

Are Kenya Counties Making Budget Formulation Documents Available to the Public? A Review of County Websites

International Budget Partnership Kenya | September 2018

INTRODUCTION

This analysis is part of a continuous bi-annual study of the public availability of key budget documents in Kenya's 47 counties that has been carried out by the International Budget Partnership Kenya (IBPK) since 2015¹. During the research period, IBPK looks at official county government websites to assess the availability of key county budget documents that should have been made available to the public while formulating and implementing the budget each year.

In this round of analysis, we searched for the following six budget documents necessary for the formulation of counties' 2018/19 budgets:

1. County Integrated Development Plan (2018-2022),
2. Annual Development Plan 2017 (for the year 2018/19),
3. County Fiscal Strategy Paper 2018,
4. Quarterly Budget Implementation Report for the Third Quarter of 2017/18,
5. Budget Estimates 2018/19, and
6. Citizens Budget 2018/19.

We conducted our initial assessment of the online availability of these documents between 23-25 July 2018. We shared these findings with all 47 counties to give them the opportunity to assess their accuracy. We then conducted a final assessment between 3-5 September 2018. In addition to our assessment of online availability, we took advantage of provisions of the Access to Information (ATI) Act, 2016 to determine if budget information would be made available via an ATI request in 12 counties.

¹ <http://www.internationalbudget.org/budget-work-by-country/ibps-work-in-countries/kenya/understanding-county-budgets/tracking-county-budget-information-kenya/>

PURPOSE OF THE SIX KEY BUDGET FORMULATION DOCUMENTS

COUNTY INTEGRATED DEVELOPMENT PLANS

The County Governments Act, 2012 dictates that no budgeting should be done without a planning framework in place.² The very first plans most counties must produce as the second 5-year period of devolution starts are County Integrated Development Plans (CIDPs). This document provides the development strategy a county adopts for the next five years. Although no specific date is provided for publishing these plans, each county must develop one at the start of each cycle every five years. In the current cycle, the Council of Governors and the Ministry of Devolution and Planning recommended that all CIDPs be approved by 31 January 2018. Therefore, all counties should have had their CIDPs ready and approved by county assemblies at the time of this study. CIDPs must not only be published, they must also incorporate substantive public input.

ANNUAL DEVELOPMENT PLANS

The Public Finance Management (PFM) Act sets the Annual Development Plan (ADP) as the main plan to anchor county annual budgets. In a sense, the ADP is the single year extract from the CIDP allowing for updates responding to current emerging issues in the economy. So, if we want to know what to look for in the budget, we should be starting ideally with the CIDP, then the ADP, and then the Budget Estimates. The ADPs should be published and publicized within one week of tabling in the county assembly (within one week of 1 September).

COUNTY FISCAL STRATEGY PAPERS

The County Fiscal Strategy Paper (CFSP) sets out the total size of the budget, the sector ceilings (e.g., how much for education versus health), and identifies key priorities to be funded in a particular year. It should be published and publicized within one week of tabling in the county assembly (within one week of 28 February).

QUARTERLY IMPLEMENTATION REPORTS (THIRD QUARTER)

This is a key document as it informs us how well we have done in implementing the current budget so far within the year. The quarterly reports should provide financial and non-financial information on revenue as well as expenditure by sector programs and individual capital projects. When considering which areas should get more money, this information should be used to ensure there is efficiency in budget execution for subsequent years.

² Section 104

According to Section 166 of the Public Finance Management Act 2012, the reports should be published and publicized within one month of the end of the quarter (within one month of 30 March).

BUDGET ESTIMATES (PROPOSED BUDGETS)

The budget proposal from the county executive is the culmination of all the other documents and is the place where program and item level decisions in each county department are made and that must be reviewed by the public and assembly before approval. The Budget Estimates should be published and publicized within one week of 30 April.

CITIZENS BUDGET

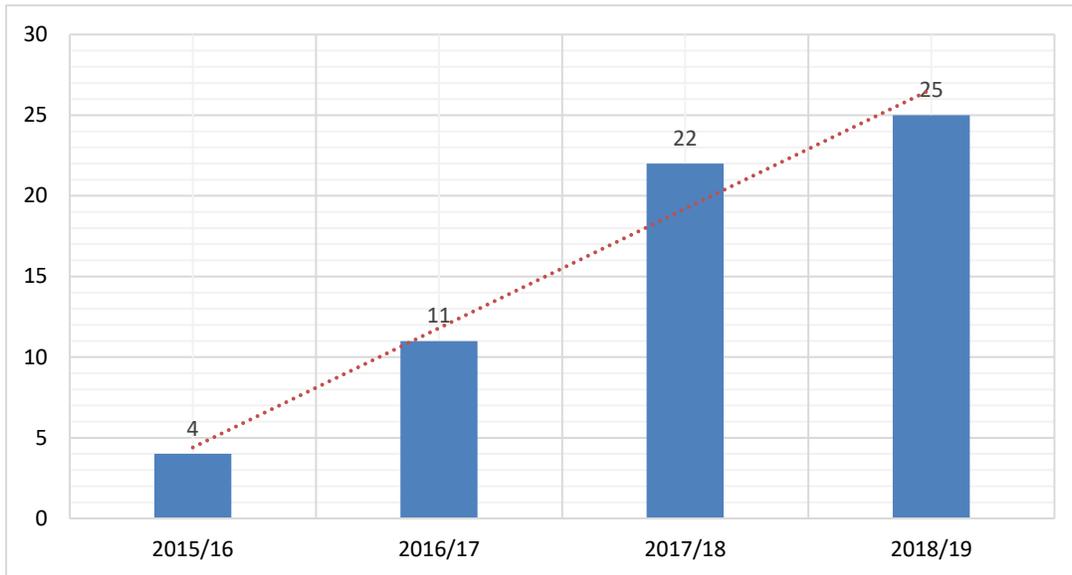
The Budget Estimates are published in a format that may be difficult for ordinary citizens to engage with, so counties should summarize their budget proposals into a Citizens Budget – a shorter, less technical version that gives the public a general view of each county’s revenue and spending priorities. Regulation 6 (2) in the County Public Finance Regulations, 2015 requires counties to publish simplified versions of Budget Estimates for effective public participation. Thus, the Citizens Budget document is key for effective public hearings, especially during the budget hearings held in May by the county assemblies. However, in good practice citizens versions of budget documents should not be limited to Budget Estimates – they should be developed for all budget documents throughout the budget cycle.

WHAT DID WE FIND?

ANNUAL DEVELOPMENT PLANS 2018/19

At the time of the final assessment (3-5 September 2018), 25 counties had published their 2018/19 Annual Development Plans online, the very first time in all our studies that more than half of the counties published this document. This was a slight increase from the 22 ADPs that our study identified in 2017. It’s also important to note that the final total of 25 was an increase from the 13 counties that had published an ADP in our initial assessment (23-25 July 2018). This demonstrates that several counties responded to our initial findings by uploading their ADPs, albeit much later than the legally required date. Generally, as shown in Figure 1, the number of counties publishing ADPs has been growing over the years even though approximately one half of counties are not publishing them.

FIGURE 1. ANNUAL DEVELOPMENT PLANS (ADPS) PUBLISHED BY COUNTIES



COUNTY FISCAL STRATEGY PAPERS 2018

In our final analysis, 27 out of 47 counties had published their County Fiscal Strategy Papers 2018 online, which is higher than the 21 CFSPs that we found in September 2017. Our final total is higher than the 20 we identified in our initial assessment, which is a smaller growth rate than that of ADPs, but still an upward trend. Figure 2 shows how the number of counties publishing CFSPs has grown over the years.

FIGURE 2. COUNTY FISCAL STRATEGY PAPERS (CFSPS) PUBLISHED BY COUNTIES



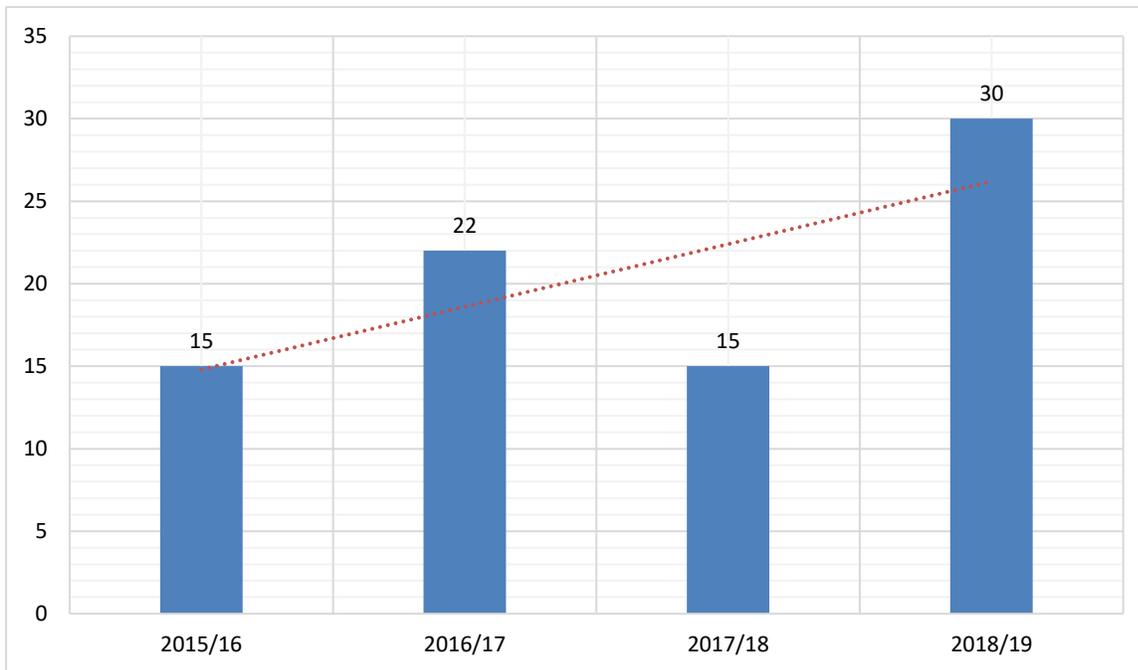
COUNTY INTEGRATED DEVELOPMENT PLANS (2018-22)

During the final assessment in September 2018, 32 counties had published their CIDPs which is higher than the 18 counties that had done so in our first study in January 2015. However, it was not possible to tell if most of the CIDPs had been approved by their respective county assemblies or are still drafts prepared by the county executive.

BUDGET ESTIMATES 2018/19 (PROPOSED BUDGETS)

As of 5 September, 30 counties had published their budget proposals on their websites. This is twice the number we found in our September 2017 analysis. A couple of these counties had published only line-item budgets, though counties are now required by law to produce Program-Based Budgets (PBBs). While it's not wrong to have line item budgets as additional supporting documentation, they cannot substitute for PBBs. Figure 3 shows that the number proposed Budget Estimates for the year 2018/19 has reached a record high with more than two-thirds of counties publishing the document on their websites.

FIGURE 3. BUDGET ESTIMATES (PROPOSED BUDGETS) PUBLISHED BY COUNTIES



THIRD QUARTER BUDGET IMPLEMENTATION REPORTS 2017/18

At the beginning of September 2018, Baringo, Kitui, and Nyeri had published their Budget Implementation Reports for the third quarter of 2017/18. This is an improvement from previous studies that showed only Baringo was publishing its quarterly implementation reports. However, 44 counties are still not publishing and publicizing their implementation reports, and this remains one of the key challenges in tracking revenue and expenditure performance in counties.

CITIZENS BUDGETS

Two counties, Nairobi and Samburu, had their Citizens Budget for the Budget Estimates 2018/19 published on their websites. This again remains one of the enabling documents for public participation that is not produced by counties.

OVERALL COUNTY PERFORMANCE

The assessment this round shows an improvement compared to previous studies with 42 percent of the documents that should have been published found in county websites. The highest recorded rate before this was 25 percent in our September 2017 study, which also looked at the availability of budget formulation documents. Therefore, this is a considerable improvement. In addition, we saw an increase in the number of documents that were found in the first assessment in July 2018 and the second assessment in early September 2018. After the initial results were shared with counties, the number of documents on county websites went up by 68 percent. Specifically, 21 counties put up documents after the initial results were shared, including 14 counties who did not have any documents available during the initial assessment.

At the individual county level, Kitui, Nairobi, Nyeri, and Samburu were the top counties, publishing five out of the six documents that were assessed in this study. However, there are seven counties that published zero of the six documents under assessment: Isiolo, Kajiado, Kirinyaga, Kisumu, Lamu, Mandera, and Migori.

ACCESS TO BUDGET INFORMATION AT THE COUNTY LEVEL

IBPK's studies on county budget transparency focus on documents that are published online on county websites within the legislative deadlines set by the Public Finance Management Act. When budget documents are published online, they can be accessed by all citizens within and outside counties. It would be impossible to expect that every individual in need of budget information would line up at county government offices to access budget documents, but we sometimes hear the absurd claim that budget documents are only available in hard copies. To find out if

citizens and institutions could access budget documents from their county governments via this method, we took advantage of provisions of the Access to Information (ATI) Act, 2016 and provided our budget partners (citizens and institutions) with the necessary information to request at least one budget document from their county government.

Between 31 July and 7 August 2018, our partners made official requests in 12 counties for budget implementation reports for the third quarter of 2017/18 and other budget documents. Partners visited county offices in person and presented the ATI request form, which upon receipt by a county official would be signed and stamped as officially acknowledged by the county government. This acknowledgement meant that a response to the request was required within the ATI Act's stipulated 21-day timeframe. Requests were mainly made to the offices of the county secretary, the departments of finance and planning, and in some counties to the county assembly clerk.

Though 10 request forms out of 12 were officially received and stamped by government officials, only 4 implementation reports were made available in hard and soft copies at the end of the legally set timeline of 21 days. In some cases, the government officials asked that the requests be accompanied by letters stating what information was required and what it would be used for. This was the case in Kisumu, Nairobi, and Busia. However, in Nyeri the government responded to the request and also uploaded the requested report on its county website. A fourth quarter report was also uploaded on the Nairobi county website after the ATI request.

In conclusion, most of the official ATI requests for third quarter budget implementation reports did not receive a response. However, the counties that did not respond to ATI requests also did not publish the documents in question on their website. Therefore, the argument that counties may not have the documents available online, but the documents can be accessed by physically visiting county offices does not seem true.

CONCLUSION

Compared to previous studies, there is a notable improvement in the overall number of county budget formulation documents available online for 2018/19. The notable exception is the Budget Implementation Report: only 3 out of 47 counties published and publicized these reports. While it's good to celebrate the increase in the total number of documents counties are publishing online, it's also important to note that only 42 percent of the documents we looked for were available. Therefore, there is still a lot that counties need to do to ensure the public has access to all budget documents in order to understand the decisions being made by governments and justifications for different priorities funded in the budget.

In addition, our efforts to use the mechanisms of the Access to Information Act, 2016 (ATI) to get budget implementation information show that access has not improved. The ATI - if properly implemented - would make it

easier for the public to access government information including budget information because it requires proactive disclosure of information by public entities. However, our research indicates many requests still run into unclear and ambiguous processes in county government offices.

ANNEX: CONTRIBUTORS TO THE ACCESS TO BUDGET INFORMATION RESEARCH

Contributors	County Where Request was Made	Organization
Francis Namunyu and Willis Sumbah	Busia	Community Empowerment and Development Centre
Vitoria Justus and Polycap Otieno	Nairobi	Daraja and National Taxpayers Association
Kennedy Oyier	Homa Bay	Daraja and National Taxpayers Association
Nelson Maina	Nyeri	URAIA
Ezekiel Odeoh	Bungoma	Rural Empowerment Development Organization Kenya
Morris Kiriimi Mwititi	Meru	Caritas Meru
Mariam Abdalla and Silvia Zhanny	Kisumu	Transform Empowerment for Action Initiative and National Taxpayers Association Kisumu
Frankheart Daido	Tana River	TRICCA - Tana River County
Christine Yakhama	Kakamega	Good Health Community Programmes - Kakamega County
Wambani Edward	Kakamega	National Taxpayers Association Kakamega
Wilkister Akinyi and Vincent Tanui	Nakuru	Centre for Enhancing Democracy and Good Governance (CEDGG)
Jalim Ibrahim	Kwale	Individual Request
Bobson Fadhili	Mombasa	Kwacha Africa - Mombasa County
Habel Ouma	Kakamega	United Disabled Persons of Kenya (UDPK)