022

Mr. Edward Gichana
The Ag. Clerk
Nairobi City County Assembly
City Hall Building
P. O. Box 75844-00100
NAIROBI



RE: SPECIAL AUDIT REPORT OF THE AUDITOR-GENERAL ON PUBLIC PARTICIPATION IN THE COUNTY BUDGET MAKING PROCESS FOR THE FINANCIAL YEAR 2021/2022

The Special Audit Report of the Auditor-General on public participation in the County budget making process for the financial year 2021/2022 is now complete as provided for under Section 34 of the Public Audit Act, 2015.

Enclosed, please find a copy of the Special Audit Report.

Paul Muthuri
For: AUDITOR-GENERAL

Copy to: **H.E. Hon. Johnson Sakaja, CBS**
Governor of Nairobi County
P. O. Box 30075-00100
NAIROBI

Handwritten notes in red ink:
DLS
Table before the
w/ce
for CCA
30/11/2022

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PCA (LOP)
Phase 1
for NLE
7/12/2022

CITIZENS ACCOUNTABILITY AUDIT



**SPECIAL REPORT OF THE AUDITOR-GENERAL ON
PUBLIC PARTICIPATION
IN
NAIROBI CITY COUNTY BUDGET MAKING PROCESS
FOR THE FINANCIAL YEAR 2021/2022**

November, 2022

VISION

Making a difference in the lives and livelihoods of the Kenyan People

MISSION

Audit Services that impact on effective and sustainable service delivery

CORE VALUES

Integrity

Credibility

Relevance

Accountability

Independence

MOTTO

Enhancing Accountability

FOREWORD BY THE AUDITOR-GENERAL

I am pleased to present this Citizens Accountability Audit Report on Public Participation in the Nairobi City County Budget Making Process for the Financial Year 2021/2022. My Office carried out the audit under the mandate conferred on me by Section 34 of the Public Audit Act, 2015. The Act mandates the Auditor-General upon request or at her own initiative to conduct periodic audits which shall be pro-active, preventive and deterrent to fraud, corrupt practices, systemic and shall be determined with a view to evaluating the effectiveness of risk management, control and governance processes in state organs and public entities pursuant to Article 229 (6) of the Constitution of Kenya, 2010.

INTOSAI P-12 on the value and benefits of Supreme Audit Institutions (SAIs) in making a difference to the lives of Citizens requires the Auditor-General to conduct audits that promote the efficiency, accountability, effectiveness and transparency of public administration. Citizens Accountability Audit is a proactive approach in auditing where Citizens play a key role in public resources management. Citizens participation in Kenya's governance process is integral in all public decision-making processes.

Citizens participation in the budget process is anchored in Article 1 of the Constitution which vests all sovereign power to the people of Kenya and to be exercised only in accordance with the Constitution. Such power may be exercised either directly or indirectly through their democratically elected representatives. Citizens Accountability Audit on the Nairobi City County Budget Making Process assessed the level of compliance with relevant legal requirements and determined the effectiveness of Public Participation in promoting good governance.

The report is submitted to the senate and Nairobi City County Assembly in accordance with Article 229 (7) of the Constitution of Kenya, 2010 and Section 39 (1) of the Public Audit Act, 2015. I have also submitted a copy of the report to H.E the Governor of Nairobi City County.


CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

4 November, 2022

ACKNOWLEDGEMENT

We acknowledge the collaborations and support of the various stakeholders who made this audit a success. We wish to extend our gratitude to German Corporation for International Cooperation (GIZ), The World Bank (WB) and Transparency International (TI) Kenya for their technical and logistical support. We also appreciate the Civil Society Organizations that assisted in the mobilization of Citizens in the County in which the audits were undertaken, support in the administration of the audit tools during the Focus Group Discussions, and subsequent validation of the audit findings.

LIST OF ABBREVIATIONS

Abbreviation	Full Description
ADP	Annual Development Plan
AG	Auditor-General
CAA	Citizens Accountability Audit
CBEF	County Budget and Economic Forum
CBO	Community Based Organization
CBROP	County Budget Review and Outlook Paper
CECM	County Executive Committee Member
CFSP	County Fiscal Strategy Paper
CGA	County Government Act
CIDP	County Integrated Development Plan
CoB	Controller of Budget
CoG	Council of Governors
CoK	Constitution of Kenya
COVID-19	Corona Virus Disease of 2019
CSO	Civil Society Organization
FBO	Faith Based Organization
FGD	Focus Group Discussion
IBEC	Intergovernmental Budget and Economic Council
ICT	Information and Communication Technology
INTOSAI	International Organization of Supreme Audit Institutions
ISSAI	International Standards for Supreme Audit Institutions
MCA	Member of County Assembly
MoH	Ministry of Health
OAG	Office of the Auditor-General
OCOB	Office of the Controller of Budget
PFM	Public Finance Management
PWD	Persons with Disability
SDGs	Sustainable Development Goals
SWG	Sector Working Group

DEFINITION OF TERMS

Budget Process: The formulation and preparation of the Budget that involves development and submission of key documents for approval by Cabinet and Parliament / County Assembly.

Citizens Accountability Audit: It is the audit that gives a voice to the Citizens on their involvement in governance issues.

Compliance: The act or process of fulfilling official requirements.

Mwananchi: Kiswahili word for Citizens.

Nyumba Kumi: Kiswahili phrase for ten households. It's a strategy used to anchor community policing at the household level.

Operationalize: The act of putting in use.

Risk: Exposure to danger, harm or loss.

Transparency: Openness or honesty in regard to how sampled County Executives or County Assemblies complied with the access to information requirements of the Constitution.

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EXECUTIVE SUMMARY

INTRODUCTION

1. Article 201(a) of the Constitution of Kenya, 2010 requires openness, accountability and public participation in financial management. Public Financial Management matters are guided by the Constitution of Kenya, 2010, the Public Finance Management (PFM) Act, 2012, Public Finance Management Regulations, 2015 (National and County Government) and circulars released by the National Treasury and the County Governments from time to time.
2. Article 1 (2) of the Constitution of Kenya, 2010, provides that people may exercise their sovereign power either directly or through their democratically elected representatives. Article 196 (1) (b) of the Constitution of Kenya, 2010 requires that a County Assembly shall facilitate public participation and involvement in the legislative and other business of the Assembly and its committees. Further, Section 125 (2) of the Public Finance Management Act, 2012, requires the County Executive Committee Member (CECM) for Finance to ensure Citizens participation in the planning and budgeting processes.
3. Articles 229 (6) of the Constitution of Kenya, 2010 and the Public Audit Act, 2015 vests the Auditor-General with the mandate to audit all public funds and report on whether the funds have been used in an effective and lawful manner.
4. The Office of the Auditor-General conducted the audit on public participation in the County budget making process on Nairobi City County for the financial year 2021/2022. According to the extract from the Controller of Budget report on the budget report for the financial year 2021/2022, the total budget allocation for the County was **Kshs.39,627,536,000**. The audit sought to confirm the level of compliance with legal provisions and the effectiveness of public participation in the budget making process.

5. The audit sought to confirm the level of compliance with legal provisions and the effectiveness of public participation in the budget making process.

Public Participation in Budget Making Process

6. County Governments' budget making process requires public participation at various levels. The budget process entails budget formulation, approval and implementation. The budget involves development of various budget documents which are required to be subjected to public participation. The Constitution of Kenya 2010, County Governments Act, 2012, Public Finance Management Act, 2012 and the attendant regulations require the involvement of Citizens in the budget process.

Audit Objectives

7. The main objectives of the audit were: -
 - i. To establish how Nairobi City County Government conducted public participation in the budget making process.
 - ii. To assess the level of compliance with the legal requirements and determine the effectiveness of public participation in the budget making process.

Audit Scope

8. The audit assessed the effectiveness of public participation in the budget making process in the County for the financial year 2021/2022. The audit was carried out during the period November 2021 to January 2022.

Key Findings

Level of Compliance with Legal Requirements for Public Participation

9. The audit assessed the level of compliance with the legal requirements on public participation in the County. This was guided by review of the relevant articles and

sections in the legal and institutional framework that gives guidelines on the role of Citizens and other stakeholders during the budget making process.

Formulation and Operationalization of Public Participation Acts

10. Section 115 (2) of the County Governments Act, 2012, requires each County Assembly to formulate laws and regulations guiding effective Citizen participation in development planning and performance management within the County. Section 125 (2) of the Public Finance Management Act, 2012 states that the County Executive Committee Member for Finance shall ensure Citizens participation in planning and budgeting.
11. The audit revealed that Nairobi City County had formulated the County Public Participation Act although they had not been operationalized as at the time of the audit.
12. A bill providing clear guidelines on effective public participation has been pending in Parliament since 2019.

Structures for Public Participation

13. The audit examined the formation and the roles of County Budget Economic Forums (CBEF), Sector Working Groups (SWGs) and decentralized units in facilitating public participation in the budget making process.

County Budget and Economic Forums

14. Section 137 (3) of the Public Finance Management Act (PFMA), 2012 requires County Governments to establish County Budget and Economic Forums (CBEFs) as a means for consultation by County Governments on plans and budgets.
15. The audit revealed that CBEFs were constituted as per the law. However, it was noted that the Committees were not actively involved in matters relating to budgeting and financial management. This was due to failure to hold meetings as stipulated under Section 209 (2) of PFM Regulations, 2015 which states that the forum shall

meet at least twice a year and the Governor shall decide the time and agenda for meeting of the forum in consultation with other members of the forum.

Sector Working Groups

16. Section 128 (2) of the Public Finance Management Act, 2012 require County Treasuries to issue budget circulars not later than 30 August each year, detailing the budget process, including formation of Sector Working Groups (SWGs).
17. Section 30 (1) (a) of Public Finance Management (County Governments) Regulations, 2015, states that “on the basis of budget sector ceilings contained in the County Budget Review and Outlook Paper (CBROP), the budget SWG shall submit by January of each year the sector report to the County Treasury which shall be included in the printed estimates for the current year”.
18. The audit observed that SWGs were involved in preparing sector reports and participated in coordinating sector hearings. However, there was no evidence of consideration of public inputs from SWGs hearings in the final sector priorities that were in budgets.

Decentralization of Public Participation

19. Section 48 (1) of the County Governments Act, 2012 requires County Governments to decentralize their functions and provision of services to urban areas and cities, Sub-Counties, wards and village units.
20. The audit established that public participation in the budget making process in Nairobi City County had not been fully decentralized to the village level. In the County, public participation was held at the Sub-County level. This resulted in Citizens being denied an opportunity to participate in the budget making process at the village level.

Supplementary Budget

21. Section 125 (2) of the Public Finance Management Act, 2012 states that the County Executive Committee Member for Finance should ensure Citizens participation in planning and budgeting.
22. The supplementary budget approval and implementation results in changes in County budget priorities. The audit established that Nairobi City County did not hold public participation on the supplementary budget, contrary to Section 125 (2) of the Public Finance Management Act, 2012.

Annual Reports and Responsibility Statement

23. Section 92 (2) of the County Governments Act, 2012 requires the Governor to submit an annual report to the County Assembly on Citizens participation in the affairs of the County Government. It was observed that Nairobi City County had not submitted the responsibility statements to the County Assembly.

Responsibility Report by the County Executive Committee Members for Finance

24. Section 7 (4) of the Public Finance Management (County Governments) Regulations, 2015, requires the County Executive Committee Members for Finance to issue a responsibility statement on public participation on the County Fiscal Strategy Paper (CFSP) and Sector Working Groups. It was however, observed that Nairobi City County had not adhered to this requirement.

Effectiveness of Public Participation in the Budget Making Process

25. In assessing the effectiveness of public participation in the budget making process, the audit reviewed the levels of transparency, public participation and accountability.

Transparency in regard to Public Communication and Access to Information

26. The audit assessed transparency based on Citizens awareness of the two stages of budget process of formulation and approval. A survey conducted on a sample of 200 Citizens from Nairobi City County indicated a high level of awareness among

Citizens on public participation in the budget process. However, it was established that the level of actual Citizens participation in the budget process was low in the County. The audit observed the County did not make deliberate effort to provide all the budget documents and information through suitable channels accessible to Citizens before public participation. The audit further noted that budget documents were bulky and not easy to comprehend.

27. The audit revealed that Nairobi City County did not provide the budget documents in braille format for the visually impaired or sign language interpreters for the deaf, in line with Article 54 of the Constitution of Kenya, 2010. Consequently, the views and priorities of this special category of Citizens was not considered in the budget making process.

Public Participation

28. A survey on public participation revealed that out of the 200 sampled respondents, 170 were aware of the need to participate in the budget making process. However, only 14 participated during budget making for the financial year 2021/2022. The low level of public participation was attributed to failure to conduct civic education, poor mechanisms of sharing budget documents, lack of timely information on the venue and, dates of the meetings, lack of interest by Citizens and biased mobilization by County Governments.
29. The audit observed that Nairobi City County Government had not promoted Citizens' participation in the budget making process. Consequently, the budget prepared for the financial year 2021/2022 under review may not have reflected the views and priorities of the Citizens.

Accountability in regard to Responses to Petitions and Challenges from Citizens

30. Review of the respondents revealed that out of 14 Citizens who participated in the budget making process, only 2 received feedback from County Government with regards to their petitions and challenges. The audit noted that the County lacked structured feedback mechanisms to respond to Citizens' petitions and challenges.

This is contrary to Section 89 of the County Government Act, 2012. It was further observed that the Counties did not decentralize their functions and provision of services as stipulated under Section 48 (1) of the County Government Act, 2012.

31. The Nairobi City County Government contravened Article 201(a) of the Constitution of Kenya, 2010 by not having a structured feedback mechanism to respond to Citizens petitions and challenges. The contravention denied the Citizens the right to participate in the budget making process.

Conclusion

32. Budget making process in County for the financial year was not fully effective due to failure by the County to provide appropriate information regarding the agenda, date, time and venue for the process. Citizens involvement was also low due to failure to access budget documents and information. The audit further observed that the County had not decentralized units to the village levels. There were no structured feedback mechanisms for responding to citizens submissions. In view of the above findings, the audit concludes that the Nairobi City County Government was not fully compliant with the legal requirements on public participation.
33. The audit further concludes that the public participation at the County was not effective due to low level of citizens participation and failure by the County to establish feedback mechanisms on citizens submissions.

Recommendations

34. Public participation in the budget making process is a requirement of the Constitution of Kenya, 2010 and the enabling legislations. The audit identified weakness in creating awareness on the budget making the process, facilitating citizens involvement and issuing feedback to Citizens after participation. It is for these reasons the following is recommended: -

- i. The County Government should undertake legal and policy reforms in the operationalization of the Nairobi City County Public Participation Act, 2015.
- ii. The County Government should comply with Section 48 (1) of the County Governments Act, 2012 on decentralization of functions and provisions of services at the village level. In compliance with the legal requirements the County Executive and Assembly should collaborate to ensure that the budget making process is structured and procedural to enable a meaningful participation by the public.
- iii. The County Government should improve on the process of public participation by availing all the mandatory budget documents using accessible media, giving appropriate information on the agenda, venue, date and time during the budget making process.
- iv. The County Government should consider partnering and collaborating with Civil Society Organizations (CSOs) in carrying out civic educations and simplification of the budget documents.
- v. The County should maintain a register of documents detailing public engagement in the budget process including the public submissions and reports of citizens engagement as best practice.
- vi. The County Government should use alternative channels of communication such as social media to disseminate information to the public during budget-making process.

1.0 BACKGROUND OF THE AUDIT

Introduction

- 1.1 Public Participation in the Budget Making Process, at the National and County Governments levels, is governed by Chapter 12 of the Constitution of Kenya, 2010 on Public Finance, the Public Finance Management Act, 2012 and the County Governments Act, 2012.

Motivation of the Audit

The following factors motivated the Office of the Auditor-General to carry out the audit;

- 1.2 The Constitution of Kenya, 2010 gave way to a new legal regime centered on transparent, participatory and accountable use of public resources. Citizens participation is an integral part of Kenya's governance process, including planning and budgeting. Citizens participation in the budget process is anchored on the Citizenry exercising the sovereign power of the people which may be exercised either directly or indirectly through their democratically elected representatives.
- 1.3 INTOSAI P-12 on the Value and Benefits of Supreme Audit Institutions in making a difference to the lives of Citizens requires Supreme Audit Institutions (SAIs) to conduct audits that promote the efficiency, accountability, effectiveness and transparency of public administration.
- 1.4 The budget process has been a subject of Citizens concern as is evidenced by various court cases challenging County budget formulation processes. For instance, Petition 187 of 2018 filed in Mombasa County and Petition No. 415 of 2014 filed in Bomet County.
- 1.5 The Republic of Kenya, being a signatory to the Sustainable Development Goals (SDGs) 2030, is committed through Goal 16 that seeks to promote peaceful and inclusive societies for sustainable development, provide access to justice for all and

build effective, accountable and inclusive institutions at all levels. This is specifically embodied in target 16.6 - To develop effective, accountable and transparent institutions at all levels, and target 16.7 - To ensure responsive, inclusive, participatory and representative decision-making at all levels.

Overview of the County Budget Making Process

- 1.6 The budget making process in Kenya is an integral part of government planning and decision making, where Citizens participation is mandatory in both the National and County Governments level. The budget making process in Kenya includes formulation, approval, implementation and audit or evaluation. The Public Finance Management Act Regulations, 2015 Section 6 (2) provides that the County Treasury shall arrange for effective public participation during the development of the Annual Budget Estimate, including the publication of Citizens' budget which shall explain and summarize the budget proposals.

Key Dates for the Budget Process in Kenya

- 1.7 The budget making process begins from the month of August in each financial year to the month of June in the next calendar year. The key dates in the process are detailed below.
- i. **August 30:** The County Executive Committee Member (CECM) for Finance at the County must issue a circular to all County Departments advising them on how to prepare their budget requests for the year. The circular should also contain the budget formulation calendar for the year, including opportunities for public participation.
 - ii. **September 1:** Counties must prepare and table the Annual Development Plan in the County Assembly by this date. The plan must also be made public within 7 days and is the key planning document that guides the budget-making process for the next year.

- iii. **October 21:** After the Cabinet approval, the County Budget Review and Outlook Paper (CBROP) must be tabled in the County Assembly.
- iv. **February 28:** County Governments are expected to organize sector hearings which give various sectors an opportunity to discuss and decide on their priorities for the coming year, and to bid for additional resources from the budget. The public is expected to participate in these discussions and give its views on which sectors should receive more funding and for which purpose. The final decision about the total size of the budget and the distribution of funds across each sector is set in the County Fiscal Strategy Paper and it should be tabled in the County Assemblies by February 28, to be approved within two weeks.
- v. **April 30:** The County budget estimates are tabled in the Assembly. This is the detailed budget at program level. At this stage, the total budget and sector distribution should not be changed, but funds may be moved around between programs. The assemblies have two months to make these changes.
- vi. **Month of May:** This is when the County Assembly budget committees will begin to hold public hearings on the budget estimates, as a legal requirement.
- vii. **June 30:** End of the financial year. By this date, the County Appropriation Bills should be approved by the Assembly. This bill authorizes the government to spend against the budget from July 1, once enacted.

2.0 AUDIT APPROACH AND METHODOLOGY

Audit Objectives

2.1 The main objectives of the audit were: -

- i. To establish how Nairobi City County conducted public participation in the budget making process.
- ii. To assess the level of compliance with the legal requirements and determine the effectiveness of public participation in the budget making process.

Audit Scope

2.2 The scope of the audit was to assess the effectiveness of public participation in the budget making process in Nairobi City County for the 2021/2022 financial year. The audit was conducted from November 2021 to January 2022.

Scope Limitation

2.3 The scope of the audit was limited by;

- i. Availability of sufficient funds to conduct the audit in the County
- ii. The time-line within which the audit was to be conducted
- iii. The appropriate human resource and respondents from relevant stakeholders
- iv. The cooperation of the County Government in availing the required documents for verification.

Sampling Procedure and Size

2.4 The survey used purposive sampling technique where the auditor selected a sample based on the experience or knowledge of the group that is to be sampled. The survey was carried out in Nairobi City County based on overall budgetary allocation to County, regional balance and audit risks levels which were determined by governance issues raised in previous audit reports. The targeted population of this audit was County Executives and County Assemblies. In addition, a survey was administered on 112 Citizens.

Methods used to gather Audit Evidence

2.5 The audit was conducted in accordance with the Citizens Accountability Audit engagement procedures. The audit also used policies and procedures established by the Office of the Auditor-General. The following methodologies were used to understand the role of public participation in the budget making process; -

Document Review

2.6 The audit reviewed the Constitution of Kenya, 2010, Public Finance Management Act 2012, the County Governments Act, 2012 among other legislations on budget making as indicated in **Appendix II**, the review was aimed at obtaining in-depth understanding of public participation and budget making process in Kenya.

Interviews

2.7 The audit team conducted interviews with various stakeholders who may have participated in the County budget making process. The County of Nairobi budget allocation for the year under review was **Kshs.39,627,536,000**. A list of the stakeholders interviewed and the purpose for the interviews is as shown in **Appendix IV**.

Questionnaires

2.8 Survey questionnaires were administered to the sampled stakeholders and Citizens who were involved in the budget making process during the financial year 2021/2022, for tools administered to Key Informants and Duty Bearers as shown in **Appendix V**

Focus Group Discussions

2.9 Focus group discussions meetings were held with all the stakeholders. The discussion was guided by administration of questionnaires as shown in **Appendix VI**.

Engagement with Civil Society Organizations

2.10 Citizens Accountability Audit is a Citizens participatory audit where members of the public through Civil Society Organisations become part of the audit team. The Civil Society Organisations were identified through a rigorous criteria as stipulated in the approved Citizens Accountability Audit Operational Manual; Section 5.1.2. - Criteria of nomination of CSOs. The selected Civil Society Organisations were experts in County budget making processes and contributed by supporting the Office of the Auditor-Generals team in the audit process, mobilization of Citizens at the County levels for focus group discussions and interviews.

Desk Top Review

2.11 Desk top reviews on the budget making process in the County was done through analysing the budget documents and data to assess the level of compliance to the established legal requirements and the risk in the absorption of funds.

Experts Reports

2.12 The audit team collated and analysed data collected from the County to determine effectiveness of public participation in budget making process.

3.0 AUDIT FINDINGS

3.1 The audit observations in Nairobi City County on compliance with the legal requirements and the effectiveness of Public Participation in the budget making process for the financial year 2021/2022 are detailed below: -

Level of Compliance with Legal Requirements on Public Participation

3.2 In assessing the level of compliance, the audit focused on transparency, participation, accountability and availability of structures to enable effective public participation in the budget-making process.

Transparency in regard to Public Communication and Access to Information

3.3 Section 95 (1) of the County Governments Act, 2012 provides that a County Government shall establish mechanisms to facilitate public communication and access to information in the form of media with the widest public outreach in the county, which may include; television stations, information communication technology centers, websites, community radio stations, public meetings, and traditional media. Further, Section 95 (2) of the County Government Act, 2012 provides that County Governments shall encourage and facilitate other means of mass communication, including traditional media.

3.4 The audit made the following observation in regard to transparency in Public communication and access to information.

County Executive

3.5 The Executive had formulated all the statutory budget documents for public participation in the budget making process as detailed in Appendix II, for the financial year 2021/2022 which led to the subsequent approved of the County budget of Kshs. 39,627,536,000 as shown in table below: -

Table 1: Budget Allocation Nairobi City County

No.		Recurrent Kshs	Development Kshs	Total Kshs
1	EXECUTIVE	27,747,707,880	10,280,956,033	38,028,663,913
2	ASSEMBLY	1,545,872,087	53,000,000	1,598,872,087
Total Budget Allocation				39,627,536,000

3.6 That the Executive had uploaded seven out of the ten budget documents on their official website for public access on budget information. Uploaded budget documents were Finance Act 2021, budget circular and the Mwananchi Popular Version. It was noted that although the County had developed the budget circular, there was no evidence of publishing and publicizing the document.

3.7 Further, the County Executive did not facilitate special groups to access budget information as there was no braille version for visually impaired and sign language interpreters for the deaf.

County Assembly

3.8 The Assembly had received all the budget documents from the Executive and had uploaded budget document to the official website for public access. These included County Integrated Development Plan (CIDP), Annual Development Plan (ADP), County Financial Strategy Paper (CFSP) and Appropriation Bill. However, the County Budget Review and Outlook Paper (CBROP), Appropriation Act, approved County Budget Estimates and the Mwananchi popular budget version had not been uploaded on the official website which denied Citizens access budget information.

3.9 The assembly did not provide evidence of using alternative mechanism to facilitate public to access to budget information.

Public Participation

3.10 Section 125 (2) of the PFM Act, 2012 provides that the County Executive Committee Member for Finance should ensure Citizens participation in planning and budgeting. Section 7 (4) of the Public Finance Management (County Governments) Regulations, 2015 provides that for the purpose of public participation in the planning and budgeting process, there shall be participatory structure and processes that shall encompass a broad range of strategies including: - open forums, written submission, online platform and media. The regulation further stipulates that County Governments should specify the venue and date of public participation. In addition, the regulation requires that the County Executive Committee Member shall notify the public through a notice in the gazette or at least two newspapers of countywide circulation on the venue or manner of submitting written submissions.

3.11 The audit made the following observations in regard to Citizens participation.

County Executive

3.12 The Executive had invited Citizens for public participation during formulation of the County Fiscal Strategy Paper (CFSP) through a notice published on the County's website. The executive also used local administrative units, the Sub-County and the Ward Administrator's offices to mobilize Citizens to attend the public participation forums. However, it was noted that no register of records was maintained to show Citizens participation in the formulation of budget documents.

County Assembly

3.13 That the County Assembly had invited Citizens to submit memorandum on County Fiscal Strategy Paper for the financial year 2021/2022. However, it was observed that the County did not maintain register for submitted memorandum by the Citizens. It was further observed that Citizens were not involved during the approval for the Annual Development Plan, the County Budget Review Outlook Paper and the Budget Estimates. This denied Citizens opportunity to participate in the budget

making process. Focus Group Discussions with Citizens revealed that the County Supplementary budget was developed and approved without public participation.

3.14 Section 115(2) of the County Governments Act, 2012 provides that each County Assembly shall develop laws and regulations giving effect to the requirement for effective Citizens participation in development planning and performance management within the County and such laws and guidelines shall adhere to minimum national requirements.

3.15 The audit observed that the County Government had developed and enacted the Public Participation Act, 2015 to guide Public Participation. However, it had not been made operational by the time of the audit.

Enabling Structures for Public Participation

3.16 The audit reviewed structures established by the County Executive to facilitate public participation. These includes County Budget Economic Forum (CBEF), Sector Working Groups (SWGs) and Decentralized Units:

County Budget Economic Forum

3.17 Section 137 (2) (c), of the Public Finance Management Act, 2012, require Counties to establish the County Budget Economic Forum, whose composition includes professionals, business people, labour issues, women, Persons living with Disabilities, the elderly and Faith Based Groups.

3.18 Section 137 (3) (a) of the Public Management Act, 2012 states that CBEF is required to provide a means for consultation by the County Government for the preparation of County plans, the County Fiscal Strategy Paper and the Budget Review Outlook Paper and matters relating to budgeting the economy and financial management at the County level.

3.19 The audit observed that the County appointed members of the Nairobi City County Budget and Economic Forum (CBEF) through a notice in 2014. It was however noted that CBEF was constituted without a representative from Persons with Disabilities and that CBEF members were not involved during formulation of the County Fiscal Strategy Paper and the Budget Review and Outlook Paper. In addition, CBEF members had not held consultative meetings in contravention to Section 209 (2) of Public Finance Management (County Governments) Regulations, 2015 that provides that the forum shall meet at least twice a year and the Governor shall decide the time and the agenda for the meeting of the forum in consultation with other members of the forum.

Sector Working Groups

3.20 Section 128 (2) of the Public Finance Management Act, 2012, on budget making requires that Budget Circular be issued not later than August 30. The circular provides for the formation of the sector working groups. Nairobi City County Government Budget Circular No.1/2021 provides guidelines on the budget process and the formation of sector working groups.

3.21 Two sector-working groups, on Food, Agriculture and Forestry, and the Commerce, Tourism Trade and Co-operatives were engaged during the audit. It was noted that the Food, Agriculture and Forestry SWG comprised of various stakeholders, Community Based Organizations, Faith Based Organizations, associations, youth, women and farmers' groups, and international partners. It was however noted that there were, no representation of Persons with Disabilities.

3.22 The audit engaged Sector Working Groups who confirmed that they were involved in budget making process and had held sectoral meetings with Citizens through extension officers.

Decentralized Units

3.23 Section 48 (1) of the County Governments Act, 2012 requires County Governments to decentralize their functions and provision of services to Urban areas and Cities, Sub-Counties, wards and village units. The audit observed that the County Government had not decentralized units to enhance Citizens participation in the budget making process at the village levels.

Accountability in Response to Petitions and Challenges from Citizens

3.24 The Constitution of Kenya, 2010, Article 201(a) provides that there shall be openness and accountability, including public participation in financial matters. Section 89 of the County Governments Act, 2012, states that the County Government authorities, agencies and agents have a duty to respond expeditiously to petitions and challenges from Citizens.

3.25 The audit made the following observations in regard to response to Citizens' petitions and challenges

County Executive

3.26 The County Executive had not received any petitions from Citizens for inclusions during budget making process for the financial year 2021/2022. There were no records and reports on memoranda submitted by the Citizens. The audit noted the County did not have a structured feedback mechanism for responding to petitions and challenges from the Citizens.

County Assembly

3.27 The audit noted that the County Assembly developed structured processes for Citizens' engagement through public hearing, committees and submissions of petitions or memoranda. However, there were no records and register maintained on Citizens Memorandums.

Report and Responsibility Statement

3.28 Section 7 (4) of the Public Finance Management (County Governments) Regulations, 2015 required CECM for Finance to submit responsibility statements confirming the extent to which the general public was consulted particularly on the County Fiscal Strategy Paper and Sector Working Groups. At the time of the audit it was noted that CECM for Finance had not submitted a responsibility statement on public participation to the County Assembly.

3.29 Section 92 (2) of County Governments Act, 2012 further requires the Governor to submit an Annual Report to the County Assembly on Citizens participation in the affairs of the County. The audit observed that the Governor had not submitted the Annual Report to the County Assembly.

Effectiveness of Public Participation in the Budget Making Process

3.30 The audit interviewed 200 Citizens from Nairobi City County to assess effectiveness of public participation through focused group discussions and survey. The survey assessed effectiveness of public participation by evaluating level of Citizens awareness, actual participation and accountability in response to petitions.

Transparency in regard to Citizens Awareness on the Budget Making Process

3.31 Out of 200 Citizens interviewed, it was observed that 42 respondents were aware of the mandatory budget documents and 5 out of 42 Citizens had indicated they had accessed budget documents. The level of transparency in budget documents is detailed in Table 2.

Table 2: Level of Transparency of Budget Documents

Budget Documents	Awareness		Accessibility		Usefulness	
	Yes	No	Yes	No	Yes	No
CIDP	52	148	6	46	2	4
ADP	56	144	8	48	2	6
Budget Circular	46	154	6	40	2	4
Budget Estimates	52	148	8	44	2	6

Budget Documents	Awareness		Accessibility		Usefulness	
	Yes	No	Yes	No	Yes	No
CBROP	30	170	4	26	2	2
CFSP	36	164	4	32	2	2
CBP	44	156	4	40	2	2
Popular Version of Budget	26	174	2	24	2	0
Appropriation Act	34	166	4	30	2	2
Finance Act	44	156	6	38	2	4
Average	42	158	5	37	2	3
Average	42	158	5	37	2	3

Source: Audit team analysis of survey responses

3.32 The audit observed that there were low level of Citizens awareness and accessibility of budget information in the County. The following observations were from Citizens on the levels of awareness, accessibility and usefulness of budget documents: -

- i. The low levels of awareness and accessibility of the documents was due to lack of timely information, inappropriate communication channels and lack of interest.
- ii. Citizens who reported to have found the documents not useful indicated that the documents were bulky and complex to be understood by the public.

A resident from Kasarani shared that due to the usefulness of the document, they had developed a follow up petition.

A middle-aged man from Kawangware shared that he did not find the documents useful to him because they did not capture his interests as an individual working in the Jua Kali sector.

Public Participation

3.33 Out of the 200 Citizens interviewed, 170 were aware of the need to participate in the budget making process, with only 18 respondents indicating they had participated in the budget process. Only 2 Citizens were satisfied with the mechanism used for public participation: The results of the survey are detailed in **Table 3**.

Table 3: Awareness of Public Participation

Area of Survey	Yes	No	Total
Awareness	170	30	200
Actual Participation	18	152	170
Satisfaction	2	16	18

3.34 The audit observed that there was low level of Citizens participating in the budget process. The following were the respondent's reasons for the low public participation: -

- i. Lack of timely information on the timelines, venues and agendas for public participation meetings and inadequate mode of communication such as online submissions were not easily accessible.
- ii. Covid-19 restrictions and precautions and that the County had not established structure at the village/estate levels;

3.35 The audit further noted that the County Government did not provide adequate and alternative mechanisms for public participation during the COVID-19 restriction period.

Accountability in regard to Responses to Petitions and Challenges from Citizens

3.36 Out of the 200 Citizens interviewed only 14 participated and shared petitions during the budget making process. Two (2) respondents received feedback on their petitions and challenges. It was observed that 186 Citizens did not contribute during

the budget making process. Report on feedback mechanism is detailed in **Table 4** below.

Table 4: Report on Feedback Mechanism

Area of Assessment	Yes	No	Total
Contributions	14	186	200
Feedback	2	12	14
Satisfaction	1	1	2

3.37 The audit observed that there was low level of Citizens contribution to the budget process and lack of feedback mechanism to Citizens submissions on the budget. Failure by the citizens to give submissions was due to; -

- i. Lack of interest due to failure get feedback from the County in the previous years and lack of awareness on the feedback mechanisms;
- ii. The County did not engage special groups through the appropriate channels.

Conclusion

3.38 Budget making process in County for the financial year was not fully effective due to failure by the County to provide appropriate information regarding the agenda, date, time and venue for the process. Citizens involvement was also low due to failure to access budget documents and information. The audit further observed that the County had not decentralized units to the village levels. There were no structured feedback mechanisms for responding to citizens submissions. In view of the above findings, the audit concludes that the Nairobi City County Government was not fully compliant with the legal requirements on public participation.

The audit further concludes that the public participation at the County was not effective due to low level of citizens participation and failure by the County to establish feedback mechanisms on citizens submissions.

Recommendations

3.39 Public participation in the budget making process is a requirement by the Constitution of Kenya, 2010 and the enabling legislations. The audit identified weakness in creating awareness on the budget making the process, facilitating citizens involvement and issuing feedback to Citizens after participation. It is for these reasons that the Auditor-General recommends the following: -

- (i) The County Government should undertake legal and policy reforms in the operationalization of the Nairobi City County Public Participation Act, 2015.
- (ii) The County Government should comply with Section 48 (1) of the County Governments Act, 2012 on decentralization of functions and provisions of services at the village level. In compliance with the legal requirements the County Executive and Assembly should collaborate to ensure that the budget making process is structured and procedural to enable a meaningful participation by the public.
- (iii) The County Government should improve on the process of public participation by availing all the mandatory budget documents using accessible media, giving appropriate information on the agenda, venue, date and time during the budget making process.
- (iv) The County Government should consider partnering and collaborating with Civil Society Organizations (CSOs) in carrying out civic educations and simplification of the budget documents.
- (v) The County should maintain a register of documents detailing public engagement in the budget process including the public submissions and reports of citizens engagement as best practice.
- (vi) The County Government should use alternative channels of communication such as social media to disseminate information to the public during budget-making process.

4.0 LIST OF APPENDICES

APPENDIX I COUNTIES SAMPLED FOR THE AUDIT



No.	County
1.	Nairobi City
2.	Kiambu
3.	Kisii
4.	Homa Bay
5.	Kisumu
6.	Kakamega
7.	Narok
8.	Bungoma
9.	Elgeyo Marakwet
10.	Turkana
11.	Isiolo
12.	Meru
13.	Kirinyaga
14.	Nakuru
15.	Garissa
16.	Kilifi
17.	Mombasa
18.	Makueni

APPENDIX II-LEGAL AND INSTITUTIONAL FRAMEWORK ON PUBLIC PARTICIPATION

Reference in Legislation	Overall Legal, Regulatory and Institutional framework
ACCESS TO INFORMATION	
<p>Constitution of Kenya,</p> <p>County Government Act (County Government Act</p> <p>),</p> <p>Public Finance Management Act (PFMA)</p> <p>(Specifically Article 35 and 254:3)</p>	<p>County Governments should promote access to information for minorities, marginalized groups and communities.</p>
<p>County Government Act, Section 87</p>	<p>Provides for principles of public participation in Counties. The Principles are:</p> <p>a. Timely access to information, data, documents, and other information relevant or related to policy formulation and implementation;</p> <p>b. Reasonable access to the process of formulating and implementing policies, laws, and regulations, including the approval of development proposals, projects and budgets, the granting of permits and the establishment of specific performance standards;</p>

Reference in Legislation	Overall Legal, Regulatory and Institutional framework
	c. Protection and promotion of the interest and rights of minorities, marginalized groups and communities and their access to relevant information
County Government Act Section 95	County Governments should establish mechanisms to facilitate public communications and access to information with the widest public outreach using media, which may include: television stations, information communication technology centers, websites, community radio stations, public meetings; and traditional media.
Urban Areas and Cites Act 2011	County Governments should develop city-level interactive websites on which planning information will be posted and feedback received.
Constitution of Kenya, Article 35: Access to Information	35 (1) (a) —Every Citizens has the right of access to information held by the State. 35(3) – The state shall publish and publicize important information.
STRUCTURES FOR CITIZENS PARTICIPATION	

Reference in Legislation	Overall Legal, Regulatory and Institutional framework
Public Finance Management Act, Section 207	County Governments should create structures, mechanisms and guidelines for Citizens participation. The structures and guidelines should ensure participation is open to all without discrimination and have safeguards against domination of the consultations by one group.
Public Finance Management Act, Section 137	County Governments should establish County Budget and Economic Forums as a “means for consultation” by the County Government on plans and budgets.
Constitution of Kenya, Article 118: Public Access and Participation	Provides for public access and participation in sittings of Parliament and of its committees.
County Government Act, Section 48 (1)	The functions and provision of services of each County Government shall be decentralized to— (a) the urban areas and cities within the County established in accordance with the Urban Areas and Cities Act (No. 13 of 2011); (b) the sub-Counties equivalent to the constituencies within the County established under Article 89 of the Constitution; (c) the Wards within the County established under Article 89 of

Reference in Legislation	Overall Legal, Regulatory and Institutional framework
	the Constitution and section 26; (d) such number of village units in each County as may be determined by the County Assembly of the respective County; and (e) such other or further units as a County Government may determine
ENABLING LAWS	
COUNTY GOVERNMENT ACT Section 115 (2) And 47	Each County Assembly shall develop laws and regulations giving effect to the requirement for effective Citizens participation in development planning and performance management within the County and such laws and guidelines shall adhere to minimum national requirements.
Constitution of Kenya, Article 10: National Values and Principles of Governance	10(2) (a) —The national values and principles of governance include— Patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people
PUBLIC PARTICIPATION	
Public Finance Management Act, 2012 Section 125 (2)	County Executive Committee Member for Finance should ensure Citizens participation in planning and budgeting.

Reference in Legislation	Overall Legal, Regulatory and Institutional framework
County Government Act, Section 30 and 92	County Governors are responsible for promoting and facilitating Citizens participation in the development of policies and plans, delivering services, and for submitting an annual report to the County Assembly on Citizens participation in the affairs of the County Government.
Constitution of Kenya, Article 174: Objects of Devolution	174(c) —To give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting them. 174(d) —Empowers communities to manage their own affairs
Constitution of Kenya, Article 196: Public Participation and County Assembly Powers, Privileges and Immunities	196 (1) (b) —A County Assembly shall facilitate public participation and involvement in the legislative and other business of the Assembly and its committees
Constitution of Kenya, Article 201: Principles of Public Finance	201 —The following principles shall guide all aspects of public finance in the Republic— (a) there shall be openness and accountability, including public participation in financial matters

Reference in Legislation	Overall Legal, Regulatory and Institutional framework
Constitution of Kenya, Article 221(5): Budget Estimates and Annual Appropriation Bill	221 (5) —In discussing and reviewing the estimates, the committee shall seek representations from the public and the recommendations shall be taken into account when the committee makes its recommendations to the National Assembly
Constitution of Kenya, Fourth Schedule Part 2	The functions and powers of the County Governments are— 14. Ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level.
FEEDBACK MECHANISM AND COMPLAINTS HANDLING	
County Government Act Section 47 and 59, Public Finance Management Act, Section 48 and 139	County Governments should develop complaints (grievance redress mechanisms) which are followed up and have the confidence of Citizens. These should be based on common standards, with clear regulations and operational mechanisms.

Reference in Legislation	Overall Legal, Regulatory and Institutional framework
County Government Act Section 89	County Government authorities, agencies and agents have a duty to respond to petitions and challenges from Citizens. Public authorities should promote accountability; ensure that expenditure of public funds is subject to effective oversight; and promote informed debate on issues of public interest.
County Government Act Section 30.	The County Governor should publicly deliver an annual State of the County address.
PFM County Governments regulations section 7 (3)	The documents submitted to the County assembly and any other published documents shall be published and publicized within 7 days of presentation.
Public Finance Management Act, 2012 section 128 (2)	Not later than 30th August in each year the County executive committee member for finance shall issue a circular setting out guidelines to be followed by all County Governments entities in the budget process.

APPENDIX III-STATUTORY BUDGET DOCUMENTS

Document
Budget Circular
County Integrated Development Plan (CIDP)
Annual Development Plan (ADP)
County Fiscal Strategy Paper (CFSP)
County Budget Review Outlook Paper (CBROP)
Budget Estimates
County Budget Proposals
Popular Version
Appropriation Act
Finance Act

APPENDIX IV-STAKEHOLDERS INETERVIEW AS KEY INFORMANT

No.	People / Organizations Interviewed.	Purpose.
1.	Council of Governors (COG)	To understand the role of COG in the County budget making process and also how office of public participation in the COG assists Counties in public participation.
2.	Controller of Budget (COB)	To understand roles, in implementation and monitoring of the budgets of both national and County governments.
3.	Clerk of County Assembly	Understanding of the budget making process for Assembly and role in approvals of budgets,
4.	CECM Finance	To understand the budget making process from the inception by the executive till its presented to the County assembly.
5.	Sector Working Groups – Health & Agriculture	The inclusion of the sector working groups in the County budget making process.
6.	County Budget Economic Forum (CBEF)	To understand role of CBEF in budget process.
7.	County Economic Planning Team	To understand the County economic planning team, its composition and functions in the County budget making process.
8.	Citizens	To understand if the Citizens were involved in the County budget making process and if public participation was conducted, involvement and satisfaction during the budget making process as required by law.
9	The Civil Society Organizations (CSOs):	-For mobilization of the Citizens and facilitation and were part of the audit team. - For validation of the report.

APPENDIX V-DATA COLLECTION TOOLS - KEY INFORMANTS

QUALITY ASSURANCE

I certify that I have conducted the interview described above and that the information contained herein is accurate to the best of my knowledge and understanding.

Interviewer's Name: _____ (insert the assigned code)

Date of visit _____ Time of Visit _____

Interviewer's Telephone Number: _____

Signed: _____

Key Informant Interview Tool - Council of Governors

Instruction for the Interviewer:

Explain who you are, and the purpose of your interview.

Ensure to get copies of all documentation referred to in the discussion.

Have someone to record the answers and discussions for each question separate from the moderator of the discussion.

General Project Information

Area of assessment	Budget Making Process
Institution	Council of Governors
Informant Name and Designation (Finance, Planning & Economic Affairs Committee)	
Venue	
Date of visit (date, month and year)	

Background

Establishment	Role
<p>The Council of County Governors (COG) is established under Section 19 of the Intergovernmental Relations Act (IGRA 2012).</p> <p>Consist of the governors of the forty-seven Counties.</p>	<p>Main functions:</p> <p>Promotion of visionary leadership; sharing of best practices.</p> <p>Offer a collective voice on policy issues; promote inter – County consultations.</p> <p>Encourage and initiate information sharing on the performance of County</p>

Establishment	Role
	<p>Governments with regard to the execution of their functions.</p> <p>Collective consultation on matters of interest to County Governments.</p>

Questions for informant

Role	<p>Does the Council of Governors have a role in the budget making process?</p> <p>If, yes, what is their role?</p> <p>Is there documentation available documenting their role?</p> <p>What role did the Council of Governors play in the 2021/22 budget making process?</p> <p>What role does the Council of Governors have regarding public participation?</p> <p>How does the supplementary budget process ensure that there is public participation?</p> <p>What is the effect of the supplementary budget process to the entire budget process and final allocations and utilization of resources?</p> <p>How did COVID-19 affect the effectiveness of public participation in the budget making process?</p> <p>What can be done to ensure effective public participation in the budget making process in the context of COVID-19?</p> <p>What is the status of Counties development of the public participation law?</p> <p>How has the COG followed up on the implementation of the public participation guidelines?</p>
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General Comments	<p>What are some of the challenges you encounter in ensuring effective public participation in the budget making process?</p> <p>What are some of the opportunities available to ensure effective public participation in the budget making process?</p> <p>What are the recommendations you would make to ensure effective public participation in the budget making process at County level?</p>
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DATA COLLECTION TOOLS - DUTY BEARER

Quality Assurance

I certify that I have conducted the interview described above and that the information contained herein is accurate to the best of my knowledge and understanding.

Interviewer's Name: _____ (insert the assigned _____)
Date _____ of _____ visit _____ Time _____

Interviewer's Telephone Number: _____ Signed: _____

Compliance Assessment Tool - Duty Bearer

Instruction for the Interviewer:

Explain who you are, and the purpose of your interview.

Ensure to get approved copies of all documentation required or referred to in the assessment.

Select the correct answer using numbers or a tick in the box. Write other answers very clearly. Take additional notes.

Seek evidence where relevant.

General Project Information

Area of assessment	Budget Making Process
County	
Office responsible	County Treasury - CEC Finance
Period for assessment	FY 2021/22
Date of visit (date, month and year)	

Scale of Assessment

3.1 Scope	To examine the effectiveness of public participation in the budget making process in 17 Counties for the 2021/22 financial year.
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3.2 Objectives	<p>To access the level of compliance to legal requirements in the budget making process.</p> <p>To examine the effectiveness of public participation in the budget making process.</p>
3.3 Scale	<p>The effectiveness to which the County Government has ensured transparency, public participation and accountability in the budget making process.</p> <p>Non-compliance (no mechanisms for civic engagement)</p> <p>Partial compliance (not all docs available or not availed to Citizens)</p> <p>Compliant (with mechanisms for public access or engagement)</p> <p>Fully compliant with extra effort (compliant with extra effort to enable access or engagement with special interest groups- PWD, Youth, Women)</p>

Assessment

No.	Area of Assessment	Process	Documents	No. of Points	Comments
	Transparency - How has the County Executive complied to the Access to Information law provisions?	Formulation	CIDP		
	Not available – 0 Points		ADP		
	Available but incomplete – 1 Point		Circular		
	Available and accessible to the public – 2 Points		CBROP		
	Available with additional effort to reach the public		CFSP		

No	Area of Assessment	Process	Documents	No. of Points	Comments
	(PWD considerations) – 3 Points		County Budget Proposals/Estimates		
		Approval	Enacted Budget/Appropriation Act		
			County Finance Act		
			Popular Version / Mwananchi Friendly		
	<p>Participation - How has the County Executive complied to legal requirements on Public Participation?</p> <p>Non-compliance (no mechanisms for civic engagement) – 0 Points</p> <p>Partial compliance (not all docs available or not availed to Citizens) – 1 Point</p> <p>Compliant (with mechanisms for public access or engagement) – 2 Points</p>	Formulation	Notice / Advert		
			Online-Website and Social Media		
			Email		
			Other avenues		
			No. of participants		

No .	Area of Assessment	Process	Documents	No. of Points	Comments
	Fully compliant with extra effort (compliant with extra effort to enable access or engagement with special interest groups- PWD, Youth, Women) – 3 Points	Approval	/List of participants		
			Notice / Advert		
			Online-Website and Social Media		
			Email		
			Other avenues		
			No. of participants /List of participants		
	<p>Accountability - How has the County Executive complied with requirements on accountability to Citizens?</p> <p>Not available – 0 Points</p> <p>Available but incomplete – 1 Point</p> <p>Available and accessible to the public – 2 Points</p>	Formulation	Reports on inclusion of Citizens input		
			Issues included		
			Issues Excluded		
			Comments		

No	Area of Assessment	Process	Documents	No. of Points	Comments
	Available with additional effort to reach the public (PWD considerations) – 3 Points				
		Approval	Final approved budget		
			Mwananchi Budget		
		Complaints Feedback	Mechanisms		
			Register of reports		
			Resolution of issues		
	Structures established for public participation by the County Government Not available – 0 Points Available but incomplete – 1 Point Available and accessible to the public – 2 Points Available with additional effort to reach the public	Avenues available	CBEF		
			Sector working groups		
			Decentralized units		
			Other		

No .	Area of Assessment	Process	Documents	No. of Points	Comments
	(PWD considerations) – 3 Points				
	What mechanisms did the County Government put in place in the context of the COVID-19 Pandemic or other occurrences that affected public participation in the budget making process? Not available – 0 Points Available but incomplete – 1 Point Available and accessible to the public – 2 Points Available with additional effort to reach the public (PWD considerations) – 3 Points		Access to information		
			Public Participation		
			Complaints and feedback mechanisms		
Total Points			Out of 102		%

General Comments and recommendations from the duty bearer

Challenges	Opportunities	Recommendations
General comments		

Quality Assurance

I certify that I conducted the assessment above and that the information contained herein is accurate to the best of my knowledge and understanding.

OAG Interviewer's Name:	CSO Rep Interviewer's Name:
Signed: _____	
Signed: _____	
Date of visit _____	Time of Visit _____
Interviewer's Telephone Number: _____	
Note: To be accompanied by an attendance list and minutes for this interview.	

Compliance Assessment Tool - Duty Bearer

Instruction for the Interviewer:

Explain who you are, and the purpose of your interview.

Ensure to get approved copies of all documentation required or referred to in the assessment.

Select the correct answer using numbers or a tick in the box. Write other answers very clearly. Take additional notes.

Seek evidence where relevant.

General Project Information

Area of assessment	Budget Making Process
County	
Office responsible	County Assembly
Period for assessment	FY 2021/22
Date of visit (date, month and year)	

Scale of Assessment

3.1 Scope	To examine the effectiveness of public participation in the budget making process in 17 Counties for the 2021/22 financial year.
3.2 Objectives	<p>To assess the level of compliance to legal requirements in the budget making process.</p> <p>To examine the effectiveness of public participation in the budget making process.</p>

3.3 Scale	<p>The effectiveness to which the County Government has ensured transparency, public participation and accountability in the budget making process</p> <p>Non-compliance (no mechanisms for civic engagement)</p> <p>Partial compliance (not all docs available or not availed to Citizens)</p> <p>Compliant (with mechanisms for public access or engagement)</p> <p>Fully compliant with extra effort (compliant with extra effort to enable access or engagement with special interest groups- PWD, Youth, Women)</p>
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Assessment

No.	Area of Assessment	Process	Documents	No. of Points	Comments/Basis for Rating
	<p>Transparency - How has the County Assembly complied to the Access to Information law provisions?</p> <p>Not available – 0 Points</p> <p>Available but incomplete – 1 Point</p> <p>Available and accessible to the public – 2 Points</p> <p>Available with additional effort to reach the public (PWD considerations) – 3 Points</p>	Formulation	CIDP		
			ADP		
			CBROP		
			CFSP		
			County Budget Proposals/Estimates		
		Approval	Enacted Budget/Appropriation Act		

N o.	Area of Assessment	Process	Documents	No. of Point s	Comments/Ba sis for Rating
			County Finance Act		
			Popular Version /wananchi Friendly		
	<p>Participation - How has the County Assembly complied to legal requirements on Public Participation?</p> <p>Non-compliance (no mechanisms for civic engagement) – 0 Points</p> <p>Partial compliance (not all docs available or not availed to Citizens) – 1 Point</p> <p>Compliant (with mechanisms for public access or engagement) – 2 Points</p> <p>Fully compliant with extra effort (compliant with extra effort to enable access or engagement with special interest groups-PWD, Youth, Women) – 3 Points</p>	Formulation	Notice / Advert		
			Online-Website and Social Media		
			Email		
			Other avenues		
			No. of participants /List of participants		
		Approval	Notice / Advert		
			Online-Website and Social Media		
			Email		

N o.	Area of Assessment	Process	Documents	No. of Point s	Comments/Ba sis for Rating
			Other avenues		
			No. of participants /List of participants		
	<p>Accountability - How has the County Assembly complied with requirements on accountability to Citizens ?</p> <p>Not available – 0 Points</p> <p>Available but incomplete – 1 Point</p> <p>Available and accessible to the public – 2 Points</p> <p>Available with additional effort to reach the public (PWD considerations) – 3 Points</p>	Formulation	Reports on inclusion of Citizens input		
			Issues included		
			Issues Excluded		
			Comments		
		Approval	Final approved budget		
			Mwananchi Budget		

N o.	Area of Assessment	Process	Documents	No. of Points	Comments/Basis for Rating
		Complaints Feedback	Mechanisms		
			Register of reports		
	<p>Structures established for public participation by the County Assembly</p> <p>Not available – 0 Points</p> <p>Available but incomplete – 1 Point</p> <p>Available and accessible to the public – 2 Points</p> <p>Available with additional effort to reach the public (PWD considerations) – 3 Points</p>	Avenues available	At the Assembly		
			Decentralized units		
			Other		
	What mechanisms did the County Assembly put in place in the context of the COVID-19 Pandemic or other occurrences that affected public participation in the		Access to information		
			Public Participation		
			Complaints and feedback mechanisms		

N o.	Area of Assessment	Process	Documents	No. of Point s	Comments/Ba sis for Rating
	budget making process? Not available – 0 Points Available but incomplete – 1 Point Available and accessible to the public – 2 Points Available with additional effort to reach the public (PWD considerations) – 3 Points				
Total Points			Out of 96		%

General Comments and recommendations from the duty bearer

Challenges	Opportunities	Recommendations
General comments		

APPENDIX VI-DATA COLLECTION TOOL - FOCUS GROUP DISCUSSION

Quality assurance

I certify that I conducted the assessment above and that the information contained herein is accurate to the best of my knowledge and understanding.

OAG Interviewer's Name:	CSO Rep Interviewer's Name:
Signed: _____	Signed: _____
Date of visit _____ Time of Visit _____	
Interviewer's Telephone Number: _____	
Note: To be accompanied by an attendance list and minutes for this interview.	

Focused Group Discussion Tool - County Budget & Economic Forum

Instruction for the Interviewer:

Explain who you are, and the purpose of your interview.

Ensure to get copies of all documentation referred to in the discussion.

Inclusivity – ensure that the group is as inclusive as possible where applicable.

Have a list of participants attached.

Inform participants of recording of deliberations including taking of photos.

Have someone to record the answers and discussions for each question separate from the moderator of the discussion.

General Project Information

Area of assessment	Budget Making Process
County	
Group	County Budget and Economic Forum
Venue	
Date of visit (date, month and year)	

Background information

Establishment and Membership	Functions
Establishment of County budget and economic forum for County budget	

Establishment and Membership	Functions
consultation process (The Public Finance Management Act 2012, Section 137):	(3) The purpose of the Forum is to provide a means for consultation by the County Government on—
<p>The County Budget and Economic Forum shall consist of—</p> <p>(a) the Governor of the County who shall be the chairperson;</p> <p>(b) other members of the County Executive committee;</p> <p>(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 organizations representing professionals, business, labour issues, women, persons with disabilities, the elderly and faith-based groups at the County level.</p>	<p>(a) preparation of County plans, the County Fiscal Strategy Paper and the Budget Review and Outlook Paper for the County; and</p> <p>(b) matters relating to budgeting, the economy and financial management at the County level.</p>

Questions for discussion

Composition	<p>How were members of this CBEF identified and who do the members represent?</p> <p>Are interest groups represented (Women, PWD, Youth, Elderly, Children)? Which ones, and who are their representatives?</p> <p>How are interests of the special interest groups not represented catered for in the budget making process?</p> <p>What are the mechanisms for consultations between the CBEF members and their constituents? (feedback mechanisms)</p>
Functions	<p>How do you (CBEF) members carryout your functions?</p> <p>Have you been inducted on your roles and functions? By whom and when?</p> <p>What role did you play in the budget making process of 2021/22?</p>

	<p>Formulation stage</p> <p>Approval stage</p> <p>How have you ensured that Citizens have timely access to documents (the County Fiscal Strategy Paper and the Budget Review and Outlook Paper for the County, ADP) required in the budget making process?</p> <p>How have you ensured that Citizen participate in the budget making process (mechanisms, policies, legislations, processes etc.)?</p> <p>How have you ensured consideration and inclusion of Citizen's needs in the budget making process?</p> <p>What mechanisms have you put in place to give feedback to Citizens about their input in the budget making process?</p> <p>Did COVID-19 affect Citizens participation in the budget making process? Please explain including the measures put in place to ensure effective public participation.</p> <p>What can be done to ensure effective public participation in the budget making process in the context of COVID-19?</p> <p>Is CBEF engaged in the supplementary budget process? If yes, how?</p> <p>What was the effect of the supplementary budget on the approved budget for 2021/22?</p> <p>Were CBEF activities affected because of the supplementary budget?</p> <p>Does the supplementary budget process ensure that there is public participation?</p>
General Comments	<p>What are some of the foremost challenges you have faced in trying to ensure that there is public participation in the budget making process?</p> <p>What are the existing opportunities available to ensure effective public participation in the budget making process?</p>

	<p>What are the recommendations you would make to ensure effective public participation in the budget making process and what capacity gaps are there?</p> <p>What opportunities exist for strengthening CBEF, as an avenue for Citizens participation?</p>
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Quality assurance

I certify that I have conducted the interview described above and that the information contained herein is accurate to the best of my knowledge and understanding.

OAG Interviewer's Name:	CSO Rep Interviewer's Name:
Signed: _____	Signed: _____
Date of visit _____ Time of Visit _____	
Interviewer's Telephone Number: _____	
Note: To be accompanied by an attendance list and minutes for this interview.	

Focused Group Discussion Tool - Sector Working Groups

Instruction for the Interviewer

Explain who you are, and the purpose of your interview.

Ensure to get copies of all documentation referred to in the discussion.

Inclusivity – ensure that the group is as inclusive as possible where applicable.

Have a list of participants attached.

Inform participants of recording of deliberations including taking of photos

Have someone to record the answers and discussions for each question separate from the moderator of the discussion.

General Project Information

Area of assessment	Budget Making Process
County	
Group (Sector Working Group)	Agriculture
Venue	
Date of visit (date, month and year)	08/12/2021

Background information

Establishment and Membership	Functions
<p>Sector Working Groups</p> <p>Agriculture, Rural and Urban Development</p> <p>Energy, Infrastructure, and ICT</p> <p>General Economic and Commercial Affairs</p> <p>Health</p> <p>Education</p> <p>Governance, Justice, Law and Order</p> <p>Public Administration and Public Relations</p> <p>National Security</p> <p>Social Protection, Culture and Recreation</p> <p>Environment Protection, Water and Natural Resource</p> <p>Membership</p> <p>Chairperson appointed by the accounting Officers from the sector</p> <p>Sector convener – appointed by the National Treasury</p> <p>Technical Working Group – Appointed by the SWG</p> <p>A SWG Secretariat – appointed by individual accounting officers</p> <p>Representation from development partners</p> <p>Representation from private sector</p>	<p>Review sector strategies</p> <p>Policy, legal and institutional reforms required</p> <p>List of projects and level of funding</p> <p>Analyze cost implications for suggested programmes</p> <p>Prioritize sector programmes and allocate resources</p> <p>Public Private Partnerships frameworks</p> <p>Rescheduling of projects</p> <p>Develop sector reports</p> <p>Engage stakeholders in the budget process</p>

Questions for discussion

Composition	Who are represented in this SWG?
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	<p>Are there any special interest groups represented and how does the SWG ensure their interests are catered for in the budget making process (Civil groups e.g. unions, CBOs, Women, Youth etc.)?</p> <p>(interviewer should access the list of the composition of the SWG during the administration of the tool)</p> <p>If none, how does the SWG plan to include them?</p>
Functions	<p>How does the SWG carryout their functions?</p> <p>What role did the SWG play in the budget making process of FY 2021/22?</p> <p>Which stakeholders have the SWG identified?</p> <p>How did the SWG ensure that different stakeholders were engaged in the budget making process of FY 2021/22?</p> <p>How has the SWG ensured consideration and inclusion of Citizens 's needs in the budget making process?</p> <p>Were the priorities proposed by the SWG captured in the budget documents (CFSP, Budget estimates?</p> <p>What mechanisms did the SWG put in place to give feedback to stakeholders about their input in the budget making process?</p> <p>What is the effect of the supplementary budget process to the entire budget process and are sector priorities affected by the supplementary budgets?</p> <p>Did COVID-19 affect the effectiveness of public participation for the SWG in the budget making process?</p> <p>What has the SWG done to sustain public participation in the context of COVID-19 pandemic?</p>
General Comments	<p>What are some of the foremost challenges you have faced in trying to ensure that there is public participation in the budget making process?</p> <p>What kind of support have you received from the County?</p>

	<p>What are the existing opportunities available to ensure effective public participation in the budget making process?</p> <p>What are the recommendations you would make to ensure effective public participation in the budget making process for SWGs?</p>
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Quality assurance

I certify that I have conducted the interview described above and that the information contained herein is accurate to the best of my knowledge and understanding.

<p>OAG Interviewer's Name:</p> <p>Signed: _____</p>	<p>CSO Rep Interviewer's Name:</p> <p>Signed: _____</p>
<p>Date _____ of visit _____ Time _____ of Visit _____</p> <p>Interviewer's Telephone Number: _____</p> <p>Note: To be accompanied by an attendance list, minutes for this interview and the recordings</p>	

Focused Group Discussion Tool - Citizens Groups and Civil Society Organizations and Private Sector

Instruction for the Interviewer:

Explain who you are, and the purpose of your interview.

Ensure to get copies of all documentation referred to in the discussion.

Inclusivity – ensure that the group is as inclusive as possible where applicable.

Have a list of participants attached.

Inform participants of recording of deliberations including taking of photos.

Have someone to record the answers and discussions for each question separate from the moderator of the discussion.

General Project Information

Area of assessment	Budget Making Process
County	
Group (Citizens Groups and Civil Society Organizations and Private Sector)	

Venue	
Date of visit (date, month and year)	

Questions for discussion

Awareness	<p>Are Citizens aware of their role in the budget making process? Explain</p> <p>What are the Citizens' expectations from public participation in the budget making process?</p> <p>What have Citizens done to ensure that they are prepared to effectively participate in the budget making process?</p>
Participation	<p>How did Citizens participate in the budget making process of 2021/22? Explain</p> <p>Formulation</p> <p>Approval stage</p>
Accountability	<p>Do Citizens get feedback on their participation in the budget making process? Explain (is this from the websites, emails etc.)</p> <p>How timely do you get the feedback?</p> <p>Are there grievance redress mechanisms? Please explain</p>
Impact	<p>Was there any impact of public participation in the 2021/22 budget making process?</p> <p>Is there public participation in the process of developing the supplementary budgets? Explain</p> <p>What is the effect of the supplementary budget process on the priorities/ proposals submitted by the CSOs and Citizens groups to the entire budget process and final allocations and utilization of resources?</p> <p>How did COVID-19 affect the effectiveness of public participation in the budget making process? Explain...</p> <p>What did your County do to sustain public participation during the COVID-19 period?</p> <p>What can be done to ensure effective public participation in the budget making process in the context of COVID-19?</p>
General Comments	<p>What are some of the foremost challenges facing effective public participation in the budget making process?</p> <p>What are the existing opportunities available to ensure effective public participation in the budget making process?</p> <p>What are the recommendations you would make to ensure effective public participation in the budget making process?</p>

Quality assurance

OAG Interviewer's Name: Signed: _____	CSO Rep Interviewer's Name: Signed: _____
Date of visit _____ Time of Visit _____	
Interviewer's Telephone Number: _____ Note: To be accompanied by an attendance list and minutes for this interview.	

No .	Area of Assessment	Process	Documents	Are you aware of the following documents in the budget making process? (Yes/No)	Have you accessed any of the following documents in the budget making process? (Yes/No)	Were the documents you accessed in the budget making process useful to enable you participate effectively ? (Yes/No)
	Transparency Awareness Accessibility Usefulness	Formulation stage	CIDP			
			ADP			
			Circular			
			Budget Estimates			
			Comments			
			Where did you access the information?			
			Comments on usefulness of the documents			
			CBROP			
			CFSP			
			County Budget Proposal			
			Popular version			
			Comments Where did you access the information?			

			Comments on usefulness of the documents			
		Approval stage	Enacted Budget/Appro priation Act			
			Finance Act			
			Comments Where did you access the information?			
			Comments on usefulness of the documents			
	Participation Awareness Actual participation Level of satisfaction	Formulation stage		Are you aware that you are supposed to participate in the budget making process? (Yes/No)	Did you participate in the budget making process of 2021/22? (Yes/No) If yes, how?	Was the mechanism adopted by the County Government on public participation in the budget making process adequate ? (Yes/No)
			Comments:			
			What were your reasons for not participating?			

			Comment on suitability of PP mechanism			
		Approval stage	Comments			
	Accountability Contribution Feedback Satisfaction			Did you make any specific contribution/views in the budget making process? (Yes/No)	Did you get any feedback on your contribution s? (Yes No I don't know)	Were you satisfied with the outcome of public participation process in the budget making process? (Yes/No)
		Formulation	Yes/No			
			Comments	Please provide evidence if available:		
			Yes/No			
			Comments	Please provide evidence if available:		
		Approval	Yes/No			
			Comments	Please provide evidence if available:		
		Complaints / Feedback	Are you aware of any complaints or feedback mechanisms on the budget making process?	Yes	No	
				Comment:		
			If yes above, have you used any of those mechanisms	Yes	No	
				Comment:		

			to give feedback or complain?	
			How would you rate the feedback mechanisms	Very dissatisfied <input type="checkbox"/> Dissatisfied <input type="checkbox"/> Satisfied <input type="checkbox"/> - Neither satisfied nor dissatisfied - Satisfied - Very Satisfied -
	Impact (For all including those who did not participate) Expectations Satisfaction	For those who participated, were any of your suggestions included?	(Yes/No)	If yes, what and do you have any evidence of this?
		Were your needs captured in the budget or your County Government prioritization?	(Yes No)	If yes, which ones? If no, which ones?
		Do you agree with items/projects prioritized in the final budget?	(Yes No)	If yes, which ones? If no, which ones?
		How would you rate your satisfaction with the budget making process in your County?	Very dissatisfied <input type="checkbox"/> Dissatisfied <input type="checkbox"/> Satisfied <input type="checkbox"/> - Satisfied <input type="checkbox"/> Very Satisfied <input type="checkbox"/>	
		Comments		
	COVID-19 Did the COVID-19 Pandemic affect your ability to effectively participate in the budget making process?	Yes/No	Comment:	

	Are you aware of any measures the County Government has put in place in the context of COVID-19?	Yes/No	Comment:
	How would you rate the County Government on their measures for effective public participation in the context of COVID-19?	Yes/No	

Survey Assessment Tool - Right Holder

Instruction for the Interviewer:

Explain who you are, and the purpose of your interview.

Ensure to get copies of all documentation required or referred to in the survey.

The minimum requirement to interview at least _ no. of Citizens (With a 50% representation of both male and female respondents where applicable).

Inclusivity – ensure representation of PWDs, and representation of youth covering a diversity of the Citizens in the locality.

Interviews must be conducted in the Counties and sub-Counties and wards as represented in the tool.

Select the correct answer using numbers or a tick in the box. Write other answers very clearly.

General Project Information

Area of assessment	Budget Making Process
County	
Sub-County	
Ward	
Date of visit (date, month and year)	

Assessment

General Comments and recommendations

Challenges	Opportunities	Recommendations
General Comments		

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Respondent's details

{Make sure you include details of Key respondents interviewed in the field in the table below} (This information will remain in the custody of the office of the Auditor-General and will be used for quality control purposes only).

Name of the Respondent For internal use only (Interviewees not comfortable to share may be exempt)	Tel No:	Gender (Select)	Age	Level of Education	Special groups (egg. PWD)
		M F	18 -	None	
				Primary	
			36 -	Secondary	
			50	Tertiary	
			Over 50	Degree	

Quality assurance

I certify that I have conducted the interview described above and that the information contained herein is accurate to the best of my knowledge and understanding.

Interviewer's Name:

(insert the as

Code)

Date of visit _____

Time of Visit _____

Interviewer's Telephone Number: _____

Signed:

CONTACTS

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