



COUNTY ASSEMBLY OF KISUMU

DEBT AND PENDING BILLS POLICY

JULY, 2022



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PREFACE

The formulation of a comprehensive Debt and Pending Bills Policy has come at the right time for the County Assembly of Kisumu when there has been a concern over the rising pending bills at the national and county levels. It also comes at a time when the Parliament (Senate of Kenya) is processing Prompt Payment Bill of 2021 that if signed into law will guide the payment of bills for goods, services, and contract workers delivered to the county assemblies. The policy will play an important role in guiding the management of debts and pending bills for maximum benefits and minimization of costs and risks.

The County Assembly of Kisumu (CAK) plays oversight, legislation and representation having been created among the forty seven counties in Kenya. In the process of carrying out its mandate, the county assembly contracts external suppliers and contractors for goods, services, and works. However, with insufficient financial resources caused by delayed disbursement from the National Treasury, the County Assembly may get into short-term loans in the form of bank overdrafts or pending bills.

Debts and pending bills affects efficient operations of the assembly in its efforts to perform its constitutional mandate of representation, legislation, and oversight. Pending bills may also affect the relationship of the county assembly with the bankers, suppliers, and contractors as they lead to litigations that may be costly. The legal actions from suppliers or contractors may also derail the delivery of services to the people. In response to debts and pending bills and its impact with a view to mitigating the risks associated with bills, the CAK has developed a Debt and Pending Bills policy that will support the management of the unpaid bills.

The management of debt and pending bills in the County assembly shall be guided by the need of fairness, transparency, and accountability. Implementation of the policy will enhance efficiency of service delivery in the county assembly. The County Assembly therefore encourages all to adopt the policy in an effort to ensure it addresses all the pending bills in a cost-effective manner and reduce possible disputes or litigations that may arise from the pending bills or debts.

OWEN OJUOK

CLERK, COUNTY ASSEMBLY OF KISUMU

ACRONYMS AND ABBREVIATIONS

| | |
|-------|--|
| CRA | Commission of Revenue Allocation |
| CAK | County Assembly of Kisumu |
| CASB | County Assembly Services Board |
| COK | Constitution of Kenya |
| IFMIS | Integrated Financial Management Information System |
| NHIF | National Hospital Insurance Fund |
| NSSF | National Social Security Fund |
| PAYE | Pay As You Earn |
| PFMA | Public Finance Management Act |
| PPAD | Public Procurement and Asset Disposal Act |
| PSASB | Public Sector Accounting Standards Board |
| LSO | Local Service Order |
| LPO | Local Purchase Order |
| VAT | Value Added Tax |
| WHT | Withholding Tax |

1.0. INTRODUCTION

1.1. Overview

The County Assembly of Kisumu manages and implements financial management system from the funds received from the Exchequer through the county revenue fund and disbursed through the Executive arm of the county government.

The funds are received for the implementation of its mandate of oversight, representation, and legislation as provided by the Constitution and County Government Act of 2012. The County Assembly prepares its budget, which is based on the ceilings as advised and appropriated by the Commission of Revenue Allocation (CRA) of Kenya.

In the course of budget implementation by the County Assembly, constraints are normally experienced which may affect the cash flow position of the assembly. The funding challenges arise from the delays in disbursement of funds during the budget period, non-remittance of allocated funds at the year end, pressing work demands, which may call for commitments to with promise of future payments when funds are received.

The County Assembly also experience the challenge of matching cash flows with the budget and procurement plans as financing may not be realized as provided for in the budget.

The imbalance between the cash flows disbursement and the need to implement the budget may cause or lead to the need for short-term debt financing through loans or commitment of budget through Local Service Orders (LSOs), Local Purchase Orders (LPOs), or contracts that may be paid later as funds are received.

In order to address the cash flow challenges which lead to short term loans, debts and pending bills, the County Assembly of Kisumu has prepared a debt and pending bills policy to guide its management aspect of these liabilities. The policy is aimed at supporting operations that manage debts and pending

bills at sustainable levels and to reduce risks which are associated with accumulation of bills in the County Assembly.

1.2. Policy Statement

The county assembly shall only undertake short-term borrowing in the form of bank overdrafts or equivalent for the management of cash flows such as payment of salaries or operations. The debt shall not exceed five percent (5%) of the most recent audited county assembly's revenue.

The county assembly shall prioritize the payment of all eligible pending bills and debts as and when funds become available. The eligible pending bills are defined under this policy as the invoices raised for goods or services delivered or works completed to satisfactory levels as required under the contract terms. The bills must only apply for the budgeted works, goods, or services and for which the county assembly committed through the issuance of LSOs or LPOs and contracts to the suppliers.

1.3. Purpose of the Policy

The policy provides guidance on raising short-term funds to meet cash flow needs of the county assembly and managing the debt levels and unpaid bills levels at low costs and minimum level of risks for uninterrupted discharge of its mandate to the public. It seeks to promote good working relationship and confidence of the stakeholders on the county assembly in its financial commitments.

The policy is anchored in the Constitution of Kenya 2010, Public Finance Management Act of 2012, Public Procurement and Asset Disposal Act, and County Government Act of 2012. Specifically, it is based on the principles of accountability, transparency, and prudence in contracting for goods, services, and works, and overdrawing its accounts to support efficient service delivery.

As the accounting officer of the county assembly, the Clerk shall be responsible for the daily operations and management of debts and pending bills in the assembly. Such roles shall include but not limited to sourcing of required funds, negotiating and processing of bank overdrafts when necessary, approval of the disbursements and settlement of pending bills and overdraft services. The clerk or any other designated officer shall also maintain a public debt and pending bills register, undertake a periodic analysis of the debt and pending bills sustainability, and provide information on the level of public debt and borrowing.

1.4. Objectives of the Debt and Pending Bills Policy

The debt and pending bills policy shall help the County Assembly of Kisumu achieve the following objectives.

- Reduce the litigations and legal costs arising from non-payment of debts and pending bills.
- Ensure non-disruption of service delivery or timely delivery of services to the citizens the assembly serves.
- Ensure timely payment of supplier, employees, contractual obligations, or any other obligations arising from the provision of goods, services, and contract works to the county assembly.
- Enhance good relationship and confidence with financial institutions that provide the county assembly with short-term loans for its cash flow needs.
- Win the public confidence in the management of the financial affairs of the county assembly.
- Ensure efficient service to staff and members through the prompt payment of their obligations.
- Safeguard the assets and resources of the county assembly from attachments that could lead to losses.
- Enhance stability of the suppliers' economic activity through regular payments of pending bills.

- Ensure compliance with the requirements of relevant statutory bodies such as Kenya Revenue Authority, National Hospital Insurance Fund, and National Social Security Fund through timely remittance of employee deductions.

1.5. Ethical Principles and Legal Basis for Borrowing

Subject to the provisions of the PFM Act, the county assembly may borrow short-term loans or undertake bank overdrafts for purposes of its cash flow management. The clerk or any other authorized person may approve raising of short-term loans on behalf of the assembly and upon approval by the CASB. The management of debt and pending bills by the county assembly shall be guided by the overarching principles of transparency and accountability. The following principles will apply to the management of debt and pending bills.

- a) There will be openness and accountability in the borrowing and management of pending bills in the county assembly.
- b) The debt and pending bills management will seek to promote an equitable society and good relationship with both the internal and external stakeholders.
- c) The burdens and benefits of the uses of resources from short-term borrowing and contracts yielding pending bills shall be to ensure efficiency in the service delivery and optimal operations of the county assembly.
- d) The public money raised from the borrowing or approved for payment of pending bills shall be used in a prudent and responsible way.
- e) The county assembly shall practice responsible borrowing and such borrowing shall only be undertaken in cases that require urgent financial intervention and the assembly has exhausted its available financial resources.
- f) The actions to manage the debts and pending bills in the county assembly shall be clear and communicated to all parties in a timely manner.
- g) Under the principle of prudence and financial responsibility, the county assembly shall ensure it only undertakes short-term borrowing with low costs and low risk exposures.

- h) Under the principle of fairness, the county assembly shall prioritize the payment of eligible pending bills on a sequential approach guided by the invoice dates and dates when the goods and services were delivered.
- i) The county assembly shall ensure value for money by ensuring economy, efficiency, effectiveness, equity and creating a right environment for the management of debts and pending bills.
- j) On the principle of compliance and conformity, the county assembly shall comply and conform to all applicable laws of Kenya, regulations, policies and guidelines that relate to the management of debt and pending bills.
- k) On the principle of prudent planning, the county assembly shall ensure that debt and pending bills planning decisions are based on an evaluation of alternatives, which assesses risks and benefits, and applies the Government's core procurement principles of value for money and cost benefit analysis across the debts and pending bills life-cycle.
- l) The county assembly shall also ensure require reporting (at least monthly) on the status of the debts and pending bills in an accurate manner to the users.

1.6. Scope of the Policy

Debt as regards to the county assembly will have its meaning as defined under Section 15(3) of the PFM stipulates that any short-term borrowing shall be restricted to management of cash flows and that such borrowing shall not exceed five percent (5%) of the most recent audited county assembly revenue.

The pending bills will comprise of all the eligible unpaid bills for services, goods, or works, budgeted for, contracted, and committed to by the county assembly through the issuance of LSOs or LPOs but for reasons of unavailable or insufficient funds, the assembly is unable to pay. Any disputed contract or bill by either party shall not constitute a pending bill until the dispute is fully resolved.

The raised invoices for incomplete works, undelivered or under-delivered goods and services shall also not constitute pending bills unless such as works

are completed or goods and services delivered to satisfactory levels as stipulated under the contract terms.

The policy shall be binding between the Procurement Entity and contracted suppliers of goods and services to the county assembly.

2.0. LEGAL FRAMEWORK OF DEBTS AND PENDING BILLS

The COK, 2010 (Article 201), provides that Public Finance Management shall be responsible and clear and this shall include the Management of Debts and pending bills as the Kisumu County Assembly is also entrusted with management of Public resources for undertaking their mandate.

The County Assembly of Kisumu may encounter borrowings or may have bills which are pending as arising from Contracts for supply of goods, works and services. The debts, borrowings by the County assembly shall also comply with Sections 122 and 123 of the PFM Act, 2012 which requires disclosures and records of the loan including information on, the principal amount, terms and conditions of the borrowing, interests payable, purpose of the debts, sources of the loans, risks associated with the debts and analysis of the sustainability of the amount of the debts.

The County assembly borrowings shall be for cash management purposes and such borrowings shall be repaid within the year from the date on which it is borrowed as provided by Section 142 of the PFM Act, 2012. In management of debts and pending bills entered through contracts for supply of goods and services, the accounting officer shall ensure that resources are used in a way that is lawful, effective, efficient, economical and transparent and that contracts are lawful as provided by Section 149 of the PFM Act, 2012.

The PFM Act, Section 153, provides that the Accounting officer who is the Clerk shall be responsible for management of Debts of the County assembly. Section 156 (4) (d) also entrusts the Clerk or Accounting officer with the responsibility and that the Accounting officer engages in improper conduct if the officer fails without reasonable cause to pay eligible approved Bills promptly in circumstances where funds are provided.

Pending Bills has been a challenge in the Management of Contracts for supply of goods, works and services by the Government entities, for which the County assembly also form part. In order to address this challenge, The National Treasury has issued Circulars to guide the processes of budgeting and

expenditure implementation. The Circulars that have been issued in management of Pending Bills include; Circular No. 7/2019 , 10/20, 7/2021 among others to provide for prioritization of Pending Bills as first charge against budgetary allocation before entering into any new commitments.

The Senate of Kenya has also considered the Management of Pending Bills by Enacting the Prompt Payment Bill, 2021 (Senate Bills No.16). Section 4 of the Prompt Payment Bill, 2021 provides that a procuring entity shall pay a supplier by the prescribed payment date and any procuring entity who fails to pay supplier by the prescribed date of payment shall pay interest to the supplier on amount due under the contract for the supply of goods, works or services. Section 5 of the Act also provides that a procuring entity shall ensure priority is given to payment of outstanding debts for supply of goods, works or services by the procuring entity.

The Public Procurement and Assets Disposals Act, 2015 through Section 53(8), states that an Accounting Officer shall not commence any procurement proceedings until satisfied that sufficient funds are available to meet the obligations of the resulting contracts and are reflected in the approved budget estimates.

The Management of Pending Bills has also been done through Gazette Notice No, 297 of 2005 which established the pending Bills Committee to carry out functions including, develop a clear procedure and criteria for dealing with existing Government Pending Bills, develop a system to ensure future escalation of pending bills in government is avoided, and to identify cases where there may have been corrupt, fraudulent and false claims against government and make appropriate recommendations to the relevant government department.

All these challenges and efforts in management of pending bills still exist in all the Kenyan government entities and the County Assembly of Kisumu in effort to address the challenge of Debts and pending Bills has developed a policy that shall guide it as an organization to manage its debts and pending bills.

3.0. SWOT ANALYSIS

Debt and Pending management is a challenge that affects both the National government and counties in Kenya. The Consultant, in the effort towards development of the policy carried out SWOT analysis of the County assembly to identify situations which may impact on the County assembly as it manages its debts and pending bills. These situations include internal influences while some arise from factors which are outside the county assembly and do emanate from the external environment in which it operates.

The Strengths, Weaknesses, Opportunities and threats which may be significant to the operations of the County assembly may include:

3.1. Strengths

- a. **Policies and Procedures** – Kisumu County assembly has developed some other policies and procedures which support its operations and still endeavors to provide other policies to guide areas with inadequacies that need supporting policies like in current Debt and Pending bills policy
- b. **Governance Structure** – County assembly has an organization structure consisting of the legislative and administrative arms which work to achieve its mandate
- c. **Internal audit** – Internal audit of the county assembly provides reviews of debts and pending bills and advice the accounting officer and the CASB in making decisions on the liability position of the organization
- d. **Trained staff** – the few staff employed by the county assembly have played a major role in working towards management of the debt obligations and have training which can support the operations
- e. **Harmony** – Peaceful and cordial working relationship with the county executive ensure disbursement of funds when received from the Exchequer to support county assembly operations

3.2. Weaknesses

- a. **Inadequate budgetary allocation** – finances are limited due to ceiling provided by the Commission on revenue Allocation (CRA) while the programs to be implemented are many. The constrained resources have bearing on the accumulation of debt obligations which the county assembly is striving to manage.
- b. **Weaknesses in the Internal Control system** – the challenges experienced from delays in operations, lack of accountability and transparency have effect on the management of the debt and pending bills
- c. **Lack of M & E** – There is lack of proper system for tracking, monitoring and evaluation of the processes and operations which consequently lead to increase of debts as these are not tracked early for subsequent action
- d. **Untimely reporting** – debt obligations sometimes come with penalties and may need regular and prompt reporting as opposed to yearly reporting when the county assembly presents its annual financial statements were these are disclosed
- e. **Inadequate staffing** – Kisumu county assembly do not have adequate staff and may not dedicate responsible employees for management of debts and pending bills and relies on the few accounting staff who are overworked.
- f. **Lack of Cash flow planning** – absence of monthly cash flow plans in the county assembly has inhibited the management of debts as commitments are not aligned with disbursements and procurement plans.
- g. **Inadequate documentation and records** – lack of debts and pending bills register and in some instances in adequate supporting documents normally affect the management of these obligations by creating delays and lags in transactions processing.

3.3. Opportunities

The benefits which arise from the external environment in the management of pending bills and debt include:

- a. **Laws and Regulations** – There are existing laws and regulations which support the management of debts and pending bills and which guide the County assembly. These include; the PFM Act, 2012. COK, 2010; PPDA Act, County Government Act and the county assembly Acts and Bills.
- b. **Regulatory Oversight** – County government entities like county assemblies are regulated by The National treasury, Controller of Budget, Commission on Revenue Allocation and the Senate. They ensure controls in budgetary allocations, Exchequer or funds request, implementation of programs and accountability in the use of public resources entrusted to the County assembly.
- c. **External Audit** – The Office of the Auditor General (OAG) performs external audit reviews on financial and non-financial operations of the county assembly and to determine the debt and liability position. These reviews keep the county assembly on cheques in management of pending bills and the reports subsequently go to senate for further interrogation.
- d. **Civil Society Organizations** – The NGOs and Non state actors play a major role in organizing sessions, for a through which government entities, including the county assemblies form part of discussions on how they discharge their mandate, fulfil public and stakeholder requirements. When debts and pending bills rise and have negative consequences, the civil societies normally act as a voice of raising these concerns.
- e. **Public** – The public are required to engage in policy and implementation through public participation provided to them by the COK, 2010, The County Government Act and must also be provided with civic education. These create awareness and information

through which they can engage and raise concerns on debt and pending bills management.

3.4. Threats

- a. **Political factors** – instability arising from politics may cause challenges in the proper management at the county assembly which in turn may not prioritize debt and pending bills payment
- b. **Late disbursement of funds** – there are usually delays in transaction processing due to delay in disbursement of funds from the National government and also slow processes in request for funds and approvals by COB which in essence delay payment of debts and pending bills
- c. **Lack of linkages and Partnerships** – Operations of the county assembly is done in partnership and through linkages with stakeholders including; the County Executive, regulators for which failing relationships can cause delays in processing debts and pending bills
- d. **Insecurity** – lapses in the security situation at the national and local levels may slow processes of operations. These have the effect of delaying the processes of discharging debt obligations during times when activities are not taking place.
- e. **Trade unions** – Staff of the County assembly are organized at the local and national trade unions which exert pressures through collective bargains, engage in strikes and demonstrations, go slows. The activities may cause rise in employee related debts and obligations when payroll is not processed.

4.0. CATEGORIES OF DEBT AND PENDING BILLS

The County Assembly of Kisumu (CAK) may be exposed different forms of debts and pending bills that reflects its mission, activities, and relationships with various stakeholders including suppliers, employees, and third-party institutions. Some of the categories of debts and pending bills may include:

4.1. Short Term Loans

These are the short-term borrowings that the county assembly undertakes to support its cash flow operational needs. For the County Assembly of Kisumu, the short-term loans shall constitute the bank overdrafts from banks and shall be repaid within the year from the date on which it is borrowed.

Section 15(3) of the PFM stipulates that any short-term borrowing shall be restricted to management of cash flows such as payment of salaries and supplies. In a case the county assembly takes a bank overdraft facility, such borrowing shall not exceed five percent (5%) of the most recent audited county assembly revenue.

4.2. Pending Bills for Suppliers

The county assembly in the process of discharging its mandate to the public may require goods and services to facilitate activities. As guided by the PPAD Act, the county assembly contracts suppliers to deliver various goods, services, and works that support its activities. However, because of delayed disbursements by the National Treasury, the county assembly may not pay some suppliers on time.

The unpaid bills to suppliers also arise when there are incomplete documentations or irregularities in the award of supply contracts. Pending bills for suppliers can either be classified as eligible and ineligible depending

on their compliance with the legal provisions under the different Acts or regulations.

4.3. Advances/ Salary Advances

The staff at different levels of the institution may from time to time request for salary advances. However, because of late remittances from the National Treasury that leads to insufficient financial resources, the transfer from the requests may take time, resulting in pending bills for the county assembly. The outstanding disbursement of salary advances or other forms of disbursements to the employee shall constitute the pending bills for the county assembly.

4.4. Union and Welfare Payables

Section 32 of the Labor Relations Act of 2007 allows an employee who is above 16 years to join trade unions or welfare organizations and are allowed to enjoy the rights of membership of such a union or welfare.

The County Assembly of Kisumu employees may be members of various trade unions and welfare that require regular subscription payment for membership. The payments may also include deductions for loans the unions or welfare advance to their members, which must be deducted by the employer for remittance.

According to Section 48(2), a trade union may direct an employer of more than five employees belonging to the union to deduct trade union dues from wages of its members and pay the monies so deduct into a specified account of the trade union. The county assembly shall be under obligation to remit the deducted union and welfare dues.

However, because of delayed processing of salaries arising from insufficient funds in the county assembly's accounts, there may be delays in remitting union and welfare payables to the respective institutions, creating pending

bills. The county assembly shall on a first-charge basis remit the union and welfare dues when funds become available.

The county assembly shall keep a list of all the pending bills to the union and welfare to facilitate processing of payments on a first-charge basis upon receipt of funds from the National Treasury.

4.5. Third Party Deposits and Retentions

These are the monies the county assembly retains or receives as security deposits for project works executed by third-party institutions or suppliers. Examples of third-party retentions and deposits include the performance or bid bonds that the county assembly receives from contractors as securities for contracted projects. It is expected that the county assembly will repay the contractors the retentions and deposits on completion of projects. However, because of insufficient financial resources in the county assembly, there may be delays in the disbursement of the funds to the contractors, creating pending bills.

4.6. Statutory Deductions

As defined under the Legislative Supplement No. 18 of the Public Finance Management Act (2012), statutory obligations are deductions on the county assembly payroll against the salaries of the public offers, which are required or permitted by law, court order, or arbitration award. These obligations include the National Social Security Fund (NSSF), Pay as You Earn (PAYE), Value Added Tax (VAT) and National Health Insurance Fund (NHIF). Once they are so deducted as required under the law, the county assembly should remit the funds to the relevant bodies on or before the stated dates under the law to avoid penalties or fines that would increase the liabilities to the county assembly.

The delays in the disbursement of funds to the county assembly's revenue fund may result in delayed payment of salaries and accumulation of the statutory deductions.

4.7. Unpaid Staff Salaries

The County Assembly of Kisumu has a workforce comprising of top-level, middle-level, and low-level Unionisable employees who help in the discharge of its mandate to the citizens. These employees are entitled to salaries and benefits as required under the Employment Act of 2007. Because of delays in the disbursement of funds from National Treasury, the county assembly may fail to pay to pay its staff on time. The unpaid staff salaries may accumulate for several months depending on the availability of financial resource.

4.8. Tax Obligations

Tax Obligations means the responsibility for payment of taxes, withholding, certification and reporting requirements, claims for exemptions or refund, interest, penalties and other related expenses.

It represents the total amount of tax debt the county assembly owes to the Kenya Revenue Authority (KRA). The obligation arise from the Value Added Tax (VAT), Withholding Tax (WHT), and Pay as You Earn (PAYE) the county assembly retains from suppliers and deducts from employees' payroll for remittance to the revenue authority.

The failure to remit the PAYE, WHT, and VAT to the revenue authority creates pending bills to the county assembly. The non-payment of the tax obligations may attract fines and penalties, increasing the costs to the county assembly.

4.9. Leased Assets/ Rented Spaces

The county assembly may also lease or rent assets or spaces such as motor vehicles, machines, or office spaces to facilitate its mandate of delivering services to the citizens. The leased assets or rented spaces create financial obligations to the county assembly that may be payable on a monthly, quarterly, or annual basis.

However, because of delays in the disbursement of funds from the National Treasury, the county assembly may fail to meet the obligations related to rented spaces and leased assets, creating pending liabilities.

4.10. MCA Allowances

The Members of County Assembly (MCA) are entitled to a wide range of allowances that include mileage, airtime, sitting, hardship, and travel allowances. The county assembly pays some of the allowances to the MCAs, creating financial obligations that may result in pending bills if there is no prompt payment of the allowances. The insufficient financial resources in the county assembly due to delayed disbursement from the National Treasury may create unpaid bills relating to the MCA allowances.

4.11. Car Loans and Mortgages

These are the financial obligations that the county assembly have over the cars and houses it may acquire for its staff. The car loans and mortgages require that the county assembly makes periodic payments to service the loans.

Delays in disbursement of funds from the National Treasury may result in defaults in the payments, resulting in the accumulation of pending bills resulting from the car loans and mortgages.

5.0. MANAGEMENT OF PENDING BILLS

Effective management of debts and pending bills should entail timely payment of debt obligations to banks, suppliers, and other third-party institutions. It should involve maintenance of debts and pending bills at sustainable levels to ensure the county assembly maintains its efficiency in operations and delivery of services to the citizens. The policies and procedures for debt and pending bills management establishes the guidelines and legal framework for payment of purchase-order and non-purchase order procured goods, services, and works. 0725493412

5.1. Objectives of Debt and Pending Bills Management

The objectives of these debt and pending liability management guidelines are to ensure that:

- 1) all debts and pending bills are incurred for the official purposes of a public sector entity
- 2) all debts and pending bills are approved in writing by the Accounting Officer
- 3) Proper and effective controls are maintained over the recording and payment of debts and pending bills.
- 4) subject to overriding legal considerations, debts and pending bills are incurred and are recorded in the name of the appropriate legal entity
- 5) debts and pending bills are incurred in accordance with all relevant laws, regulations, contracts, agreements and other prescribed requirements and practices set down
- 6) borrowings or other financial arrangements are approved by the Accounting Officer, and in accordance with any relevant statutory requirements
- 7) debt and pending bills are paid in accordance with the applicable payment terms and conditions
- 8) debts and pending bills are met from identified funds available under an approved budget

- 9) debt and pending bills transactions are supported by readily accessible records, documentation is systematically, filed and, securely stored, and adequate audit trails are maintained
- 10) relevant and reliable information is obtained to enable all internal and external reporting and, accountability requirements are satisfied
- 11) debts and pending bills are managed, controlled and reported in accordance with all statutory requirements
- 12) To determine fiscal space (as applicable), i.e. to determine to what extent the county assembly entity can accommodate more debt

5.2. Establishment of Debt and Pending Bills Management

The clerk as the county assembly's accounting officer shall ensure that adequate systems, including effective internal controls, are established, maintained and documented to ensure that all debts and pending bills are:

- 1) Incurred with proper authorization
- 2) Promptly identified, assessed and recorded
- 3) managed efficiently and effectively
- 4) paid in accordance with the public sector entity payment guidelines, where settled by the payment of money
- 5) Minimized, for example, with regard to potential litigation claims.

5.3. Planning for Debts and Pending Bills

Prior to authorizing the incurrence of any liability, the Accounting Officer shall ensure that:

- a) sufficient budgeted funds are available to allow the expense to be incurred and payment to be made when it falls due
- b) the expenditure is for authorized official purposes and for the proper provision of goods and/or services in accordance with approved public sector entity tasks, goals and objective

- c) The relevant requirements of any applicable public sector entity policies have been observed.
- d) The county assembly should forecast its cash flows and assess the income statement impacts of future transactions to ensure that they are able to satisfy the liabilities as they fall due.
- e) Sufficient details, which are accurate, valid and complete about these debts and pending bills, should be recorded.

5.4. Maintenance of Debts and Pending Bills Records

Regulations 102 of the PFM (National government) Regulations, 2015 and section 102 of the PFM (County governments) Regulations, 2015 requires Accounting Officers to “take all reasonable precautions to safeguard against damage, destruction of or falsification of any financial record required to be kept by the provisions of the PFM Act, 2012”, including records relating to liabilities.

Regulations 104 of the PFM (National government) Regulations, 2015 and section 104 of the PFM (County governments) Regulations, 2015 also provide guidelines on the preparation of vouchers to support all receipts and expenditures of public moneys. All transactions are to be supported by appropriate authority and documentation and, all vouchers are to be made out of indelible ink with adequate narration of the particulars of services goods or works procured and paid for.

Regulations 118 of the PFM (National government) Regulations, 2015 and section 118 of the PFM (County governments) Regulations, 2015 requires all accountable documents, whether manual or electronic, to be under strict control at all times. Accountable documents include receipt books, Authority to Incur Expenditure (AIE), cheques, request for quotations documents, LPOs, and imprest warrants.

The retention of documents and records is governed by Regulations 119 of the PFM (National government) Regulations, 2015, and section 118 of the PFM

(County governments) Regulations, 2015, where different retention periods are prescribed for different types of accountable documents and accounting records.

5.5. Processing of Eligible Pending Bills

Eligible pending bills represents the county assembly's financial obligations to its suppliers for goods and services that meet all the minimum requirements for payment under the established framework. The National Treasury Circular No 7/ 2019 outlined the directives for the processing of pending bills. One of the requirements was that county assemblies ensure that payment of pending bills are treated as a first charge on the financial year's approved budget and ensure that the eligible pending bills are incorporated in the budget before approvals. The following are the conditions that must be met for a bill to qualify as an eligible pending for payment.

- 1) The goods, services, or works must have been budgeted for in the county assembly's budget statement for the current or previous financial years.
- 2) The supplier or contractor must have been selected through a competitive bidding process to supply the county assembly with specific goods or services within a specified timeline.
- 3) The procurement for the goods, services, and works must have followed the provisions for public procurement under the Public Procurement and Asset Disposal Act of 2015.
- 4) The bill must have all the relevant documents attached such as the tender award letter, LSOs, LPOs, and invoice. These documents must be verified to be authentic and approved by the clerk of the county assembly.
- 5) The procured goods or services for which the supplier is seeking payment must have been delivered to the satisfactory levels as defined in the contract terms.

Once funds have been made available and the pending bills reviewed and approved for payments, the following procedures shall apply in the processing of payments by the accounting officer/ chief finance officer.

- 1) As required under Regulation 41(2) of the Public Finance management (County Government) Regulations, 2015, debt service and pending bills payments shall be a first charge on the county assembly revenue fund and the clerk shall ensure that this is done to the extent possible that the county assembly does not default on its debt obligations and other liabilities including the pending bills.
- 2) After the clerk is satisfied that procured goods and services were delivered to as per the contract terms, the list shall be forwarded to the finance office for action by the Principal Finance Officer.
- 3) The Principal Finance Officer shall verify the purchase orders, contract award letters, LSOs or LPOs, invoices, and any other relevant documents for processing of payments.
- 4) The processing of payment shall involve reconciliation of the LSOs with the invoices to verify that the goods or services were actually received and that the amounts stated on the invoices match the information provided by the Debt Management and Pending Bills Review Committee.
- 5) The unpaid bills shall be matched with a payment and invoices attached with the payment information during the disbursement process as the voucher is paid.

5.6. Policy Recommendations on the Management of Eligible Pending Bills

- a) The county assembly accounting officer shall ensure prudent liquidity management especially for the funds that are a first charge as per the Circular 7/2019 from the National Treasury. All the pending recurrent and development bills should be paid first during the year before starting any new projects or procuring new goods, services, or works in the county assembly.

- b) The county assembly shall take stock and obtain a status report for all the projects; ongoing, stalled, completed and not in use, and completed projects that have not been handed over to ensure ownership. These projects should be formally handed over to the county assembly.
- c) The county assembly shall comply with all the legal enforcement thresholds for wage bill and capital spending.
- d) The county assembly shall make expenditure commitment against approved procurement plans based on allocations and allotments from the approved budget in accordance with the provisions of the Public Procurement and Asset Disposal Act and Regulations.
- e) The accounting officer shall cause to happen an aged analysis and classification of all the pending bills as per the PSASB prescribed format and further as either recurrent or development in the annexures to the financial statements.

5.7. Disputed Pending Bills

These are the unpaid bills that still under dispute between the county assembly and the suppliers for goods, services, and works. In some instances, the county assembly may have in its records unpaid bills under dispute for several reasons. Some of the reasons could be incomplete supporting documents for the bills, incomplete supplies or projects, or poorly done projects.

While some of the disputed pending bills are inherited from the previous local authorities and other administrations, others relate to the current administration.

National Treasury Circular number 10/2020 requires that the county assemblies separate the disputed pending bills from the eligible pending bills and prepare a plan for resolving them.

In resolving the disputed pending bills, the Debt Management and Pending Bills Review Committee shall institute internal mechanisms, engaging the suppliers and officers representing the county assembly.

The committee shall review the pending bills on a case by case basis and recommend the appropriate course of action to the clerk for further action. In the review, they shall audit each unpaid bill, reviewing the relevant documents such as contract award letters, LSOs or LPOs, invoices, certificates, and delivered outputs to authenticate the validity of the cases.

The pending bills may also include the unpaid contracts and supplies for which the contractors and suppliers have active cases in the courts of law across the country. Article 159 of the Constitution of Kenya compels the Judiciary, in exercising its authority, to promote alternative dispute resolution (ADR), including conciliation, mediation, arbitration and other traditional dispute resolution mechanisms.

The county assembly shall seek alternative dispute resolution mechanisms prescribed under Article 159 of the Constitution of Kenya to reduce the costs of litigation relating to some of the disputed pending bills. The Debt Management and Pending Bills Review Committee will seek guidance from the Constitution of Kenya, The Alternative Dispute Resolution Bill, 2021, and other relevant laws and regulations in resolving the disputed pending bills in the county assembly.

5.8. Debt and Pending Bills Sustainability

The sustainability of debt is guided by PFM Act section 107 (2) (e) and section 107 (4). According to section 107 (2) (e) the county assembly debt shall be maintained at a sustainable level as approved by county assembly.

Section 107 (4) further states that every county government (assembly) shall ensure that its level of debt at any particular time does not exceed a percentage

of its annual revenue specified in respect of each financial year by resolution of the county assembly.

The county assembly shall recognize the need to manage debt prudently to avoid unwarranted debt burden. At the county assembly level, the debt management and pending bills review committee will be mandated to ensure that there is prudent debt management and that the debt level is sustainable.

The county assembly shall acknowledge the need to maintain debt at sustainable levels and shall closely monitoring spending by departments and other spending units and work with all entities to cut on possible pending bills.

As guided by the National Treasury, the county assembly shall measures debt sustainability based on various parameters, borrowing from those parameters the debt sustainability in the county assembly will be measured based on only two parameters namely; debt to revenue ratio and debt service to revenue ratio.

5.9. Mandatory Checklist and Conditions for Debts

In order to mitigate the county assembly against any potential financial risks of paying commitment fees and other charges on loan amounts due to delays in commencement of project implementation, the following checklist of mandatory requirements must be considered by the Debt Management and Pending Bills Review Commitment:

- a) Feasibility study report inspected and approved by the accounting officer, informing the economic viability, costing and design and social and environmental risks mitigation plans relating to the contracted projects, goods, and services.
- b) Confirmation of adequate human resources capacity for the implementation of the project. Where there is a shortfall, the county assembly must commit to develop a strategy to fill the gap.

- c) Due diligence report to ascertain the financial, technical and legal competency for the firm procured competitively to undertake the project implementation. This will mainly apply to the projects that are undertaken under Engineering, Procurement, Construction and Financing (EPCF) Model
- d) Compliance with any existing laws and circulars.
- e) The CASB will review the financing proposals to assess suitability for debt financing, taking into account the objectives of this policy.
- f) To enhance absorption of funds by the implementing entities of debt funded projects, the county assembly will conduct completion rate analysis from time to time and recommend to the CASB to take certain measures for project loans that are not being absorbed due to action or inaction of the implementing entities of debt-funded projects.
- g) The absorption capacity of implementing entity should match the disbursement profile of the loan to minimize commitment charges that accrue on undisbursed loan balances.
- h) The track record of project completion rates in relevant entities will determine eligibility for funding of new projects.
- i) The county assembly will work with the National Treasury to ensure Conditions Precedent (CPs) are met first before signing of project financing agreements.
- j) During the project implementation period, implementing entities of debt-funded projects will provide quarterly project implementation status reports to the county assembly.

6.0. RISK MANAGEMENT

6.1. Risks Associated with Debt and Pending Bills

Accumulation of short-term debts and pending bills exposes the county assembly to significant financial and operational risks. These risks may hurt its efficiency in delivering its mandate to the citizens. The risks associated with

the debts and pending bills include default risks, interest rate risks, legal risks, and exchange rate risks.

Default Risks

Default risks are the uncertainties that exist that the county assembly may not meet the debt obligations (principal and interest repayments) with the requirements. To facilitate its cash flow needs, the county assembly may from time to time over withdraw its bank accounts in overdraft arrangements. The overdraft repayments are often short-term. Delays in fund transfers from the Exchequer may lead to default in repaying the short-term debt obligations. The defaults may attract penalties, increasing the cost of borrowing.

Interest Rate Risks

These are the risks that arise from the unfavorable changes in the interest rates in the economy. The Central Bank of Kenya (CBK) in its fiscal and monetary policy adjustments may from time to time review the lending rates. An upward adjustment in the lending rates means that banks will charge high interest rates on loans. The county assembly will incur high costs on borrowing if the interest rates go up and accumulation of more debts will make the loans expensive and unsustainable.

Exchange Rate Risks

The county assembly may in certain circumstances contract goods, services, and works in foreign currencies such as the dollar. The engagement of international suppliers or contractors may demand payment in foreign currencies. Since the county assembly holds its accounts in local currency, payment of such obligations may increase its exposure to exchange rate risks. An increase in the exchange rates will mean an increase in the liabilities for the assembly, making the debts and pending bills in foreign currencies expensive.

Legal Risks

Legal risks are the most common risks the county assembly will face from its pending bills. These are the risks that arise from the suppliers or contractors suing the county assembly over unpaid bills. The litigation will attract costs to the county assembly alongside the possible orders to pay the bills within specified timelines. The risks not only create additional costs, but also damages the reputation of the county assembly and public confidence in its commitment to service delivery.

6.2. Risk Management Framework

Risk management is an important aspect of debt and pending bills management. The role of Accounting Officers in risk management is documented under regulation 165 of the PFM (National government) Regulations, 2015 and regulation 158 of the PFM (County governments) Regulations, 2015.

The Accounting Officer will be responsible for ensuring adequate entity specific risk management practices are adopted in relation to debt and pending bills management within the county assembly, in line with risk management guidelines developed by the National Treasury.

The Debt Management and Pending Bills Review Committee will create a risk management framework in relation to debts and pending bills. The framework will support the identification and management of the trade-offs between expected cost of the debts and risks to the county assembly.

To assess the risks of the pending bills and debts, the committee will conduct regular debt and pending bills sustainability analysis and update the CASB through the clerk regularly to ensure that the overall borrowing and unpaid bills are within the sustainable limits.

The committee will also conduct stress tests for the county assembly's debt and pending bills portfolio to determine the potential impact on the operations of the assembly and efficiency in the delivery of services to the citizens.

The committee will also conduct an analysis of the effect of new debt or contracting for new goods, services, and works on the existing debt and pending debt portfolio and sufficiency of cash inflows to support the level of debts and pending bills.

In managing the costs and risks associated with the pending bills and debts, the Debt Management and Pending Bills Review Committee will utilize appropriate liability management tools as per the best practices in the management of debts.

The Debt Management and Pending Bills Review Committee will also develop a Debt and Pending Bill Strategy (DPBS) that will guide the overall management of debt operations in the county assembly in respect to bank overdrafts, disputed pending bills, and eligible pending bills.

In preparing the DPBS, the Debt Management and Pending Bills Review Committee will take into account the level of existing debts and pending bills, potential sources of loans, principal risks associated with each of the loans, assumption underlying the formulation of the strategy such as the macroeconomic environment, prevailing market conditions, and borrowing needs. These factors directly affect the National Treasury in its efforts to provide the necessary financial resources that the county assembly may need for its functions.

In managing the risks associated with the debts and pending bills, there shall be a formulation of the expansive strategic policy goals and priorities defined under the county assembly's budget and strategic plans.

7.0. RESPONSIBILITIES FOR DEBT AND PENDING BILLS

7.1. County Assembly Service Board (CASB)

The County Government Act of 2012 and County Assembly Services Act of 2017 gives the County Assembly Services Board the powers of overseeing the service delivery in the county assemblies. In performing its duties, the CASB of CAK shall have the following responsibilities as regards to the management of debts and pending bills.

- As provided for under section 13 (1) of the County Services Act of 2017, the CASB shall be responsible for forming and constituting the debt management and pending bills review committee to oversee the processing and payment of the unpaid bills of the county assembly.
- Issue directives to the accounting officer as to the prioritization and processing of valid pending bills and debts.
- Approve with the recommendation of the accounting officer the undertaking of short-term loans such as bank overdrafts to support the provision of services and payment of pending bills.
- Ensure that the existing debts and pending bills do not hinder efficiency and effective functioning of the county assembly.
- Initiate an inquiry into the disputed pending bills and where necessary initiate legal proceedings.
- Direct and supervise the management of debts and pending bills while exercising budgetary controls.
- Initiate, coordinate, and harmonize policies, procedures, and programs designed for the management of debts and pending bills.

7.2. Accounting Officer/ Clerk

The Clerk of the County Assembly as the accounting officer shall be responsible for the management of the assembly's finances in accordance with the provisions of the Constitution and Public Finance Management Act. Section 19 (a) of the County Assembly Services Act of 2017 provides that the

Clerk shall be the chief administrative officer of the county assembly responsible for the day-to-day management and functioning of the county assembly. The clerk shall have the following responsibilities as regards to the management of debts and pending bills of the county assembly.

- The Clerk shall also ensure that the short-term borrowings are maintained at a sustainable level as approved by the debt management review committee.
- The clerk shall also ensures that the fiscal risks associated with the borrowings and pending bills are managed prudently.
- The clerk shall ensure that the level of county assembly debts do not exceed the levels specified under Article 15(3) of the PFM Act of 2012.
- Implementing resolutions of the CASB as regards to debts and pending bills to ensure efficient and effective delivery of services to the citizens.
- Oversee the smooth and efficient operations of the debt management and pending bills review committee.
- The implementation of the provisions and guidelines under the debt and pending bills policy as adopted by the CASB.
- Enhancing good' relationship with suppliers, contractors, staff unions or representatives, and lenders for reduced litigations and improved confidence of the stakeholders on the assembly's commitment to settle pending bills.
- Offering advisory on all the legislative procedures, practices, and National Treasury circulars to the CASB.
- Maintaining effective internal control systems as provided for under Section 23 of PFM Act (Regulations 2015) and measures for their effectiveness in the management of debts and pending bills.
- Ensure compliance with any tax, levy, duty, pensions, and financial commitments to third parties such as regulatory authorities, suppliers, and contractors.
- As provide for under Section 53 (8) of the Public Procurement and Disposal Act of 2015, the clerk as the accounting officer shall be

ensuring that the county assembly does not commence any procurement proceedings until satisfied that there are sufficient funds to meet the obligations of the resulting contracts and that such funds are reflected on the approved budget estimates.

- Approve the payment of eligible and approved bills promptly for circumstances where the funds are provided for in the budget estimates.

7.3. Debt Management Review Committee

The CASB will establish a debt management and pending bills review committee that shall have the following responsibilities.

- Scrutinize and analyze all the existing county assembly pending bills with a view of making appropriate recommendations to the clerk for payment or otherwise.
- Develop a clear procedure and criteria for dealing with existing county assembly Pending Bills
- Develop a system to ensure future escalation of pending bills in the county assembly is avoided
- Identify cases where there may have been corrupt, fraudulent and false claims against government and make appropriate recommendations to the CASB through the clerk of the county assembly.
- Develop internal mechanisms for resolving any disputed bills by either party in the contract.

In the performance of its functions, the committee:

- Shall have access to all reports of any previous inquiries relating to the debts and pending bills, records of outstanding bills and their supporting documents, and recommendations of similar bodies constituted to manage the debts and pending bills.
- Shall as it considers appropriate conduct research that may yield information that will inform its mandate.

- Submit periodic reports to the CASB via the clerk of the county assembly on the progress of managing pending bills and debts.
- Shall have all the independence necessary for carrying out its functions or expedite for proper execution of its mandate, including the powers to regulate its own procedures without being the subject of control by any other authority.

7.4. Principal Finance Officer

The Principal Finance Officer of the county assembly shall have the following responsibilities as it relates to the management of debt and pending bills of the county assembly.

- Process the repayment of debts and pending bills upon approval by the CASB and as guided by the Clerk.
- Advise the clerk of the county assembly on the financial status of the assembly and availability of financial resources to facilitate payment of pending bills.
- Maintain all records and information in a public debt and pending bills register for dissemination to the relevant authorities within the assembly.
- Maintain all records for contracted supplies of goods, services, and works such as LSOs, LPOs, requisition forms, bank statements, and invoices that will inform the processing and management of pending bills and debts.
- Undertake a periodic analysis of the debt and pending bills to ensure they are at a sustainable.
- Provide information on the level of public debt and borrowing to the public for enhanced transparency.

7.5. Debts and Assets Management Officer

The CASB may assign the functions of a Debts and Assets Management Officer as may be necessary to help with the management of debts and pending bills

in the county assembly. The CASB will define the roles and responsibilities of the officer. Some of the roles and responsibilities of the debts and assets management officer include:

- Ensure effective management of the debts and pending bills of the county assembly by ensuring that the loans and pending bills are paid within the agreed timelines.
- Recommend and support the implementation of repayment plan for pending bills and debts.
- Manage the recovery and negotiate the repayment of short-term loans and pending bills the county assembly owes to suppliers of goods, services, and works.
- Keep track of all the debts and pending bills the county assembly owes to third-party institutions or individuals.

8.0. DEBT AND PENDING BILLS MANAGEMENT STRATEGIES

The County assembly of Kisumu on recognition of challenges of pending bills to the County assembly and the suppliers, staff and statutory organizations and those to whom there are debt obligations, shall design, formulate and implement Strategies that will support payment of Debts and pending bills and also to comply with the law as also reinforced by Section 107 of the PFM Act 2012, on maintaining debts at sustainable levels and to manage fiscal risks prudently.

The strategies shall include:

1. **Budget Prioritization** – The County assembly shall ensure that pending bills and debts constitute the first charge in the budget at the start of any financial or fiscal year. This will ensure that priority is given to the debts and pending bills in any fiscal plans of the county assembly
2. **Training and Capacity building** – The county assembly shall provide training to accountants, procurement staff and accounting officer in order to enhance their ability to process transactions and solve technicalities in IFMIS and central bank platforms of payment
3. **Debt and Pending bills resolution committee** – The county assembly shall have a committee in advisory capacity to compile lists of pending bills, determine eligibility, ascertain if procedures are followed in incurring the debts and pending bills and to ensure that they have adequate requirements that support them as debts and pending bills.
4. **Cash flow Planning** – Cash disbursements may not be frequent and the county assembly will make effort to ensure that it plans its transactions processing as aligned with disbursements to curtail accumulation of debts and pending bills.
5. **Project Planning** – The county assembly may have projects to undertake in any or different financial years. To address the issue of debts and

pending bills, the county assembly will complete ongoing projects before starting new ones to prevent the piling of debts and pending bills.

6. **Accountability and transparency** – Delay in payment of debts and pending bills may arise from issues of corruption which may cause lags in processing of payments and transactions. In order to manage these issues, the county assembly will ensure accountability at every stage of transaction processing and to individuals processing the same transactions and the process made open to the suppliers
7. **Internal audit** – Internal audit reviews will be one mechanism through which debts and pending bills shall be managed by ensuring that these are audited and reports presented to the Accounting Officer and County assembly service board (CASB) for action.
8. **Recording and documentation** – Some debts and pending bills become in eligible for payments due to lack of supporting documents, loss of records. The County assembly will therefore enhance the procedures of records, filing, and use of registers that support transactions processing.
9. **Linkages and partnerships** – Operations of the county assembly is done in collaboration with The National treasury, The Controller of Budget, the County Executive and other partners in the County assembly operations. Enhancing these linkages and partnership will ensure prompt disbursement of funds, payment requests to reduce delays in accessing funds occasioned by lack of collaborations.
10. **Year End Planning** – transactions processed at year end may fail to be paid when funds are not received in time. This shall be managed by reducing commitments towards year end and ensuring that transactions are processed during the early periods of the financial year.
11. **Debt restructuring** – where debts have accumulated over time to extent of creating burden to the county assembly. The county assembly may enter into negotiation with the organizations owed the debts, especially the

statutory obligations to spread the debt over time for payments. These may be on Statutory deductions like; NSSF, NHIH, Pension Contributions, Tax arrears, Bank Loans and huge supplies.

12. **Technology** – The county assembly shall improve its adoption of technology to support processing of transactions and tracking of relevant information necessary useful to timely and prompt transaction processing.
13. **Enforcement of laws, policies and regulations** - The PFM Act, its regulations, The PPDA Act and the County Assembly Policies provide mechanisms for efficient, effective and prudent operations of Public finances. These shall be enforced as one of the tools of ensuring sound operations and management of debts and pending bills in the County assembly.
14. **Revenue Management** – Own Source revenues budgeted by the County are usually not achieved leading to budgetary shortfalls and creating debts and pending bills. The County assembly as the oversight body shall advice the county executive to adopt realistic own source revenue budgeting and planning to reduce deficits that cause pending bills and debts.
15. **Debt and Pending bills aging analysis** – Debts and pending bills shall be paid by the County assembly in relation to time they were incurred with consideration being given to the old debts and pending bills but without compromising the urgent needs of the county assembly.
16. **Tax Management** – The county assembly may develop tax registers and ledgers which will support resolution of tax matters with Kenya revenue Authority (KRA) as a way of avoiding liability and debts arising from taxation.
17. **Payment Prioritization** – The order of giving weights to payments may ease the debt burden of the county assembly by remitting payments which may attract penalties as a priority before other payments.

18. **Debt and Bills reporting** – In order to manage the debts and pending bills, the departments of the county assembly may be required to provide monthly, quarterly and annual reports of outstanding obligations to CASB for decision making.
19. **Monitoring and Evaluation** – A team may be appointed by the Accounting officer to track the progress of transactions on regular basis as a deterrent measure of accumulation of debts and pending bills. They will evaluate every item of unpaid debts and bills, the reasons for delay in payment, the status of the debts and bills and report to accounting officer for prompt decision making.
20. **Procurement planning** – Procurement plans shall be aligned with funds disbursements to prevent commitments at the early periods of the financial year when funds have not been disbursed and reduce over commitments at the close of the year which may crowd and lead to pending bills and debts.
21. **Transactions time frame** – transactions may be incurred and time frame allocated within which they may be paid, with suggestions that they be processed and paid within 30 to 90 days from the time they occur. Projects which may lapse to several financial periods shall be processed based on the time of issue of certificate of completions and this will also be within 30 to 90 days after issuance of certificate of completion.

9.0. AUDIT AND REPORTING OF DEBT AND PENDING BILLS OBLIGATIONS

9.1. Audit of Debt and Pending Bills Obligations

The Accounting Officer of the county assembly cause any debts or pending bills to be examined and reported on by the internal audit unit of the county assembly unit. The purpose of the internal audit should be:

- i. To review and ascertain the completeness and existence of the reported debts and pending bills
- ii. To ensure that the presentation and disclosure of pending bills and debts are line with the reporting requirements of the Public Sector Accounting Standards Board (PSASB)
- iii. To ascertain the budgeting and procurement planning occurred as required under the PFM Act and PPAS Act for the listed pending bills and debts.
- iv. To ascertain that all the pending bills and debt transactions have the supporting documentations that may inform the processing for payments.
- v. To identify any irregularities in the procurement process that will inform the classification of the bills as either legible or illegible for payment processing.
- vi. To establish any other irregularities in the management of debts and pending bills due to institutional weaknesses. The internal audit exercise will also recommend the actions that the county assembly may take to address the irregularities in the internal controls and procurement processes.

9.2 Reporting of Debt and Pending Bills Obligations

The county assembly shall follow the provisions of the PSASB including the guidance and format when reporting the debt and pending obligations. The PSAB requires that:

Pending bills consist of unpaid liabilities at the end of the financial year arising from contracted goods or services during the year or in past years.

As pending bills do not involve the payment of cash in the reporting period, they are recorded as 'memorandum' or 'off-balance' items to provide a sense of the overall net cash position of the entity at the end of the year. Pending bill form a first charge to the subsequent year budget and when they are finally settled, such payments are included in the statement of receipts and payments in the year in which the payments are made.

In accordance with IFRS 9 and IPSAS 29, at initial recognition, the county assembly shall measure the debts and pending bills at their fair value plus or minus, in the case of a financial liability not at fair value through surplus or deficit, transaction costs that are directly attributable to the acquisition or issue of the debts and pending bills.

After initial recognition, the county shall measure all the debts and pending bills at amortized/ adjusted cost using the effective interest method, except for:

- a) Debts and pending bills at fair value through surplus or deficit. Such liabilities, including derivatives that are liabilities, shall be measured at fair value except for a derivative liability that is linked to and must be settled by delivery of an unquoted equity instrument whose fair value cannot be reliably measured, which shall be measured at cost.
- b) Financial guarantee contracts. After initial recognition, an issuer of such a contract shall measure it at the higher of:
 - i. The amount determined in accordance with IPSAS 19; and
 - ii. The amount initially recognized less, when appropriate, cumulative amortization recognized in accordance with IPSAS 19.

10.0. IMPLEMENTATION, ENFORCEMENT, AND POLICY AMMENDMENTS

10.1. Commencement date

This policy will come into effect upon approval by the CASB

10.2. Implementation and Enforcement

This policy will be enforced through the relevant laws such as the Constitution of Kenya, County Assembly Services Act, County Government Act, and Public Finance Management Act, Public Procurement and Asset Disposal Act and other laws that may be enacted to support operations of the county assembly. The clerk in collaboration with other officers shall be responsible for ensuring that all the provisions of this policy are followed.

The Debt Management and Pending Bills Review Committee may as necessary develop and implement operational manuals to facilitate processing of debts and pending bills. Such manuals will be will anchored on this policy and relevant laws.

10.3. Implementation and Enforcement

The policy may be amended from time to time on the recommendation of the Debt Management and Pending Bills Review Committee and approval of the CASB. The amendments may be necessitated by the changes in the existing legislation or enactment of new laws. The changes will reflect the evolving operating environment, both at the county and national levels.

APPENDICES

Appendix 1: Template for the Analysis of Pending Bills

| Supplier of Goods or Services | Date Contracted | Original Amount | balance at the beginning of the year | Addition During the year | Amount paid During the year | Outstanding Balance | Comments |
|------------------------------------|-----------------|-----------------|--------------------------------------|--------------------------|-----------------------------|---------------------|----------|
| | | | a | b | c | d=a+b-c | |
| Construction Of Buildings | | | | | | | |
| Sub-Total | | | | | | | |
| Construction Of Civil Works | | | | | | | |
| Sub-Total | | | | | | | |
| Supply Of Goods | | | | | | | |
| Sub-Total | | | | | | | |
| Supply Of Services | | | | | | | |
| Sub-Total | | | | | | | |
| Grand Total | | | | | | | |

| Supplier of Goods or Services | Date Contracted | Original Amount | balance at the beginning of the year | Addition During the year | Amount paid During the year | Outstanding Balance | Comments |
|--|-----------------|-----------------|--------------------------------------|--------------------------|-----------------------------|---------------------|----------|
| Note: Pending bills comprise goods and services rendered and invoiced but not yet settled and does not include commitments | | | | | | | |

Appendix 2: Summary Reporting Template for Pending Bills for Goods, Services, and Works

| Description | Balance b/f FY 2020-2021 | Additions for the period | Paid during the year | Balance c/f FY 2021-2022 |
|-----------------------------|--------------------------|--------------------------|----------------------|--------------------------|
| | Kshs | Kshs | Kshs | Kshs |
| Construction Of Buildings | Xxx | xxx | (xxx) | Xxx |
| Construction Of Civil Works | Xxx | xxx | (xxx) | Xxx |
| Supply Of Goods | Xxx | xxx | (xxx) | Xxx |
| Supply Of Services | Xxx | xxx | (xxx) | Xxx |
| Total | Xxx | xxx | (xxx) | Xxx |

Appendix 3: Template for the Analysis of Staff Pending Bills

| Name of Staff | Job Group | Date Contracted | Original Amount | Amount Paid To-Date | Outstanding Balance 2021-2022 | Outstanding Balance 2020-2021 | Comments |
|---------------------------|-----------|-----------------|-----------------|---------------------|-------------------------------|-------------------------------|----------|
| Senior Management | | | a | b | c=a-b | | |
| Sub-Total | | | | | | | |
| Middle Management | | | | | | | |
| Sub-Total | | | | | | | |
| Unionisable Employees | | | | | | | |
| Sub-Total | | | | | | | |
| Others (<i>specify</i>) | | | | | | | |
| Sub-Total | | | | | | | |
| Grand Total | | | | | | | |

Appendix 4: Summary Reporting Template for Pending Staff Payables

| | Balance b/f FY 2020-2021 | Additions for the period | Paid during the year | Balance c/f FY 2021-2022 |
|-----------------------|-----------------------------|-----------------------------|-------------------------|-----------------------------|
| Description | Kshs | Kshs | Kshs | Kshs |
| Senior Management | Xxx | xxx | (xxx) | xxx |
| Middle Management | Xxx | xxx | (xxx) | xxx |
| Unionisable Employees | Xxx | xxx | (xxx) | xxx |
| Others | Xxx | xxx | (xxx) | xxx |
| Total | Xxx | xxx | (xxx) | xxx |

Appendix 5: Template for the Analysis of Other Pending Bills

| Name | Brief Transaction Description | Date Contracted | Original Amount | Amount Paid To-Date | Outstanding Balance 2021-2022 | Outstanding Balance 2020-2021 | Comments |
|--|-------------------------------|-----------------|-----------------|---------------------|-------------------------------|-------------------------------|----------|
| | | | a | b | c=a-b | | |
| Amounts Due To National Govt Entities | | | | | | | |
| Sub-Total | | | | | | | |
| Amounts Due To County Govt Entities | | | | | | | |
| Sub-Total | | | | | | | |
| Amounts Due To Third Parties | | | | | | | |
| Sub-Total | | | | | | | |
| Others (Specify) | | | | | | | |
| | | | | | | | |
| Sub-Total | | | | | | | |

| Name | Brief Transaction Description | Date Contracted | Original Amount | Amount Paid To-Date | Outstanding Balance 2021-2022 | Outstanding Balance 2020-2021 | Comments |
|--------------------|-------------------------------|-----------------|-----------------|---------------------|-------------------------------|-------------------------------|----------|
| Grand Total | | | | | | | |

Appendix 6: Summary Reporting Template for Other Pending Bills

| Description | Balance b/f | Additions for | Paid during the | Balance c/f |
|---|--------------|---------------|-----------------|--------------|
| | FY 2020-2021 | the period | year | FY 2021-2022 |
| | Kshs | Kshs | Kshs | Kshs |
| Amounts due to National Government entities | xxx | xxx | (xxx) | xxx |
| Amounts due to County Government entities | xxx | xxx | (xxx) | xxx |
| Amounts due to third parties | xxx | xxx | (xxx) | xxx |

| | | | | |
|--------------|-----|-----|-------|-----|
| Total | xxx | xxx | (xxx) | xxx |
|--------------|-----|-----|-------|-----|



COUNTY ASSEMBLY OF KISUMU