

Are Kenya's Counties Making Budget Documents Available to the Public? A Review of County Websites | March 2018

BACKGROUND

The Public Finance Management Act 2012 (PFM) gives deadlines when governments should produce and table certain key budget documents in the County Assemblies throughout the budget cycle. The PFM regulations require that counties publish these documents within seven days after they are tabled in the assemblies. This analysis builds on our [previous assessments](#) of the availability of key county budget documents released by counties on their websites since 2015. The International Budget Partnership's (IBP) definition of "available documents" refers to documents being published online on official government websites and in a timely manner. In Kenya these are timelines set in the PFM Act and other public finance-related laws.

In February 2018, we looked at four documents that counties were meant to produce and make available on their websites covering the budget period between July and December 2017. These include:

- 1) Approved County Program-Based Budgets for FY 2017/18
- 2) County Budget Review and Outlook Papers 2017 (CBROP)
- 3) First Quarter Budget Implementation Reports for 2017/18
- 4) Second Quarter Budget Implementation Reports for 2017/18

These are primarily budget implementation documents that cover the period between July and December 2017. The preliminary results were shared with all the 47 county governments to ascertain their accuracy before we carried out the final check in early March. Our next review in June 2018 will focus mainly on formulation documents for the 2018/19 county budgets.

PURPOSE OF THE FOUR KEY BUDGET IMPLEMENTATION DOCUMENTS

APPROVED COUNTY PROGRAM-BASED BUDGET ESTIMATES

The PFM Act stipulated that counties should prepare their budgets in program-based format from 2014/15 onwards. These are critical documents that allow citizens to track expenditure against the formulated budget over the course of the year.

COUNTY BUDGET REVIEW AND OUTLOOK PAPERS 2017

County Budget Review and Outlook Papers (CBROPs) review budget implementation during the previous year. They also set provisional ceilings for the coming year that allow the public to understand government priorities and permit government departments to prepare their proposals for the upcoming budget. The law requires that CBROPs be tabled in the Assembly by late October and published as soon as possible thereafter (we would expect them by November).

FIRST AND SECOND QUARTER IMPLEMENTATION REPORTS FOR FY 2017/18

The budget debate should not end when budget estimates are approved. The public and county assemblies should review quarterly implementation reports to monitor if money is being spent as planned. The reports should review whether the departments and the programs within them are implementing the budget as expected within the year of implementation. The goal is to rectify problems while the budget is being implemented, rather than assigning blame after the year is over. These reports also help to guide budget formulation for the coming year. Quarterly budget implementation reports should be published within 30 days of the end of the quarter. Based on the budget calendar, all counties should have published their first and second quarter budget implementation reports for FY 2017/18 by October 31, 2017 and January 31, 2018. It should be clear that each county is required to publish these reports and that they are different from the Controller of Budget implementation reports which are also published around the same time.

WHAT DID WE FIND?

APPROVED PROGRAM-BASED COUNTY BUDGET ESTIMATES FOR FY 2017/18

Only six out of 47 counties published their enacted budgets. While this is an improvement from only two documents that we found in our 2017 review, it is only 13 percent of what is expected.

Like in previous studies, we still have a challenge in identifying approved program-based budgets. Few counties clearly indicate their budgets as approved versions. Many PBBs that we found online did not indicate whether they were the proposed or approved versions. In addition, to confirm whether the PBBs we found online were final and approved versions, we looked for the related appropriation acts which were also not publicly available.

Being able to make the distinction between proposed and approved budget is useful because County Assemblies do make changes to what is tabled each year. Citizens should be able to see the amendments that the assemblies make and that is not possible if the public is not able to tell which version of the PBB they are looking at. In addition, if the version of the budget tabled in the assembly is a PBB, then the approved version has to be in PBB format as well for people to be able to track the changes.

Following indications given in earlier rounds of the assessment, we no longer accept in our count any budget that is not marked as *final* and *approved* version.

COUNTY BUDGET REVIEW AND OUTLOOK PAPERS

Only eight counties had published their BROPs 2017 online by March 2018¹. This is lower than the eleven counties that had done so last year.

FIRST QUARTER IMPLEMENTATION REPORTS FOR FY 2017/18

The first quarter implementation report was due at the end of October 2017. As of February 2018, only two counties, Baringo and Uasin-Gishu, had published their first quarter implementation reports for 2017/18 online.

SECOND QUARTER IMPLEMENTATION REPORTS FOR FY 2017/18

The second quarter report was due at the end of January 2018. Again, only two counties, Baringo and Uasin-Gishu had published their reports. Generally, quarterly implementation reports remain the worst performers in each study that we have done that had them as documents of interest.

ACCESS TO BUDGET INFORMATION

Kenya passed an Access to Information Act (ATI) in 2016 as part of improving transparency in government. Our study looks at documents that are made available on county websites twice each year. However, one can argue

that this is not the only way to access budget documents in the counties. The case could be made that budget documents may not be available online but can still be accessed from county offices through formal requests. The passing of the ATI act would in theory make this “offline” access much easier. To find out if information could be accessed from counties, 12 organizations engaging with budget issues across counties made formal requests in February 2018, for budget implementations reports for the first two quarters of 2017/18 in 12 counties across the country. The formal requests were made using a standardised ATI request form that would allow for cross-county comparisons. In summary, one would walk into the county office with an ATI information form which upon receipt by a county official, would be signed and stamped as official acknowledgement by the county government. Then the information was to be provided within the stipulated 21 days according to the ATI act.

We found that majority of the requests made were to the office of the County Secretary across all the counties. This was informed by past experiences shared among some of the partners who had previously made requests and were mostly directed to this office. The ATI act anticipates that each county will have an information officer or specific office where all requests will be directed. Based on the request processes, our study found out that it is not clear which information officer or which office is responsible for providing the information requested for in counties. In addition, only 50 percent of the request forms were signed and stamped as an official acknowledgement that the requests had been received by a county official.

Any information requested should be provided within a window of 21 days. From the 16 requests made for the two-budget implementation reports, only Kisumu county provided the two reports in both hard and soft copies while Busia and Tana River provided only the first quarter implementation report in hard and soft copies respectively. However, the reports in Kisumu were print outs from the Integrated Financial Management System (IFMIS). In Uasin Gishu, the county secretary ordered that the finance department make the implementation documents available online and when we did the final check on the county website, both implementation reports were available. In Tana River, the implementation report provided was a one-page summary document without narrative or programme information to explain the budget implementation.

While the reaction in many of the counties was quite positive, there are several counties that did not officially receive the request forms by not signing or stamping them. In most cases, bureaucracy challenges were witnessed in the application process where applicants were sent from one office to the next. In one extreme case in Bungoma, the applicant was asked to get the implementation reports from the local Huduma Centre by the very office meant to produce and publish the budget implementation reports. Another observation made looked at cases where different organisations made same requests in the same county office at different times, but the reception was different. For instance, in Elgeyo Marakwet the same county official received, signed and stamped one request form but declined to do the same for the same request form made by another applicant. Another case was in Nairobi county where two applicants made the same request to the county secretary’s office, one

applicant's request form was received, stamped and signed and then sent to the Controller of Budget office while the other applicant's form was declined and instead requested to write a cover letter. Finally, some applicants were told to check the website of the Controller of Budget for the implementation reports which does not make sense because counties are required to produce their own implementation reports which are different from the controller of budget's.

In conclusion, out of 16 requests made, only nine counties confirmed receipt of the application forms while only four applicants were provided with the implementation reports requested for or asked to retrieve the approved budget documents online within the stipulated 21 days. The rest of the applicants were either faced by bureaucracy challenges and asked to write cover letters or referred to a later date with counties giving excuses that the right official to deal with the issue was not available at the time of request. This is an indication that most counties are not publishing budget documents online and citizens are not able to access them if they physically make requests for these documents in their respective county offices.

CONCLUSION

As counties, complete formulation of their fifth budgets after devolution, many of them are still not making key budget documents available to the public online in a timely fashion. Our data show that the situation is not substantially improving over time. In fact, this is the worst performance since IBPK started doing the studies in 2015. Any citizen should be able to walk into a county government office and request for county budget information and be provided with that information within 21 days according to the Access to Information Act 2016. Being requested to write a cover letter by the county officials is a violation of the ATI Act. It is not clear what the proper route for accessing county budget information is and why cover letters are requested in some counties.

Transparency is a key element in improving public engagement in planning and budgeting. It is a legal requirement that budget documents be made available and the PFM laws and regulations contain clear deadlines for publishing each of them. Even when counties release information, they are frequently not meeting these deadlines. Unless this trend changes, citizens will not be able to effectively and meaningfully participate in the budget process as they are intended to do under the Constitution and the Public Finance Management Act.

ANNEX: CONTRIBUTORS TO THE ACCESS TO BUDGET INFORMATION RESEARCH

	Contributors	County Where Request was Made	Organization
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5	Wambani Edward	Kakamega	National Taxpayers Association Kakamega
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9	Dan Paul	Nairobi	URAIA
10	Wilkister Akinyi and Vincent Tanui	Nakuru	Centre for Democracy and Good Governance
11	Frankheart Daido	Tana River	Tana River County Community Chairpersons Association (TRICCA)
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