

Memorandum



To: The County Assembly of Uasin Gishu

From: Interested parties representing members of the public under the umbrella of Bunge La Wenye Nchi

RE: Addressing the gaps and weakness identified in the Budget estimates for the year 2015/2016

Date: June 19, 2015

Executive summary

1. The *Constitution of Kenya 2010* under article 35 and 220 read together with the *Public Finance Management Act (2012)* and the *County Government Act (2012)*, stipulates the form, content and timing of budgets and opportunities for public participation in regards to procedure and process of formulating, enacting/approving, implementation and evaluation of respective budgets while providing avenues for public participation and access to budget and related information. The aforementioned laws outline among others the structure of public consultation, the timelines to which activities at each stage of the budget making process are to be undertaken and deadlines to be adhered to in tabling, publishing and publicizing of budget and related documents. Failure to adhere to any of this process either in part or in its completeness is a violation of the *Constitution of Kenya 2010*, the *PFM Act* and the *County Government Act* while a compromise of any part of this process has the following implications:

- i) It kills the spirit and purpose for which Kenyans unanimously voted for the 2010 constitution that conceived the new devolved system of governance with the goal of bringing power and resources closer to the people with view of promoting meaningful participation of people in the exercise of power and management of public resources;
- ii) It renders meaningless the intention of the constitution in giving powers of oversight and representation to the legislature as the representative of people;
- iii) It provides fertile breeding space for corruption, misappropriation of power and resources;
- iv) It provides room for court petitions that bear greater negative impact on the development agenda and service delivery to the people of Uasin Gishu County ;
- v) It sets the norm and standards of planning and budgeting in the county at the lowest level.

Address the gaps and weakness identified in the budget estimates before approval

2. Having participated in the consultative forums convened by both organs of the County government; the County Assembly and County Executive of Uasin Gishu and analyzed the budget estimates and budget programs submitted to the County assembly, the interested parties hold the view that the process of formulating the 2015/2016 budget estimates did not meet the minimum requirements of article 174 (a) and (c) of the *Constitution of Kenya 2010*, which stipulates the objects of devolution, section 126, 117 and 130 of the *Public Finance Management Act*, which provide the process of the formulation and tabling of an Annual Development Plan (ADP), the County Fiscal Strategy Paper (CFSP) and Budget estimates before County assembly.
3. The above provisions of the law require that having formulated the above documents and submitted the same to the County Executive Committee, the county department in charge of Finance will then table these documents before the County Assembly within the stipulated dates and timelines.
4. On the contrary, to the knowledge of the interested parties, there is no Annual Development Plan (ADP) formulated and tabled before the County Assembly, while there are CSFP and budget estimates, which were tabled before the County Assembly later than the stipulated deadlines on March 12, 2015 for the CFSP and May 5, 2015 for Budget estimates and programs.

Align the budget estimates to development planning laws and needs and preferences of the people before approval

5. To this effect, the budget cycle is incomplete at this particular point in the sense that, the following processes were not adhered to:
 - i) Public participation and adherence to entire process at the formulation stage of the budget estimates as required by section of 128 of the Public Finance Management Act 2012 and effected under section 130 of the PFMA 2012: Members of the public, especially in particular people living with disability, youth and women do not have knowledge of the budget proposals or whether the budget tabled at the assembly on May 5, 2015 has any target program for this group due to a poor or ineffective consultation process;

- ii) Compliance and alignment of the respective budget documents to legal requirements of planning and budgeting in the county e.g. the County Integrated Development Plan (CIDP) and County Fiscal Strategy Paper (CFSP): Whereas CIDP 2013-2018 exists, the absence of the Annual Development Plan is serious breach of the law and creates a gap in the budgeting process as it suppose to provide the linkage of the larger CIDP to the budget estimates;
- iii) Access to information: Despite the provision of this right in the law under article 35 of the constitution and section 87 of the County Government Act, access to budgets and related information such as; the CFSP, implementation reports and County Budget Review and Outlook Paper (CBROP) is violated;
- iv) The dates to which the respective budget documents were tabled at the County Assembly as shown above are outside the stipulated timelines as provided in the *Public Finance Management Act* and therefore a violation of the budget law;
- v) The budget documents (budget estimates and programs) tabled before the County Assembly are not in the Programs Based Budget (PBB) format prescribed under section 130 (1) (v) of the *Public Finance Management Act* of 2012, and thus contravene the law;
- vi) According to our analysis and consultation with the youth, women and people living with disability; there is no single program or project funded and targeted to the people with disability; and whereas there are programs targeting youth and women, the programs are not properly conceived to address their unique needs. This gap is a result of poor consultation with this group.

Put the record straight in our planning and budgeting system going forward and, provide leadership to the county.

6. The interested parties acknowledge that the devolved system is new to all of us, however the identified issues above has been recurring time and again and have been witnessed in the last two financial years (ending this month) following the operationalization of devolution in March 2013.
7. However, throughout the budgeting process during this period, the interested parties have often sought the attention of the respondents to give input and recommendations including written proposals to the responsible for planning and budgeting organ in the county with the aim addressing the identified gaps and weak points on both the budgeting process and public participation. However, their requests have failed to elicit a favorable response.

Recommendations: Return the budget to the executive with clear and strong recommendations for appropriate actions for this budget and future budgets

8. It is therefore the interested parties' humble request that the County Assembly undertakes the role of oversight and representation of people with the seriousness it deserves to ensure the provisions of the *Constitution of Kenya 2010*, *PFMA* and the *County Government Act* are adhered to with view of promoting the objects of devolution by granting the interested parties the following prayer:

Consider rejecting the budget under section 131 of the PFMA and return it to the County Executive with the following recommendations for improvement and subsequently tabling the same before the County Assembly for the second time:

Immediate action - current budgeting process

- i) Align the budget to the CIDP2013-2018 and CFSP 2015 and clearly state the linkages therein;
- ii) Formulate the budget estimates in stipulated format as required by section 130 (1) (b) and (v) of the *Public Finance Management Act* (2012) in regards to section 130 (1) (a) and (b); and have it tabled before the County assembly for approval within a reason time frame;
- iii) When redoing the budget for 2015/16 and considering the availability of time, convene effective and reasonable countywide public participation forums to provide the wider public, taking into consideration special interest groups a chance to align the budget to the CIDP and their needs and preferences before tabling it again before assembly for approval.
- iv) Revise allocations which are deemed unrealistic as identified from the analysis and attached herein as an annex IV and V with view of creating more resources for funding priority development programs and services in 2015/16.

Long-term action – next and future budgeting process

- v) Ensure that the approach to the next budgeting process is participatory and inclusive of the wider spectrum of the population with surety of effective and comprehensive consultations.
- vi) Ensure that the process of formulating the Annual Development Plan 2015 and all processes thereafter is comprehensive and tabled before the County Assembly within the stipulated timelines
- vii) Each document produced at each stage of the budget making process MUST provide comprehensive and explanatory notes clearly explaining the linkage between budget process from

one stage to another for example, linkage between the 2016/17 Budget estimates tabled before assembly before April 30, 2016 to CFSP 2016, ADP 2015 and subsequently CIDP 2013-2018

Access to information and feedback on the consideration of public input by the government organs

9. The interested parties further request that the considerations made by the County Assembly as pertains this matter be officially communicated to them.
10. Publish the draft budget estimates in the county website as soon tabling the same at before assembly and this should be the norm going forward.

Annex III: Analysis of the budget estimates compliance to PBB requirements

Annex IV: Brief analysis of unrealistic increments from 2014/15 financial year (read with soft copy excel) budget estimates.

Annex V: Views and proposals collected and collated from members of the public

Presented on this day of Friday June 19, 2015 at the County Assembly offices in Uasin Gishu:

Presented on behalf of the interested parties by:

Chairperson of Bunge La Wenye Nchi:

Peter Chepkong'a
PC

Received by:

Hon. Clerk of the County Assembly:

CC:

Office of the Controller of Budget