

COUNTY GOVERNMENT OF KISUMU



COUNTY ASSEMBLY OF KISUMU

THIRD ASSEMBLY - THIRD SESSION

STANDING COMMITTEE OF FINANCE AND ICT

**COMMITTEE REPORT ON MODEL INTERGOVERNMENTAL CONDITIONAL
ALLOCATION TRANSFER AGREEMENT FY 2023/2024**

Presented

by

Hon. Carren Ajwang'

(MCA, Kaloleni/Shaurimoyo Ward)

(Chairperson, Standing Committee of Finance and ICT)

***Clerks' Chambers
County Assembly Buildings
Kisumu, Kenya***

April, 2024

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CHAIRPERSON'S FORWARD

Mr. Speaker and Honourable Members, the County Executive Committee Member for Finance, Economic Planning and ICT (e-government) vide a correspondence referenced **KC/FIN/C.ASSEMBLY VOL. IV/107 dated 21st February, 2024** forwarded to the County Assembly the **Model Intergovernmental Conditional Allocation Transfer Agreement** which was a deliberation between the National Treasury and the Council of Governors whose sole purpose was that the CECM tables the model before the County Assembly for approval.

Consequently, pursuant to the provision of Article 119 of the Constitution of Kenya 2010 and sections 191A (3) and 191B of the Public Finance and Management Act, 2012 ensure that Public Participation on this Model is conducted so that the views of the public are gathered and incorporated in the Model.

In light of the above, the **Model Intergovernmental Conditional Allocation Transfer Agreement** was tabled before the House on Wednesday, 06th March, 2024 and stood committed to the Standing Committee of Finance and ICT for appropriate processing in line with the Committee mandate.

OBJECTIVES OF THE MODEL INTERGOVERNMENTAL CONDITIONAL ALLOCATION TRANSFER AGREEMENT (MIGCATA)

Mr. Speaker and Honourable Members, the procedure and purposes of executing this agreement is provided for in section 191 (A) (3) which states that:

"where a County Government intends to enter in an agreement under the sub-section (1), the County Executive Committee Member shall submit the model agreement to respective County Assembly for approval.

Further, there is requirement that Stakeholder engagements is conducted as outlined in section 191B and submission of the same be forwarded to the Senate in line with section 191D and requisition of funds in 191E.

Mr. Speaker and Honourable Members, the County Government Additional Allocation Bill, 2023 (National Assembly Bill No. 23 of 2023) provides for additional resource allocation to County Governments for each respective financial year.

PURPOSES OF THE MODEL INTERGOVERNMENTAL CONDITIONAL ALLOCATION TRANSFER AGREEMENT (MIGCATA)

The Purpose of this memorandum is to apprise the County Assembly on the Mode Intergovernmental Conditional Transfer Agreement which is developed pursuant to the provisions of section 191A of the Public Finance Management Act, 2012.

COMMITTEE MANDATE

The Committee derives its mandate from Orders No. 193 (5) of the Kisumu County Assembly Standing order which states that;

- a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;
- b) study the programme and policy objectives of departments and the effectiveness of the implementation;
- c) study and review all County legislation referred to it;
- d) study, assess and analyze the relative success of the departments as measured by the results obtained as compared with their stated objectives;
- e) investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly;
- f) to vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 185 (*Committee on Appointments*) ; and
- g) make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.

COMMITTEE MEMBERSHIP

No.	Names	Position	Representation
1.	Hon. Caren Ajwang'	Chairperson	Kaloleni/Shaurimoyo Ward
2.	Hon. Lumumba Owade	Vice-chairperson	South east Nyakach Ward
3.	Hon. Joachim Oketch	Member	Kondele Ward
4.	Hon. Ken Ouko	Member	West Kisumu Ward
5.	Hon. Mickey Awour	Member	Nominated Member

6.	Hon. Benson Adegga	Member	Kajulu Ward
7.	Hon. George Abaja	Member	West Seme Ward

Secretariat

1. Peter Anditi - Principle Clerk Assistant
2. Kephas Onoka - Fiscal Analyst
3. Grace Kung'a - Committee Clerk
4. Zablon Otiende - Senior Hansard Reporter
5. Abraham Odegi - Serjeant-at-Arm

ACKNOWLEDGEMENT

Mr. Speaker and Hon. Members, on behalf of the Standing Committee of Finance and ICT Committee, I wish to convey my sincere gratitude for the invaluable support granted to the Committee by the Office of the Speaker and that of the Clerk for the effective execution and remarkable accomplishment of the Committee's task.

Further, I wish to thank the Honourable Members of this House Committee for having taken their busy time out against the busy schedule, generously participating in the event and generating this treasured output. Not forgetting our passionate secretariat that played a major role in organization and coordination of the event and further compiling this report.

Finally, without forgetting, i want to really appreciate the County Executive Committee Member and his technical team who honoured committee invitation and appeared before this Committee to give clarity on the policy documents before the House. I must confess that their presence made our task easier.

Much esteemed.

Hon. Carren Ajwang'

Chairperson, Standing Committee of Finance and ICT

**SCRUTINTY AND DELIBERATIONS OF THE MODEL INTERGOVERNMENTAL
CONDITIONAL ALLOCATION TRANSFER AGREEMENT (MIGCATA)**

The Model Intergovernmental Conditional Allocation Transfer Agreement Committee was laid before the Committee during its sitting on Thursday, 14th March, 2024. The Committee evaluated the Model in conjunction with the submission forwarded by the CECM where the Secretariat took Members through the analyzed Conditional Grants to be disbursed to the County Government of Kisumu for the FY 2023/2024 as below;

**GRANTS - CONDITIONAL ADDITIONAL ALLOCATION FOR THE COUNTY
GOVERNMENT OF KISUMU IN FINANCIAL YEAR 2023/2024**

The County envisages receiving **Kshs 879,418,015.00** as Grants/Conditional Allocation from Development Partners to finance various infrastructural development projects for the FY 2023/2024 as listed below;

No.	PROJECT DESCRIPTION	GRANTS/LOANS (KSHS)
1.	IDA (World Bank) Credit National Agriculture value Chain Development Project (NAVCDP)	250,000,000.00
2.	IDA (World Bank) Kenya Climate Smart Agricultural project (KCSAP)	90,000,000.00
3.	DANIDA Grant - Primary Healthcare in Devolved Context	12,474,000.00
4.	Sweden - Agricultural sector Development Support programme (ASDSP)II	536,771.00
5.	World Bank - Kenya Informal Settlement Improvement Project (KISIP)	400,000,000.00
6.	Aquaculture Business Development Project	15,407,244.00
7.	IDA (World Bank) Credit (Financing Locally - Led Climate Action (FLLoCA) Program, County Climate Resilience Grant(CCRG)	111,000,000.00
Total Disbursement (Kshs)		879,418,015.00

Consequently, the Committee resolved to invite the County Executive Committee Member for Finance and ICT (e-Government) to appear before the Committee on 18th March, 2024 to shed light on the objects and the purposes and interventions required to process the policy document.

DELIBERATIONS WITH THE COUNTY EXECUTIVE COMMITTEE MEMBER FOR FINANCE, ECONOMIC PLANNING AND ICT (E-GOVERNMENT)

Mr. Speaker and Honourable Members, the committee vide a letter dated 15th March, 2024 invited Mr. George Okong'o, the County Executive Committee Member for Finance and ICT (e-Government) who appeared before the House Committee. The CECM was accompanied by the following technical staff;

1. Mr. Martin Opiyo - Director, Finance
2. Mr. Wilson Abiero - Finance Department

The CEC Member in his response on the Model informed the House Committee that his office had received a correspondence from the **National Treasury and Economic Planning** referenced **IGFR/IATIA/A (74) dated 08th January, 2024** stating that the provisions of section 191A to 191E had been amended that mandates Principal Secretaries, National Treasury consent to sign Intergovernmental Agreement with respective County Governments before Grants and Conditional Allocations are disbursed to respective County Government entities. To actualize this, a task force was constituted to develop a Model Intergovernmental Conditional Allocation Transfer Agreement which was sent to the office of the Legal Officer, National Treasury to provide legal advisory on the same which was recommended and adopted by the Attorney General for further execution.

Mr. Speaker and Honourable Members, in furtherance to that, the County Executive Committee Member for Finance and ICT (e-Government) again received further correspondence from the **Council of Governor** addressed to all County Executive Committee Members for Finance and Economic Planning Referenced **COG/6/33 Vol. 22 (8) dated 09th January, 2024** affirming of the same with an attached Model Agreement for County Governments requesting respective CEC Members to table the Mode Agreement before respective County Assemblies for approval thereafter, ensure that public Participation is conducted in accordance with the provisions of section 191A (3) and 191B of the Public Finance Management Act, 2012. **(Annexed)**.

CONSTITUTION OF A MEDIATION TEAM TO ADJUDICATE THE CGAAB, 2023

Mr. Speaker and Honourable Members, the County Government Additional Allocation Bill, 2023 (National Assembly Bill No. 23 of 2023) was referred to a mediation team which was a team constituted from both House of the Parliaments where a meditated version of the Bill was passed by both Houses on 21st and 22nd February, 2024 with the following amendments and assented to on 04th March, 2024 by H.E. the president paving way for implementation.

The mediation team formulated the following amendments which were part of the Bill assented to for implementation;

- a) THAT, the conditional allocation for provision of Library Services to be revised to Kshs 162,848,690.00 allocated among 21 (Twenty-one) Counties.
- b) THAT, the conditional allocation financed by a Grant from the German Development Bank (KfW) to finance Locally-Led Climate Action Program (FLLoCA) – County Climate Resilience Grant) totaling to Kshs 1.2 billion be included in the Bill.
- c) THAT, conditional allocation for Community Health Promoters (CHPs) Project from the National Government's Share of revenue not provided for in the Bill for the FY 2023/2024
- d) THAT, The Mediated Version of the County Government Additional Allocation Bill, 2023 (National Assembly Bill No. 23 of 2023) be granted an **Exemption of Two (2) Financial Years** being FY 2023/2024 and 2024/2025 from the requirement of section 191A to 191E of the Public Finance Management Act, 2012. **(Annexed)**

ADVISORY OPINION FROM THE COUNCIL OF GOVERNORS (CoG)

Mr. Speaker and Honourable Members, the Council of Governors issued further advisory as follows;

1. THAT, County Governments revises their Budget Estimates for FY 2023/2024 to conform with figures approved by both House.
2. THAT, County Governments **WILL NOT** be required to enter into any agreements for transfer of Conditional Grants for the following financial years 2023/2024 and 2024/2025 respectively.

Mr. Speaker and Honourable Members, County Executive Committee Member for Finance and ICT (e-Government) stated that if this model had been approved as was presented, it would have triggered monumental delays in disbursement of Grants and Conditional Allocation of Funds to County Governments which could have been necessitated by red-tape bureaucracies leading to stalled and incomplete projects which is a serious threat to devolution.

Mr. Speaker and Honourable Members, this came even as the Council of Governors' through the Intergovernmental Budget Economic Council (IBEC) lodged for the repeal of the amendments to the Public Finance Management Act, 2012 Sections 191 A - 191 E, which obligates the National Treasury to enter into Intergovernmental Agreements with respective County Governments before the transfer of conditional allocations.

RECOMMENDATION AND CONCLUSION.

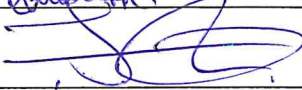
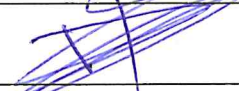
Mr. Speaker and Honourable Members, this is to therefore, implores this House to forthwith declares this Mode and be **suspended for a period of 2 (two) years** until County Governments receive further advisory from the Council of Governors.

Thank you.



Hon. Carren Ajwang'
Chairperson,
Standing Committee of Finance and ICT

ADOPTION SCHEDULE

No.	Names	Position	Sign
1.	Hon. Caren Ajwang'	Chairperson	
2.	Hon. Lumumba Owade	Vice-chairperson	
3.	Hon. Joachim Oketch	Member	
4.	Hon. Ken Ouko	Member	
5.	Hon. Mickey Awour	Member	
6.	Hon. Benson Adegga	Member	
7.	Hon. George Abaja	Member	



Clerk - HBC
Pres for filing
22/02/2024

THE COUNTY GOVERNMENT OF KISUMU

Office of the County Executive Committee Member, Finance, Economic Planning & ICT Services

REF: KC/FIN/C.ASSEMBLY VOL.IV/107

21st February, 2024

THE CLERK
COUNTY ASSEMBLY OF KISUMU
KISUMU



① Hm Answer
seal
Outgoing
24/2/2024

Dear Sir,

RE: MODEL INTERGOVERNMENTAL CONDITIONAL ALLOCATIONS TRANSFER AGREEMENT.

We are in receipt of the letter from the Council of Governors reference No. COG/6/33 VOL.22 (8) dated 9th January, 2024, forwarding the Model Intergovernmental Agreement for transfer of Conditional Allocations to County Governments. The model has incorporated comments by the Attorney General and has been cleared for implementation by the County Governments.

The purpose of this letter is therefore to:

- 1) Forward the Model Intergovernmental Conditional Allocations Transfer Agreement to the County Assembly (Copy attached).
- 2) Request your office to table the Agreement before the County Assembly for approval before the County Treasury conducts Public Participation in accordance with Section 191A (3) and 191B of the Public Finance Management Act, 2012. Thereafter, the Agreement will be signed by both the CECM, County Treasury and the PS National Treasury.

We look forward to your cooperation on the matter.

Yours faithfully,

George O. Okong'o
CECM-Finance, Economic Planning and ICT Services

Cc: - H. E. The Governor
-County Secretary
-Chief Officer- Finance



MODEL INTERGOVERNMENTAL CONDITIONAL ALLOCATIONS TRANSFER AGREEMENT

DATED: 25TH JANUARY 2024

INTERGOVERNMENTAL CONDITIONAL ALLOCATIONS TRANSFER AGREEMENT.

I. INTRODUCTION

1.0 PURPOSE

The purpose of this Memorandum is to apprise the County Assembly on the Model Intergovernmental Conditional Allocations Transfer Agreement.

I. MODEL INTERGOVERNMENTAL CONDITIONAL ALLOCATIONS TRANSFER AGREEMENT.

This Intergovernmental Conditional Additional Allocations Transfer Agreement (hereinafter referred to as Agreement) is made pursuant to section 191A of the Public Finance Management Act (PFMA), 2012.

BETWEEN: -

The Government of Kenya represented by The National Treasury, Treasury Building, Harambee Avenue whose address is P.O. Box 30007 - 00100, Nairobi which expression shall unless the context requires include its successor(s) administrator(s) or permitted assignee(s).
AND

The County Government of Kisumu which expression shall unless the context requires include its successor(s) administrator(s) or permitted assignee(s).
Hereinafter referred to individually as "party" and collectively as "parties"

RECITALS: -

Whereas the Article 6 of the Constitution provides that the governments at the national and county levels are distinct and inter-dependent and shall conduct their mutual relations on the basis of consultation and cooperation;

Whereas Article 187 of the Constitution provides that the National and County Governments may cooperate in the performance of functions and exercise of powers;

Whereas Article 190 of the Constitution provides that Parliament shall by legislation ensure that county governments have adequate support to enable them to perform their functions;

6.3 This Agreement shall come into force upon signature of the parties upon expiry of the project duration, this agreement and all the obligations of the parties shall terminate forthwith.

7. EVENTS OF DEFAULT ON AGREEMENT

7.1 If the County government fails to comply with any of the Terms and Conditions of Additional Allocations Framework, the National Treasury with written instructions from the relevant Ministries, Departments and Agencies may reduce, suspend, or stop transfers of Conditional Additional Allocation, or require any part or all of the Conditional Additional Allocation to be repaid by the County government, upon verification.

7.2 The National Treasury shall upon receipt of written instructions under 6.1 above, notify the county government within fourteen (14) days.

7.3 The County government shall act within twenty-one (21) days to address the National Treasury's concern or rectify the breach, and may consult or agree on an action plan to resolve the problem with the National Treasury.

7.4 Where any part or all of the conditional additional allocation is required to be repaid in accordance with clause 7.1 above, the County government must repay this amount within ninety (90) days of receiving the demand for repayment.

8. FINANCING ARRANGEMENTS

8.1 The Ministries, Departments and Agencies responsible for the functions being financed through the additional allocations shall include in its budget estimates a transfer to the County Government.

8.2 The County Government shall in its annual budget estimates provide for the programs to be financed by this additional allocation.

8.3 The National Treasury shall transfer the additional allocations to the County Revenue Fund, the amounts indicated in the County Governments' Additional Allocation Act in line with the provision of clause 3.2

Name
Designation
Signature
Date

Authorized to sign for and on behalf of the County Government of Kisumu

Name
Designation
Signature
Date

Witnessed by

Name
Designation
Signature
Date

15.0 WAY FORWARD

Note the content of the Model Intergovernmental Conditional Allocations Transfer Agreement for onward submission to the County Assembly.

16.0 ACTION REQUIRED

The County Executive Committee is requested to: -

- (i) Note the contents of this Memorandum on Model Intergovernmental Conditional Allocations Agreement and:
- (ii) Direct the County Executive Committee Member of Finance to table the agreement before the County Assembly for approval and then conduct Public Participation at the earliest opportunity in accordance with Section 191A (3) and 191B of the Public Finance Management Act, 2012.

Thank you.

George O. Okong'o
County Executive Committee Member
Ministry of Finance, Economic Planning and ICT Services.

ANNEX I: CONDITIONAL ADDITIONAL ALLOCATIONS FRAMEWORK

S/No.	Project/ programme Name	Kenya Informal Settlements Improvement Project (KISIP)
1.	Ministry/State Department Responsible	State Department of Housing
2.	Accounting officer of National Government Responsible	Principal Secretary Responsible for Housing
3.	Responsibilities of the National Government Accounting officer	Disbursement of Funds
4.	County Department Responsible	Department of Lands, Physical Planning, Housing and Urban Development
5.	Accounting officer of County Government Responsible	Chief Officer for Lands, Physical Planning, Housing and Urban Development.
6.	Responsibilities of the County Government Accounting Officer	Utilization of funds
7.	Conditions	Funds utilized on KISIP projects only
8.	Cost of Project	KSHS. 1,319,477,524
9.	Purpose and Objective of the Conditional Additional Allocation	To improve access to basic services and land tenure security of residents in participating urban informal Settlements and strengthen urban institutional capacity for slum upgrading in Kenya
10.	Allocation criteria	County Governments Additional Allocation Act
11.	Project Duration	5 years
12.	Priority of Government that this additional allocation primarily contributes to	Slum upgrading
13.	Reasons not incorporated in the Equitable Share	It is a Conditional Grant

S/No.	Project/ programme Name	Conditional Grant For Provision Of Fertilizer Subsidy Programme
1.	Ministry/State Department Responsible	Agriculture, Livestock and Fisheries
2.	Accounting officer of National Government Responsible	Principal Secretary Ministry of Livestock and Fisheries
3.	Responsibilities of the National Government Accounting officer	Disburse the allocated funds to the County Government
4.	County Department Responsible	Agriculture, Fisheries Livestock Development and Irrigation
5.	Accounting officer of County Government Responsible	Chief Officer Agriculture. Fisheries, Livestock Development and Irrigation
6.	Responsibilities of the County Government Accounting Officer	Ensure successful distribution of e-vouchers to beneficiary farmers
7.	Conditions	To be disbursed through e-vouchers to identified Agriculture Input dealers
8.	Cost of Project	Kshs. 120,042,858
9.	Purpose and Objective of the Conditional Additional Allocation	To improve Agriculture productive output
10.	Allocation criteria	County Government Additional Allocations

11.	Project Duration	One year
12.	Priority of Government that this additional allocation primarily contributes to	Improvement of crop yields due to use of fertilizers
13.	Reasons not incorporated in the Equitable Share	This grant was declared in the County Government Additional Allocations

S/No.	Project/ programme Name	Livestock Value Chain Support Project
1.	Ministry/State Department Responsible	Agriculture, Livestock and Fisheries
2.	Accounting officer of National Government Responsible	Principal secretary
3.	Responsibilities of the National Government Accounting officer	Procurement and disbursement to the County
4.	County Department Responsible	Agriculture, Fisheries, Livestock Development & Irrigation
5.	Accounting officer of County Government Responsible	Chief Officer Agriculture, Livestock, Fisheries Development and Irrigation.
6.	Responsibilities of the County Government Accounting Officer	Ensure proper distribution of coolers to beneficiary groups in the County
7.	Conditions	Grant to the County
8.	Cost of Project	Kshs. 14,323,680
9.	Purpose and Objective of the Conditional Additional Allocation	Value addition
10.	Allocation criteria	County Government Additional Allocations
11.	Project Duration	One year
12.	Priority of Government that this additional allocation primarily contributes to	Promote commercialization of value chains
13.	Reasons not incorporated in the Equitable Share	This grant was declared in the County Government Additional Allocations

Sno	Project/Programme Name:	National Agriculture Value Chain Development Project (NAVCDP)
1	Ministry/State Department Responsible	Ministry of Agriculture and Livestock Development State Department of Crop Development
2	Accounting officer of National Government Responsible	National Project Coordinator -NAVCDP
3	Responsibilities of the National Government Accounting Officer	Overall coordination and management of NAVCDP activities
4	County Department Responsible	Department of Agriculture, Irrigation, Livestock, Fisheries and Blue Economy
5	Accounting officer of County Government Responsible	County Project Coordinator

6	Responsibilities of the County Government Accounting Officer	Overall coordination and management of NAVCDP activities at County level
7	Conditions	Donor Fund Conditionalities International Development Association (IDA) general condition for IDA Financing – investment project financing <i>That the county will provide the following</i> a) Deploy staff to County Project Coordinating unit on a full-time basis and pay their salaries b) Provide office space c) Contribute at least Kshs. 5,000,000 as O&M and a further 20% county contribution towards infrastructural investments on an annual basis d) Open Bank accounts at Central Bank and an Operational Account at a commercial bank in which the Government of Kenya has an interest where the County Project Coordinator is the only mandatory signatory. e) Counties are required to transfer funds from CRF to project's special purpose account within 15 days and those that fail have their subsequent disbursements withheld until funds are subsequently disbursed. f) Procurement under the Project will be carried out in accordance with the World Bank's 'Procurement Regulations for IPF Borrowers', dated July 2016 and revised November 2020 (fourth edition).
8	Cost of Project	275 million US\$ Nationally for 5 years
9	Purpose and Objective of the Conditional Additional Allocation	To increase market participation and value addition for target farmers in select value chains in project areas
10	Allocation Criteria	Conditional Grant

11	Project Duration	5 Years
12	Priority of Government that this additional allocation primarily contributes to	Food security Import substitution Employment creation
13	Reasons not incorporated in the Equitable Share	International Development Association (IDA) general condition for IDA Financing – investment project financing

S/No.	Project/ Programme Name	Finance Locally -Led Climate Action Plan (FLLOCA)
1.	Ministry/State Department Responsible	National Treasury
2.	Accounting officer of National Government Responsible	Principal Secretary National Treasury
3.	Responsibilities of the National Government Accounting officer	Disbursement of funds
4.	County Department Responsible	Water, Environment, Natural Resources and Climate Change
5.	Accounting officer of County Government Responsible	Chief Officer Water, Environment, Natural Resources and Climate Change
6.	Responsibilities of the County Government Accounting Officer	Approval of activities and programs Financial reporting Approval of payments
7.	Conditions	Performance for results(PfR)
8.	Cost of Project	County Contribution/Matching Fund(2% of development fund): Climate Change Resilience Investment-236 Million (Dev) Climate Change Institutional Support -22 Million (Rec)
9.	Purpose and Objective of the Conditional Additional Allocation	To deliver Locally-led climate resilience actions and strengthen county capacity to manage climate risk
10.	Allocation criteria	County Government Additional Allocations Act
11.	Project Duration	2022-2027(5 years)
12.	Priority of Government that this additional allocation primarily contributes to	Climate Change adaptation and mitigation
13.	Reasons not incorporated in the Equitable Share	This grant was declared in the County Government Additional Allocations report

S/No.	Programme Name	Aquaculture Business Development Programme (ABDP)
1	Ministry/ State department responsible	Ministry of Mining, Blue Economy & Maritime Affairs
2	Accounting officer of national Government responsible	PS- State Department For Blue Economy & Fisheries
3	Responsibilities of National government Accounting Officer	- Financial and administrative management of programme resources - Planning of programme activities and consolidation of Annual Work Plan and Budgets (AWPBs) - Contracting and procurement of programme-related services and supplies - Mobilization and coordination of activities of various programme partners - Monitoring the preparation and implementation of Environmental and social impact assessment (ESMP) - Support target counties in preparing county level AWPBs, Monitoring implementation and supervising technical service providers contracted
4	County Department Responsible	Agriculture, Fisheries, Livestock Development and Irrigation.
5	Accounting officer of county government responsible	Chief Officer- Agriculture, Fisheries, Livestock Development and Irrigation
6	Responsibilities of county government accounting officer	- Facilitate programme implementation - Provide office space for programme offices - Participate in programme missions and relevant activities - Participate in programme M&E - Participate in Multi- Stakeholder dialogue and Reviews - Facilitate formation of programme committees.
7	Conditions	Loan to GoK
8	Cost of Project	➤ The total Program costs is USD 143.3 million (KES 14.9 billion), which includes; - IFAD Loan drawn from the 2016-18 Performance Based Allocation System cycle of USD 40.0 million (27.9%), - Government of Kenya contribution of USD 31.4 million, (21.9%) as counterpart funding, - Beneficiary contributions in cash or kind of USD 43.6 million, (30.4%).

		• FAO contribution of USD 400,000 (0.3%). • There is financing gap of USD 27.9 million representing 19.5%, • IFAD has given additional funds of USD 27.9 million to cover the financing gap.
9	Purpose and Objective of the conditional Additional Allocation	To promote Aquaculture, increase the incomes, food security and nutritional status of the wider communities of poor rural households involved in aquaculture in the targeted Counties
10	Allocation Criteria	Tranches based on approved AWPBs (current FY- 15M)
11	Project Duration	8 years (Currently in 6 th year)
12	Priority of government that this additional allocation primarily contributes to	Bottom up Economic Transformation Agenda (BETA)- Food Security
13	Reasons not incorporated in the equitable share	As per the signed MOU and program design all participating counties opened a commercial bank account for the disbursement used for operations since investment budget is done centrally at the program headquarters.

S/NO.	Project/Programme Name	DANIDA Grant - Primary Health Care in Devolved Context
1	Ministry/state Department Responsible	Ministry of Health
2	Accounting officer of national government responsible	Principal Secretary Ministry of Health
3	Responsibilities of the national Government Accounting officer	Ensures disbursement of Danida funds from National Treasury to County Government treasury
4	County Department Responsible	Department of Medical services
5	Accounting officer of County government responsible	Chief officer Medical services, Health and Sanitation
6	Responsibilities of the County Government Accounting officer	Ensures timely and equitable disbursement of Danida conditional grant
7	Conditions	Should be used in facility operations and maintenance costs. Should be disbursed only to the gazetted level 1 and 11 facilities. County should ensure that the County counter fund contribution is done according to the addendum
8	Cost of Project	KSH.19,430,000
9	Purpose and Objective of the Conditional Additional Allocation	To finance health facilities operations and maintenance
10	Allocation criteria	30% based on the workload and 70% standard

11	Project Duration	11 years, from 2015 to 2026
12	Priority of government that this additional allocation primarily contributes to	To ensure equitable financing to primary health facility
13	Reasons not incorporation in the equitable share	To fulfill Danida (Danish Embassy and National treasury agreement/adendum signed in 2021

ANNEX II: VARIATION REQUEST

WHEREAS the National Treasury and the County Government of Kisumu entered into an Agreement for the approved Project dated (INSERT DATE) as varied on (INSERT DATE) and now wish to amend the Conditional Additional Allocations Framework.

IT IS AGREED as follows

1. DEFINITION

1.1 Terms defined in the Conditional Additional Allocations Framework shall have the same meaning when used in this Variation Request, unless defined otherwise.

2. VARIATION

2.1 With effect from (INSERT START DATE) the Conditional Additional Allocations Framework shall be amended as set out in this Variation Request:

1.	Variation requestor	INSERT NAME OF CECM
2.	Summary of variation	INSERT FULL DETAILS OF VARIATION
3.	Reason for variation	INSERT REASONS FOR VARIATION
4.	Revised Amounts	INSERT NEW AMOUNT
5.	Revised Funding Period	INSERT NEW START DATE AND END DATE
6.	Revised Payment Arrangements	INSERT NEW PAYMENT ARRANGEMENTS
7.	Other Variation	INSERT ANY OTHER NEW PROPOSED CHANGE TO THE CONDITIONAL ADDITIONAL ALLOCATIONS FRAMEWORK TERMS

2.2 Save as herein amended all other Terms and Conditions of the Agreement shall remain in full force and effect.

Authorized to sign for and on behalf of
Principal Secretary,
The National Treasury

Authorized to sign for and on behalf of
(County Government of Kisumu)

Signature:.....
Name in Capitals Date:.....
Address in full:.....

Signature:.....
Name in Capitals Date:.....
Address in full:.....

ANNEX III: ADDITIONAL ALLOCATIONS TO THE COUNTY GOVERNMENT OF KISUMU IN FY 2023/24

S/NO	Project Description	AMOUNT IN KSHS
I. Conditional Additional Allocations from the National Government's Share of revenue for Financial Year 2023/24		
1.	Conditional allocation for the Construction of County Headquarters (5 counties: Lamu, Isiolo, Nyandarua, Tana River & Tharaka Nithi)	0
2.	Conditional allocation for Managed Equipment Services (MES) Project	0
3.	Conditional allocation for County Aggregated Industrial Parks (CAIP) Programme	0
II. Unconditional Additional Allocations from the National Government's Share of revenue for Financial Year 2023/24		
1.	Unconditional allocation financed from court fees and fines emanating from contravention of County Legislation (10 counties)	0
2.	Unconditional allocation financed from the 20% Share of Mineral Royalties (32 counties)	0
	Total Allocation from GoK	
III. Conditional Additional Allocations Financed from proceeds of loans and grants from Development Partners for Financial Year 2023/24		
1.	IDA (World Bank) credit (National Agricultural and Rural Inclusive Growth Project (NARIGP))	0
2.	IDA (World Bank) credit National Agricultural Value Chain Development Project (NAVCDP)	250,000,000
3.	IDA (World Bank) - Kenya Climate Smart Agriculture Project (KCSAP)	90,000,000
4.	IDA (World Bank) credit: Water & Sanitation Development Project (WSDP)	0
5.	DANIDA Grant - Primary Health Care in Devolved Context	12,474,000
6.	IDA (World Bank) Credit (Financing Locally- Led Climate Action (FLLoCA) Program, County Climate Institutional Support (CCIS) Grant	0
7.	Sweden- Agricultural Sector Development Support Programme (ASDSP) II	536,771
8.	German Development Bank (KfW)- Drought Resilience Programme in Northern Kenya (DRPNK)	0
9.	World Bank - Emergency Locust Response Project (ELRP)	0
10.	World bank - Kenya Informal Settlement Improvement Project (KISIP II)	400,000,000
11.	Kenya Livestock Commercialization Project (KELCLOP)	0
12.	Aquaculture Business Development Project (ABDP)	15,407,244
13.	IDA (World Bank) Credit (Financing Locally- Led Climate Action (FLLoCA) Program, County Climate Resilience Grant (CCRG)	111,000,000
	Total Allocation from Development Partners	879,418,015



REPUBLIC OF KENYA
THE NATIONAL TREASURY AND ECONOMIC PLANNING

Telegraphic Address: 22921
FAX NO. 310833
Telephone: 2252299
When Replying Please Quote

THE NATIONAL TREASURY
P. O. BOX 30007 -00100
NAIROBI

REF No: IGFR/IATIA/A (74)

8th January, 2024

Mary Mwiti
Chief Executive Officer
Council of Governors
P O Box 840401 - 00100
NAIROBI.

Dear *Mary*

RE: MODEL INTERGOVERNMENTAL CONDITIONAL ALLOCATIONS TRANSFER AGREEMENTS

This is draw your attention to the above subject matter.

As you are aware, section 191A to 191E of Public Finance Management Act, 2012 was amended to require the Principal Secretary, National Treasury to sign Intergovernmental Agreements with respective County Governments. In order to actualize this, an Inter-agency Taskforce was established to develop the Model Intergovernmental Conditional Allocations Transfer Agreement. The Agreement was sent to the Office of the Attorney General on 10th November, 2023 and a legal opinion provided on it. The legal officer of the National Treasury has incorporated all the recommendations made by the Attorney General.

The procedure of executing the Intergovernmental Agreement is given in section 191(A) (3) which states that, "where a County Government intends to enter into an agreement under subsection (1), the county executive committee member shall submit the agreement to the respective County Assembly for approval". In addition to the above, there is a requirement of Public Participation in section 191B, submission to Senate in section 191D and requisition of funds in 191E. an extract of PFMA with section 191A to 191E is attached for your ease of reference.

In view of the above requirements, the purpose of this letter therefore, is to share the attached Model Intergovernmental Conditional Allocation Transfer Agreement. Please arrange to write to all CECM Finance to process the Agreement with their respective County Assemblies before signing.

Yours

Sincerely

DR. CHRIS KIPTOO, CBS
PRINCIPAL SECRETARY/ THE NATIONAL TREASURY



COUNCIL OF GOVERNORS

Westlands Delta House 2nd Floor, Waiyaki Way.
P.O. BOX 40401-00100,
Nairobi.

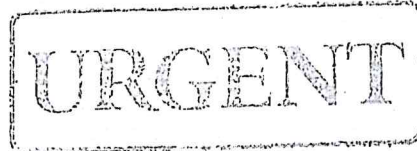
Tel: (020) 2403314, 2403313
E-mail: info@cog.go.ke

Our Ref: COG/6/33 Vol.22 (8)

9th January 2024

Through: Excellency Governors

To: County Executive Committee Members for Finance and Economic Planning



MODEL INTERGOVERNMENTAL CONDITIONAL ALLOCATIONS TRANSFER AGREEMENTS

We refer to the above subject matter.

The Council is in receipt of a letter from the National Treasury REF No: IGFR/IATA/A (74) dated 8th January 2024, forwarding the Model Intergovernmental Agreement for the transfer of Conditional Allocations to County governments. The model has incorporated comments by the Attorney General and has been cleared for implementation by the County governments.

The purpose of this letter is to:

1. Forward the Model Intergovernmental Conditional Allocations Transfer Agreement to all the Counties. (Copy attached).
2. Request the County Executive Committee Members responsible for matter of Finance to table the model agreement before the respective County Assembly for approval and then conduct Public Participation at the earliest opportunity in accordance with Section 191A (3) and 191B of the Public Finance Management Act, 2012 respectively.

For any clarifications on the model agreement, the Council Secretariat staff Mr. Eugene Lawi of email: eugene.lawi@cog.go.ke and Phone No: 0727301448 and Mr. Stephen Momanyi of email: stephen.momanyi@cog.go.ke and Phone No: 0706642219 will be available.

Please accept assurance of our highest esteem and consideration.

Mary Mwiti
Chief Executive Officer

PUBLIC FINANCE ACT 2012 (Revised 2022)

PREPARATION OF INTERGOVERNMENTAL AGREEMENTS

Introduction

The County Government Additional Allocation Act vide Kenya Gazette Supplement No. 74 (Acts No 17) dated 29th April 2022 amended section 42 and 191 of Public Finance Management Act 2012. The requirements under section 191A to 191D shall not apply to 2021/2022 and 2022/2023 financial year as indicated in the transitional section 10 of the Act.

42. Consideration by Parliament of Bills allocating revenue and additional allocations

Parliament shall consider the Division of Revenue Bill, the County Allocation of Revenue Bill, and a County Governments Additional Allocations Bill not later than thirty days after the Bills have been introduced with a view to approving them, with or without amendments.

191A. Intergovernmental agreements

- (1) The National Treasury shall enter into an agreement with the respective county government for the transfer of the respective conditional allocation made to the county government pursuant to this Act.
- (2) An agreement under subsection (1) shall set out any conditions that may be attached to the conditional allocations made under this Act.
- (3) Where a county government intends to enter into an agreement under subsection (1), the county executive committee member shall submit the agreement to the respective County Assembly for approval.
- (4) The County Assembly shall, within fourteen days of submission of an agreement under subsection (3), approve or reject the agreement.
- (5) Where a County Assembly fails to consider an agreement under subsection (3) within fourteen days, the agreement shall be deemed to be approved.

(6) An agreement under subsection (1) shall set out all conditions attached to an allocation made under this Act.

(7) The respective county government shall forward the agreement approved under this section to the Controller of Budget within seven days of approval.

191B. Public participation

The county executive committee member shall facilitate public participation on any agreement made pursuant to section 191A.

191C. Execution of agreement for conditional allocation

An agreement under section 191A shall be—

- (a) signed by an authorized person or officer; and
- (b) published in the Kenya *Gazette* within a period of seven days of the agreement.

191D. Submission to Senate

(1) The National Treasury shall, within seven days of entering into an agreement under section 191A, submit to the Senate and the Controller of Budget, the agreement together with any other documents relating to the agreement.

(2) The National Treasury shall publish and publicize all agreements entered into pursuant to section 191A.

191E. Requisition of funds

Requisition of funds from the county revenue fund for the purposes of a conditional grant shall be supported by the intergovernmental agreement approved under section 191A.



COUNCIL OF GOVERNORS

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Our Ref: COG/6/8/5A Vol.11 (48)

4th March 2023

Through: Excellency Governors

To: All County Executive Committee Members in charge of Finance and Economic Planning

ADVISORY TO COUNTY GOVERNMENTS ON THE COUNTY GOVERNMENTS ADDITIONAL ALLOCATIONS BILL, (NATIONAL ASSEMBLY BILLS NO.23 OF 2023) AND SECTIONS 191A TO 191E OF THE PUBLIC FINANCE MANAGEMENT ACT, 2012

The above subject matter refers.

The County Governments Additional Allocations Bill (CGAAB), (National Assembly Bills No.23 of 2023) provides for the additional allocations to County Governments for the 2023/2024 financial year; the responsibilities of National Government and County Governments pursuant to such allocation; and for connected purposes. As you are aware, the Bill was referred to a mediation committee of both houses of Parliament. The Mediation Committee prepared a mediated version of the CGAAB, 2023 which was passed by both the National Assembly and the Senate on 21st and 22nd February 2024 respectively.

The following are the changes as contained in the mediated version of the Bill:

1. The allocation of conditional allocations for the provision of library services has been revised to Ksh.162,848,690 allocated among twenty-one (21) Counties.
2. The conditional allocations financed by a grant from the German Development Bank (KfW) to finance Locally- Led Climate Action Program (FLLoCA)- (County Climate Resilience Grant) amounting to Ksh.1.2 billion have been included in the Bill.
3. The Conditional allocation for the Community Health Promoters (CHPs) Project from the National government's share of revenue has not been provided for in the Bill for the current Financial Year.
4. The mediated version of the Bill has provided for an exemption of two (2) Financial Years, being FY 2023/24 and 2024/25 from the requirements of Sections 191A to 191E of the Public Finance Management Act as sought by the Council of Governors.

The Bill was assented to by the President on 4th March 2024 paving way for its implementation.

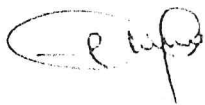
In view of the foregoing, we wish to advise as follows:

1. County governments to revise their FY2023/24 budgets to align with the new figures as approved by Parliament.

2. County governments WILL NOT be required to enter into intergovernmental agreements for transfer of Conditional grants for FYs 2023/24 and 2024/25.
3. The 18 County governments benefiting from the County Aggregation and Industrial Parks (CAIPs) conditional grant can initiate the process of transferring their money from the County Revenue Fund (CRF) Accounts to the Special Purpose Accounts (SPAs).

The purpose of this letter is to bring to the attention of the County governments on the enactment of the County Governments Additional Allocations Bill (CGAAB), (National Assembly Bills No.23 of 2023) and advise on its implications thereof.

Please accept the assurance of the highest esteem and consideration.



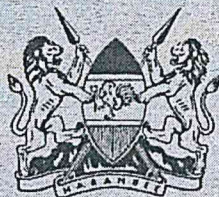
Mary Mwiti
Chief Executive Officer

Copy:

All County Chief Officers
Clerks of the County Assemblies

SPECIAL ISSUE

Kenya Gazette Supplement No. 135 (National Assembly Bills No. 63)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2019

NAIROBI, 2nd August, 2019

CONTENT

Bill for Introduction into the National Assembly—

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The Public Finance Management (Amendment) Bill, 2019 1001



PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI

**THE PUBLIC FINANCE MANAGEMENT
(AMENDMENT) BILL, 2019**

A Bill for

**AN ACT of Parliament to amend the Public Finance
Management Act, 2012**

ENACTED by Parliament of the Republic of Kenya,
as follows—

1. This Act may be cited as the Public Finance
Management (Amendment) Act, 2019.

Short title.

2. The Public Finance Management Act, 2012 is
amended by inserting the following new section
immediately after section 191—

Insertion of a new
section 191A in
No. 18 of 2012.

Access to the
minimum revenue
by county
governments
pending enactment
of the Division of
Revenue Act by
Parliament.

191A. (1) The purpose of this section is
to—

- (a) put into place interim measures to
allow county governments to access
their minimum share of revenue
already guaranteed and granted to
them by Article 206(2) of the
Constitution to enable them offer
services to the public pending
enactment of the Division of
Revenue Bill by Parliament in the
event the Bill is not enacted within
the timelines specified in subsection
(2).
- (b) enable the county governments to
access the guaranteed minimum
allocation set aside by the
Constitution of fifteen percent of
national revenue based on the most
recent audited accounts of revenue
received as approved by the
National Assembly pending the
passage of the Division of Revenue
Bill;

- (c) enable the Controller of Budget to authorize withdrawals from the Consolidated Fund of the minimum amount of fifteen percent of all national revenue already charged on the Consolidated Fund by Article 203(2) of the Constitution;
- (d) safeguard the fifteen percent of all national revenue guaranteed for allocation to the county governments from disagreement between the two Houses of Parliament and the subsequent defeat contemplated by Article 113(4) of the Constitution; and
- (e) ensure the division of fifteen percent of all national revenue among county governments as contemplated under Article 203(2) of the Constitution in the event that the Division of Revenue Bill has not or is unlikely to be passed before the commencement of a financial year.

(2) In the event that the Division of Revenue Act for the next financial year has not been passed by Parliament by the tenth day of June of the preceding financial year, the Senate shall, by resolution, divide fifteen percent of all revenue collected by the national government among the county governments within seven days in accordance with the most recent resolution made by Parliament under Article 217 of the Constitution.

(3) The amount referred to in subsection (2) shall be calculated on the basis of the most recent audited accounts of revenue received by the national government as approved by the National Assembly.

(4) Within five days after the Senate passes a resolution under subsection (2) the Speaker of the Senate shall refer the resolution and a schedule outlining the division of the revenue among the county governments to the Speaker of the National Assembly.

(5) Within seven days after the Senate's resolution is referred under subsection (4), the National Assembly may consider the resolution, and vote to approve it, with or without amendment.

(6) If the National Assembly—

(a) does not vote on the resolution within seven days, the resolution shall be regarded as having been approved by the National Assembly without amendment; or

(b) votes on the resolution, the resolution shall have been—

(i) amended only if at least two-thirds of the members of the Assembly vote in support of the amendment; or

(ii) approved, in any other case.

(7) A resolution passed by Parliament under this section shall—

(a) be binding; and

(b) authorize the Controller of Budget to approve the disbursement of fifteen percent of all revenue collected by the national government to respective County Revenue Funds in accordance with the resolution.

(8) In passing the annual Division of Revenue Bill, Parliament shall take into account any revenue allocated to the county governments under this section.

(9) On the basis of the money disbursed to the County Revenue Fund under subsection (7)(b) each county government shall prepare and adopt its own interim budget and an interim appropriation Bill pending the enactment of the Division of Revenue Act and the County Allocation of Revenue Act by Parliament.

(10) Upon passage of the Division of Revenue Act and the County Allocation of Revenue Act by Parliament, each county government shall pursuant to Article 224 of the Constitution prepare and adopt its own annual budget and appropriation Bill which shall take into account the interim budget and interim appropriation Bill under subsection (9).

MEMORANDUM OF OBJECTS AND REASONS

Statement of objects and reasons for the Bill

Article 203(2) of the Constitution guarantees county governments an equitable allocation of a minimum of fifteen percent of all national revenue based on the most recent audited accounts of national revenue received as approved by the National Assembly. As such, this amount ought to be readily available to County Governments as it is already allocated by the Constitution and is readily ascertainable and ought not to be subjected to the bicameral legislative process between the two Houses of Parliament with the possibility of protracted disagreement between the Houses and possible defeat of the Division of Revenue Bill after referral to the mediation process.

The main objective of this Bill is to put into place interim measures to allow county governments to access their minimum share of revenue already guaranteed and granted to them by Article 206(2) of the Constitution to enable them offer services to the public pending enactment of the Division of Revenue Bill in the event the Bill is not enacted before the commencement of the next financial year.

This Bill is not in any way and must not be construed as an attempt to replace the Division of Revenue Bill contemplated by the Constitution. The Bill merely seeks to put into place interim measures for the financing of county governments in the event of delayed or protracted enactment of the Division of Revenue Bill by freeing the minimum amount already allocated to the County Government by the Constitution to flow to the Counties. The Bill provides for these interim measures to be regularized and be incorporated in the Division of Revenue Bill when it is finally passed by Parliament.

The Bill seeks to enable the county governments to access the guaranteed minimum allocation set aside by Article 206(2) Constitution by empowering the Controller of Budget to authorize withdrawals from the Consolidated Fund of this minimum amount already charged on the Consolidated Fund by Article 203(2) of the Constitution.

In addition, the Bill seeks to safeguard the fifteen percent of all national revenue guaranteed for allocation to the county governments from disagreement between the two Houses of Parliament and the possible defeat within the framework of Article 113(4) of the Constitution.

Clause 2 of the Bill proposes to insert a new section 191A in the Public Finance Management Act, 2012 to allow the Senate, by resolution, to divide the guaranteed fifteen percent among the county governments in the event that a Division of Revenue Bill has not been passed by the tenth day of June. This is in line with the Senate's role of approving the basis

for allocation of national revenue among county governments every five years pursuant to Article 217 of the Constitution. Once the resolution is transmitted to the National Assembly, the Assembly must muster a two-thirds majority to amend the resolution and cannot reject the resolution. This is in line with the constitutional protections accorded to Special Bills concerning county governments under Article 110 of the Constitution.

The resolution as passed is to constitute Parliament's explicit authorization to the Controller of Budget to disburse funds to the county governments in time for the commencement of their financial year.

Statement as to whether the Bill concerns county governments

This Bill is a Bill concerning county governments in terms of Article 110 of the Constitution.

The Bill relates to money which has already been charged on the Consolidated Fund by Article 203(2) of the Constitution.

Dated the 2nd August, 2019.

KIMANI ICHUNG'WAH,
Chairperson, Budget and Appropriations Committee.