National Convening of County Heads of Budget

27th -28th August, 2015

Pride Inn Rhapta Road, Nairobi.

Rapporteur's report

Executive Summary

IBP Kenya organized a national convening of county Heads of Budget in Nairobi on the 27th and 28th of August, 2015. The meeting identified challenges and proposed practical solutions relating to the presentation of budgets, their dissemination, and broader compliance with the Public Finance Management Act 2012 and other related legal guidelines.

The first day of the meeting brought together county Heads of Budget from approximately half of the 47 counties along with civil society budget organizations working in about 10 of the counties. Participants discussed and agreed on about twelve key challenges related to county budgets. Five of these were then discussed in further detail, and solutions proposed. The full list of the challenges raised and solutions proposed is contained in this report.

On the second day, the Heads of Budget met together with other stakeholders from national government. The Office of Controller of Budget, the National Treasury, the Salaries and Remuneration Commission, the Commission on Revenue Allocation, and the Council of Governors were all represented and were asked to respond to the challenges and proposed solutions raised by the HOBs. This led to an agreement between the HOBs and the national agencies on a set of 15 resolutions. Those resolutions are contained below. IBP Kenya undertook to support the HOBs to write letters to all the concerned agencies and follow up on the recommendations in tandem with the HOBs. This was done in the first weeks of September.

The Heads of Budget also used the opportunity presented by the meeting to create a loose structure, consisting of a four-member steering committee. The chair of this committee is Priscillah Chebet (West Pokot) while the secretary is Wainaina Muigai (Nyandarua). The other two members are Zahra Kunow (Wajir) and Athuman Matunza (Kwale). In addition, the HOBs created a Whatsapp group for the HOB caucus and agreed to maintain an email list.

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1 Introduction and Background

The convening began with introductory remarks by Dr. Jason Lakin, Country Manager, IBP Kenya and Ms. Priscillah Chebet, Head of Budget, West Pokot County. Dr. Lakin spoke about the goals of the convening from IBP Kenya's perspective. He expressed his hope that this meeting would help to create a platform for building the capacity and influence of Head of Budgets (HOBs). He discussed the history of the Progressive Movement in the United States in the early twentieth century and used this as a lesson in how civil servants could, by building their own capacity and networks, and working with professionals, civil society and others, ultimately tame the politicization of public finances (Dr. Lakin's remarks are contained in Appendix A).

He noted that even though HOBs across counties engage first- hand in the budget making process and are the ones actually 'doing the work'; there had never been a forum where HOBs met, shared their experiences and common challenges, and discussed solutions to diverse county budget issues. This was the first purpose of the convening. A second purpose was to bring together and promote engagement between budget producers and budget users across counties. This was why various civil society organisations (CSOs) representatives that used county budgets were also invited to the forum.

The first day was intended to focus on identifying challenges associated with preparation, presentation and understanding of budget documents at the county level. The participants were divided into five groups where they discussed extensively the challenges faced. These groups were asked to come up with practical solutions to the identified challenges. This discussion would lead into preparation of the HOB presentation on the second day, which was intended to engage the national stakeholders in collaborating to find solutions. The national stakeholders invited included the National Treasury (NT), the Controller of Budget (OCOB), the Commission of Revenue Allocation (CRA), the Salaries and Remuneration Commission (SRC) and the Council of Governors (COG) (See Appendix B for the List of Attendants).

2 Challenges Relating To Budgeting Together With Proposals for Improvement

IBP Kenya set the discussion in motion with a presentation highlighting ten apparent challenges identified from the county budgets (See Appendix C for the PowerPoint Presentation). This list was expanded by the participants, with a final list of twelve challenges formally adopted for discussion. In the course of the day, additional issues were also raised, bringing the list to 15 challenges discussed below. The participants were encouraged to share their specific experiences relating to the challenges identified and to suggest viable/honest solutions to these challenges. Participants were divided into five groups. The first five issues were discussed extensively in the groups and during a plenary session. Some of the other challenges were also discussed in the plenary session. The participants were unable to discuss all the challenges due to time constraints. Practical proposals/solutions for the challenges that were discussed were agreed upon. The following are the challenges articulated and proposals given by the participants:

1. **Budget Classification**: (recurrent versus development expenditure): The participants were unclear about the principles behind the classification of items as recurrent or development expenditure. One key contention was on items that were recurrent in nature incurred during development projects. While some agreed with the OCOB advice that development expenditure was for "items that had direct benefit to the common mwananchi," others disagreed indicating that this reasoning was not sound and resulted in items that were recurrent in nature being classified as development. Others suggested that the best way to dispel the confusion was to identify sound programmes and sub programmes so that all items that fall under a programme that is developmental in nature are classified as development regardless of their nature. However, this is not consistent with programme budgeting, where objectives define programmes and

there is generally recurrent and capital spending necessary to achieve objectives. The participants observed that there was no formal guideline on budget classification. It was also observed that classification of certain items was not comparable across the counties. 36 items of contention with respect to their classification were identified by HOBs (See Appendix D for the list) and these were shared with the OCOB. The participant noted that this vagueness allowed for some counties to inflate the share of their budget going to development, rendering meaningless the legal requirement that development expenditure over the medium term should be a minimum of 30%.[1]

Proposal for improvement: The Participants agreed that they needed guidance from the **National Treasury or OCOB** on the principles behind recurrent and development classification by the end of September 2015. The rationale for the September deadline was that HOBs wanted an opportunity to correct any misclassification at the presentation of the first supplementary budget. The HOBs agreed that if no such guideline was issued then they would come up with a proposal on how to classify budget items and forward to the National Treasury for comment and adoption.

2. **Budget Inclusions:** The participants were unclear if, how and when certain items should be included in the county budgets. The participants noted that the law only gives a general guideline but doesn't dictate exactly what information should be in budget documents. While some county budgets presented the budgets and actual spending for the prior year, and/or the projected budget for subsequent financial years, others only presented the proposed budget for the coming year. For those that presented projections, it was unclear the number and years of projection that should be presented.

   Three items that dominated the discussion on inclusions were Appropriation in Aid (AIA), Conditional Grants/Allocations and in-kind grants. The AIA issue was identified in different sectors but the two notorious sectors identified were Agriculture and Health sectors. The participants were unclear on whether it was mandatory to present this information in the budgets and if so what format they would take. In the case of AIA, some argued that there was no need for AIA and that expenditure at source should be discouraged as the historical problem of delayed release of funds was resolved by timely monthly releases of funds. Other participants argued that AIA should be retained and that the law allows for the same under section 109(2b) of the Public Finance Management (PFM) Act. These participants indicated that AIA should be presented in the county budgets such that they form part of the gross revenue and are approved by the Assembly. Regarding in-kind grants for both goods and services, it was suggested that the same must be presented in the budgets at the imputed market price. While the participants had a heated discussion on the same, there was no consensus on the inclusion or the format of inclusion of these three items. On conditional grants, there was a consensus that the existing guidelines on how to use and account for conditional grants was inadequate. This was particularly true of the newest grant, the road maintenance grant.

   Proposal: The participants agreed to task the **National Treasury** to provide guidance on the inclusion of AIA, in-kind grants and conditional grants/allocation.

3. **Programmes and Sub-programmes:** apart from copy-pasting programmes and indicators from national government budgets, the HOBs admitted that they were experiencing difficulty in defining programmes

[1]This requirement is found under Section 107 of the PFM Act in the section on fiscal responsibility principles.

and sub programmes within their counties. In some instances where some items such as health workers fall in two programmes i.e. preventive and curative, the HOBs pointed out that it is difficult to apportion costs across the programmes. Part of the problem is that it is not possible to apportion these workers in both IPPD (the payroll system) and IFMIS (the financial management system) to ensure that workers are tracked to the right programme during budget execution. This is particularly problematic for inherited (devolved) staff. The HOB from Samburu county indicated that he had done this manually, working with heads of department to assist in identifying where such staff dedicated most of their time and effort and classify them under that subprogramme. Some HOBs from counties with a large number of workers indicated that this was not a viable option as it will require a tremendous effort from the preparers of budgets. It was agreed that there is need to find a solution to this problem because, although tedious, the lack of resolution undermines the meaningfulness of programmes.

The participants also identified the haphazard structure of county governments' ministries as a problem in preparing programme based budgets. The participants pointed out that the structures of the County governments do not match the internationally recommended Classification of Functions of Government (COFOG) structure. The non-uniformity and non-functional nature of these governments' structures makes comparability difficult across counties. The politicization of the government structuring process has resulted in unrelated departments being mismatched/lumped into one sector. One example given was Garissa County which has the Ministry of Education, Youth Polytechnics and ICT, whereas ICT is normally part of the infrastructure sector (as at the national level). The challenge of these structures makes it difficult to carry out sector hearings, sector bidding and to properly develop costs and targets for programmes.

Proposal: The participants resolved to implore the **Council of Governors** to sensitize the Governors on the need to restructure their respective governments and to ensure uniformity across the counties. The view emerged that this might be challenging in the near term but could be advocated for in 2017 if it was not possible to advance this issue now. The HOBs agreed there was a need for further capacity building in preparation and presentations of Programme Based Budgets (PBBs).

4. **Economic Classification**: the participants observed that the economic classifications under current expenditure (Compensation to Employees, Use of Goods & Services, Current Transfers to Government Agencies and Other Recurrent) and Capital Expenditure: (Acquisition of Financial Assets, Capital Transfers to Government Agencies and Other Development) are insufficient to include all budget items. The participants concurred that the economic classification in the PBB should be expanded to allow categorization of items accurately with sufficient details for the users of budgets. It was noted that the overuse of the classification of '**other**' undermines transparency especially in the absence of a comprehensive narrative and in instances where the same comprises a substantial amount of money. The reason for using "other" so frequently related to the limitations of the current chart of accounts to accommodate expenditure items at county level. The participants also singled out the compensation of non-employees such as consultants as a gray area that doesn't fit into this narrow classification. They indicated that the decision to add line items to the PBB budget is prompted by the pressure from the mwananchi and political leaders especially MCAs to provide further detail on revenues and expenditure.

Proposal: HOBs in collaboration with IBPK agreed to list down all the items that fall under the 'other' classification and then forward this to the **National Treasury** for further guidance on the same. IBP

Kenya agreed to share work done on the South African example on economic classification with the HOBs. The participants also proposed that the **National Treasury (Accountant General)** in collaboration with the County Treasuries should create more codes to facilitate further breakdown of budget items.

5. **Planning and priority-setting**: This challenge was identified as manifesting in four different ways. First, county governments frequently budget for national functions. Secondly there is a mismatch of budgetary planning documents i.e. the County Integrated Development Plan (CIDP), Annual Development Plan (ADP) and the annual budgets. From a strategic perspective, the HOBs indicated that there is a challenge in having numerous detailed documents, instead of starting with a broader document providing for strategies and flagship projects (CIDP) and then moving to more detailed documents (ADP and budgets) with specific projects which then must linked to the strategic documents. Third, there is sense of information overload for the common mwananchi and the budget preparers. Finally, the impact of Budget Committees and the Assembly more broadly in the process of planning and prioritization poses challenges.

On the issue of allocation of monies to national functions the participants acknowledged it was illegal as these allocations are not based on appropriate inter-governmental arrangements. However the problem is persistent with valid reasons e.g. northeastern counties (Garissa, Wajir and Mandera) have felt a need to include allocations for security and education. The participants resolved that there is need for **harmonization of the county and national plans in accordance with section 106 of the County Governments Act** to avoid duplication or abdication of constitutionally allocated functions. On the issue of CIDPs and ADPs and the apparent mismatch with county budgets, the participants observed that the specific priority projects of the common mwananchi were ever shifting. The participants proposed that these five year plans (CIDPs) should give just a broad view of what the county governments should accomplish in five years rather than focusing on specific projects (except for flagship projects). The ADP should contain finer details i.e. mentioning specific project for the upcoming year.

On the issue of information overload, the HOBs shared their experiences on how to best deal with this challenge. Some HOBs indicated that they conduct public participation at the sub-county level while others at a ward level. It was suggested that there should be extensive public participation platform at the initial sector hearings and at the ward level to avoid significant overhauling of proposed budgets in the subsequent stages. The HOBs resolved that because not all proposals by the public are included in the Budgets they should endeavor to publish the specific proposals in the County websites. This should contain information on ongoing and finished projects as well as those that are yet to be allocated any funds. The participants foresaw the importance of this information to donors, NGOs and the general public in tracking projects within the county. The HOBs resolved that they should ensure that where possible, public proposals are reflected in the Budgets to avoid overhauling of the budgets at the County Assemblies' Approval stage.

Proposal: the Participant proposed that the CIDP guidelines issued by the **Ministry of Devolution and Planning** (MODP) should be amended. The HOBs should ensure that proposed projects during ward level public participation are published on the Counties' websites

6. **Narrative Quality**: The participants noted that the narratives in PBBs were poorly written making it difficult for reader of the PBBs to link what is in the narratives and the programmes. The narratives lacked vital information on the process of making choices. This problem is evident in the county and the national PBBs. It was suggested that there is a need to develop a template to guide the narrative in PBBs to ensure uniformity as well as assisting the readers in understanding the PBBs.

7. **Indicators and targets**: it was observed that the targets in the PBBs were impractical. Some targets require frequent surveys at the county level. In addition, there is a question of the form for some indicators and targets. For example, presenting absolute figure (like a certain number of patients will be treated), instead of using proportions of the total population fails to provide meaningful information. Many targets and indicators lack clear baselines for ensuring reasonableness and change over time. Participants deliberated on whether it was better to have fewer, clearer and measurable target and indicators.

   Proposal: The participants proposed to seek guidance from the **Office of the Controller of Budget** on how to report programme outputs and indicators

8. **Quarterly Implementation Reports:** It was observed that very few quarterly implementation reports were produced by the counties. Those produced are not uniform and lack explanations of major variances. It was also observed that there was no guidance on the preparation of these reports.

   Proposal: The participants proposed to seek guidance from the **Office of the Controller of Budget** on the format these quarterly reports should take.

9. **Simplification of County budgets**: It was observed that contrary to the requirement of the PFM Act many county budgets are complex and hard to understand even for educated lay persons. HOBs were encouraged to borrow from the National Government's 'Citizens' Budgets'. HOBs shared their experiences in simplification of the budgets including use of one-pagers, charts, tables and pictorials. Some HOBs indicated that they presented simplified budgets with projects without the amount for each project. It was felt, however, that focusing only on a set of projects, or omitting of key figures, was not good practice and that these simplified budgets should find a balance between simplicity and ensuring that they communicate sufficient information explaining the choices made in the budgets to the common mwananchi.

   Proposal: The participants agreed that they ought to provide simplified budgets with sufficient information explaining the choices made and with feedback explaining why certain proposed projects were excluded.

10. **How to lead sector hearings**. There was consensus among the Participants that sector hearings form the crux of the budget process. HOBs indicated that there was tremendous effort to conduct the same effectively. However there are no clear guidelines for conducting the same. It is also unclear what information should be provided to equip the stakeholders to participate effectively in the sector hearings.

11. **CBEF and Participation:** it was observed that most counties were not utilizing CBEFs even though these form a platform for ensuring that diverse stakeholders participate in the budget process. The

participants were asked to utilize the guidelines for formation and functioning of CBEF produced by the Commission on Revenue Allocation as well as the IBP Kenya paper on CBEFs and Public Participation (October, 2014).

12. **Political influence and lack of professionalism**: the HOBs identified political pressures as a key challenge in the process of preparation and implementation of budgets. The preparation of the 2015/2016 budget was marred by pressure to present budgets that provided for Ward Development Funds. This happened even in the absence of sound regulations. Some counties seemed to be rejected by the COB due to inclusion of WDF, but others seemed to have gone through. There was a consensus that some of these political challenges could not be tackled in the convening, but do require attention.

    Proposal: There was consensus that further guidance should be sought from the OCOB on Ward Development Funds.

13. **Unrealistic revenue estimates**: the HOBs indicated that most County Budgets were based on unrealistic revenue estimates. This is due to pressure to present many projects proposed by the public and MCAs in the final budget even when the resources are limited. This poses a challenge in the implementation of proposed projects in the budget and a challenge to fiscal discipline.

14. **Opening balances and pending bills**: the HOBs mentioned that they were unsure of the date relevant to determine the opening balance for their reporting. The Controller of Budget requires that Counties provide an opening balance and estimate likely balance carried forward in April when the budget is tabled. HOBS indicated this was difficult to measure. Even at the end of the financial year in June, HOBS indicated that the county government continues to pay bills to the mid or end of July. The HOBs resolved to seek guidance from the Controller of Budget on the issue of opening balances and pending bills.

15. **Preparation of the County Fiscal Strategy Paper:** the HOBs identified the challenges associated with the preparation of the CFSP. First, at the time of preparation of the CFSP, the counties have no information on the tentative allocations they will receive from the National government. The PFM Act (Section 117) requires that CFSPs should contain the financial outlook with respect to county government revenues without this information. Secondly, national projects that will be implemented in the county are not always known at the point of preparing the CFSP yet this impacts on county decision-making. Lastly it was pointed out that while the law provides general requirements for what the CFSP should contain the participants were unclear on the format of CFSP.

    Proposal: The HOBs agreed that guidance on the format of CFSP was required and that there should be a consideration of revising the overall process to ensure adequate time at county level.

Other challenges identified by the HOBs included hostile wananchi at public participation forums, and difficulty in interpreting the law where vague or in instances of conflicting regulations. After a day long discussion on the challenges listed above the Participants compiled a list of 13 specific proposals to be addressed on the second day in a high level meeting comprising of representatives from relevant government agencies. The following is the list of the proposals for improvement of county budgets drawn up on Day 1:

Proposal	Relevant Body/ Bodies
1. Guidance on how to classify recurrent and development expenditure by the end of September 2015	National Treasury& Controller of Budget
2. Guidance on if and when Appropriation in Aid can be included in county budgets	National Treasury
3. Guidance on conditional grants/allocations: clarity on the conditions needed including the format on presentation	National Treasury
4. Guidance on In-kind grants : for both goods and services	National Treasury
5. Need to address the structure of government and the difficulty it poses to PBBs	Council of Governors
6. Guidelines on how to report programme outputs and indicators	Controller of Budget
7. Expansion of economic classifications of expenditure	Heads of Budget
8. Revision on guidelines on CIDP	Ministry of Devolution And Planning
9. Guidance on Ward Development Fund	Controller of Budget
10. Guidance on Non-core projects	Commission on Revenue Allocation
11. Guidance on implementation of County Assembly projects e.g. County Assembly Canteens	Commission on Revenue Allocation
12. Guidance on how to run funds e.g. Mortgages and car loans	National Treasury and Salaries and Remuneration Commission
13. Guidance on documents needed for exchequer releases.	Controller of Budget

3 Unpacking Challenges and Adopting Proposals for Improvement of County Budgets

The second day began with welcoming remarks from Dr. Lakin from IBP Kenya. There was representation from diverse governmental and non-governmental agencies. These included representatives from the Controller of Budget, The National Treasury, Council of Governors, Salaries and Remuneration Commission, the World Bank and the Embassy of Sweden. There were more HOBs in attendance on the second day as compared to the first day. The dialogue on improvement of County budgets was kick started by presentation of the agreed 13 proposals by Priscilla Chebet Mungo (HOB, West Pokot) and Abdirahman Noor Hassan (HOB, Garissa). All the proposals were discussed and deliberated upon extensively and a total of fourteen resolutions were made (plus one that applied specifically to the HOBs themselves). The session was moderated by Commissioner Kamotho Waiganjo of the Commission for the Implementation of the Constitution. The following are the responses and resolutions made:

1. Guidance on how to classify recurrent and development expenditure

It was observed that there were no written guidelines on how to classify expenditure. It was further observed that the codes provided in the Charts of Account were not adequate to determine classification. The National Treasury and OCOB indicated that those items that were recurrent in nature but fell within development programmes should be classified as development expenditure. Nevertheless, it was accepted that there were many gray areas. It was agreed there was a need for clear guidelines that would be officially communicated to all counties. However, the September deadline was deemed untenable.

The OCOB agreed to issue an **interim circular** with guidelines on how to classify items into recurrent and development expenditure **by the end of September 2015.** The OCOB will then work towards long-term guidelines that will be issued sometime within the current budget cycle (ideally before the end of February, 2016). The list of unclear items in the classification of recurrent and development expenditure was given to both the National Treasury and the OCOB at the end of the meeting.

- Resolution One: HOBs to submit a list of items with unclear classification to the National Treasury (NT) and the Office of the Controller of Budget (OCOB) on 28th August, 2015 (DONE).

- Resolution Two: Interim Guidelines on budget classification (recurrent and development) to be issued by the OCOB by September, 2015.

- Resolution Three: Further detailed guidelines on budget classification (recurrent and development) to be issued by the OCOB and NT after wide consultations, ideally by February 2016.

2. Guidance on if and when Appropriation in Aid can be included in county budgets

It was observed that section 109(2b) of the PFM was clear on government entities spending money at source. As an exception to the general rule (that all money raised or received by or on behalf of the county government should be paid into the County Revenue Fund), money may be retained by a county government entity which received it for the purposes of discharging its expenses. This must however be in accordance with legislation. The National Treasury and Controller of Budget indicated that this should be presented in the gross revenue of each county and approved by the Assembly. Both government agencies indicated that money utilized at source is legal where there County Assemblies prescribed sound regulations for spending AIA. One issue arising from this discussion was whether charges paid to third parties at source were illegal in the sense that they formed expenditure unapproved by the County Assemblies. The case of payment through M-Pesa Pay Bill numbers was cited where an extra cost is incurred by government agencies in paying bills.

- Resolution Four: the OCOB/NT to issue guidelines on Appropriations-in-Aid including the format of presentation in the budgets by the end of September, 2015. NT to share guidance from national budget circular on the same (this is not currently online).

- Resolution Five: The OCOB to give guidance on Mpesa Pay Bill charges and other at source payments and how to classify these by the end of September, 2015.

3. Guidance on conditional grants/allocations: clarity on the conditions needed including the format on presentation

The National Treasury indicated that there are clear guidelines on individual conditional grants/ allocation and the same are readily available for reference. These guidelines are issued at the time of agreement by counties to accept a conditional grant. Where there are no requirements as to the specific projects to be undertaken, the decision must be made through proper channels with approval from the County Assembly e.g. the case of the road maintenance conditional grant. The HOBs pointed out that they usually lack information on these guidelines. The HOBs indicated that while some grants/ allocation such as DANIDA Health Grant have specific conditionality given, some of the grants/allocation from the National Government such as the grant for road maintenance lack clear guidelines.

- Resolution Ten: The National Treasury shall share and publish the specific conditions relating to particular national conditional grants/ allocations.

4. Guidance on In-kind grant : for both goods and services

The National Treasury indicated that in kind grants are treated like Appropriation in Aid. They should be presented in the budget. Where these are given during the financial year and after the passing of the Appropriation Act the same should be costed out and included in a supplementary budget.

5. Need to address the structure of government and the difficulty it poses to sector hearings and preparation of PBBs

The Council of Governors indicated that the Governors had resolved to change the structure of committees within the COG ensuring sectors had related sub-sectors. It was indicated that at the same meeting county Governors committed to restructure their governments to mirror the committees. The COG pledged to have the minutes of the mentioned meeting published on the COG website by 31st August, 2015.

- Resolution Twelve: The Council of Governors (COG) committed to ensuring that county governments are restructured in line with the agreement reached in a recent COG meeting, and to issue an update on the same by 11th September, 2015. IBP Kenya was tasked to follow up with the COG on the same.

6. Guidelines on programme outputs and indicators and the format of quarterly implementation reports

It was observed that National Treasury had already conducted trainings across the counties. But there was still a need for capacity building on preparation of PBBs and especially on how to present indicators and targets. The OCOB indicated that there was already guidance issued on the format of quarterly implementation reports.

- Resolution Six: OCOB will publish a circular/guidelines on the format to be used for quarterly implementation reports on the OCOB website by the end of September, 2015.

7. Expansion of economic classification of expenditure implementation reports and quarterly reports

It was agreed that there was an overuse of the 'other' classification in both the national and county budgets The National Treasury indicated that they was an ongoing discussion on this issue at the National level and would share their soon to be issued guidelines with the County Governments. It was observed that broadening economic classifications required wide consultations with all stakeholders.

- Resolution Eleven: The HOBs working with IBP Kenya will come up with proposals on how to expand the economic classification by the end of September, 2015. HOBs also committed to listing down all the items that currently fall under the 'other' classification and forwarding a memo to the National Treasury to allocate specific codes in the Standard Chart of Accounts (SCOA). The National Treasury promised to give an update on how to handle the 'other' classification by the end of September, 2015.Revision on guidelines on CIDP by the Ministry of Devolution and Planning.

The Ministry of Devolution and Planning was not represented in the meeting. However it was indicated that there are discussions underway on reviewing these guidelines.

- Resolution Eight: HOBs together with IBP Kenya committed to raise the issue of revising the CIDP guidelines with the Ministry of Devolution and Planning and give proposals on revision of the same. The intention of the revisions is to make CIDP a broader strategy document with less emphasis on specific projects, which will come later in ADP and subsequent budget documents (Mr. Musyimi from OCOB promised to notify Mr. Mukuyi from the MODP on this).

8. Guidance on Ward Development Fund

The OCOB was clear that ward based projects were not illegal as long as the proper process is adhered to. However a fund that does not abide by the constitutional principle of separation of powers is illegal as was decided in the High Court decision on the Constituency Development Fund (CDF), which found CDF in its current form unconstitutional.[2] The OCOB would therefore not approve expenditure by Counties on WDF that allowed for the county assemblies to implement the budgets as opposed to play their constitutional oversight mandate. It was observed that a circular had been issued on this by the OCOB. However, counties received letters on their budgets that advised on the WDF. There seemed to be inconsistencies on the guidance by OCOB. In addition this was not availed to everyone, as only those counties whose budgets included a WDF were given the guidance in those letters. It was agreed that there was a need for the OCOB to issue a revised circular.

- Resolution Seven: the office of Controller of Budget was requested to issue a revised circular on the Ward Development Fund in light of the court findings related to CDF. This will be communicated to the Governors as the CEOs of the county governments and copied to the relevant County Executive Committee Member and the Speaker of the County Assembly. The OCOB promised to consult on this and revert with guidance by the end of September, 2015.Guidance on Non-core and County Assembly projects from the CRA

9. Guidance on non-core funding

The CRA indicated that there were guidelines issued on financing of Non – Core Capital Projects published on the CRA website. Therein it is indicated that certain major capital projects are not a priority in the first five years of devolution unless there is justification of the same. The guideline indicates that only essential capital projection such as renovation and expansion of health facilities are acceptable. However the decision to spend on these projects depends on the situation of individual counties. CRA was reluctant to issue further detailed guidance on this. However, the CRA agreed that the projects undertaken under the county assembly budget should be managed by the relevant ministry in charge of public works and that a county assembly should not source out its own consultants to manage the construction of projects.

- Resolution Thirteen: The Commission on Revenue Allocation committed to issuing a circular on how capital projects carried out under the Assembly budget will be supervised, clarifying that all projects in the county will be supervised by Public Works by end of September 2015.

10. Guidance on how to operate funds, particularly the car loan and mortgage funds

There was a broad discussion of the implications of these funds, which elicited responses from National Treasury, the OCOB as well as the Salaries and Remuneration Commission. These agencies together with the HOBs agreed there was a looming crisis in the wage bill at the counties. This is worsened by the decision by some county governments to finance mortgages and car loans (as per an SRC circular) by financing them through loans and/or

[2] Institute of Social Accountability & another v National Assembly & 4 others [2015] eKLR

interest rate subsidized to 3% down from commercially negotiated interest rates of roughly 16%. It was agreed this approach is unsound economically. It was suggested that the better option is to create public funds from which such mortgages and loans will be issued. The SRC insisted that it only played an advisory role regarding the wage bill, setting state officer salaries but only advising on public officers' salaries and remuneration. The Commission is currently undertaking job evaluation and by April, 2016 the consultants on the ground will have completed the study enabling the SRC to harmonise compensation of public service jobs. On the issue of allowances the SRC indicated they recommend moving from the disaggregating of allowances and to lump all monies entitled to government staff. The SRC encouraged participants to raise their queries at the SRC website as well as writing to info@src.go.ke

- Resolution Fourteen: The Salaries and Remuneration Commission to clarify the inconsistencies in their guidelines on allowances to state and public officers e.g. the housing allowance. The HOBs in collaboration with IBP Kenya to write to OCOB requesting further guidance on the issue of how to implement car loans and mortgages and OCOB to follow up with SRC of during the week of 31st August to 4th September, 2015.

11. Guidance on documents needed for exchequer releases.

The controller of budget presented a list of the requirements including

1. CIDP
2. Evidence on return of balances: Section 136 all monies not spent lapse back to CRF if this is not spent by the end of financial year (some continue spending by 15th July an audit query)
3. ADP
4. Regulations where there are funds
5. Hansard Reports
6. IFMIS compliance
7. Appropriation Act and Bill
8. Cash flow projection/statements by the end of the financial year
9. CBROP
10. Public participation evidence (sometimes)
11. Budget

- Resolution Nine: the office of the OCOB committed to publishing a checklist on the OCOB website of all the documents required by the office for exchequer release by the end of September, 2015.

4 Summary of Resolutions

Resolutions Relating to the Office of the Controller of Budget

1. Resolution One: HOBs to submit a list of items with unclear classification to the National Treasury (NT) and the Office of the Controller of Budget (OCOB) on 28th August, 2015 (DONE).

2. Resolution Two: Interim Guidelines on budget classification (recurrent and development) to be issued by the OCOB by September, 2015.

3. Resolution Three: Further detailed guidelines on budget classification (recurrent and development) to be issued by the OCOB and NT after wide consultations, ideally by February 2016.

4. Resolution Four: the OCOB/NT to issue guidelines on Appropriations-in-Aid including the format of presentation in the budgets by the end of September, 2015. NT to share guidance from national budget circular on the same (this is not currently online).

5. Resolution Five: The OCOB to give guidance on Mpesa Pay Bill charges and other at source payments and how to classify these by the end of September, 2015.

6. Resolution Six: OCOB will publish a circular/guidelines on the format to be used for quarterly implementation reports on the OCOB website by the end of September, 2015.

7. Resolution Seven: the office of Controller of Budget was requested to issue a revised circular on the Ward Development Fund in light of the court findings related to CDF. This will be communicated to the Governors as the CEOs of the county governments and copied to the relevant County Executive Committee Member and the Speaker of the County Assembly. The OCOB promised to consult on this and revert with guidance by the end of September, 2015.

8. Resolution Eight: HOBs together with IBP Kenya committed to raise the issue of revising the CIDP guidelines with the Ministry of Devolution and Planning and give proposals on revision of the same. The intention of the revisions is to make CIDP a broader strategy document with less emphasis on specific projects, which will come later in ADP and subsequent budget documents (Mr. Musyimi from OCOB promised to notify Mr. Mukuyi from the MODP on this).

9. Resolution Nine: the office of the OCOB committed to publishing a checklist on the OCOB website of all the documents required by the office for exchequer release by the end of September, 2015.

Resolutions Relating to the National Treasury

10. Resolution Ten: The National Treasury shall share and publish the specific conditions relating to particular national conditional grants/ allocations.

11. Resolution Eleven: The HOBs working with IBP Kenya will come up with proposals on how to expand the economic classification by the end of September, 2015. HOBs also committed to listing down all the items that currently fall under the 'other' classification and forwarding a memo to the National Treasury to allocate specific codes in the Standard Chart of Accounts (SCOA). The National Treasury promised to give an update on how to handle the 'other' classification by the end of September, 2015.

Resolutions Relating to the Council of Governors

12. Resolution Twelve: The Council of Governors (COG) committed to ensuring that county governments are restructured in line with the agreement reached in a recent COG meeting, and to issue an update on the same by 11th September, 2015. IBP Kenya was tasked to follow up with the COG on the same.

Resolutions Relating to the Commission on Revenue Allocation

13. Resolution Thirteen: The Commission on Revenue Allocation committed to issuing a circular on how capital projects carried out under the Assembly budget will be supervised, clarifying that all projects in the county will be supervised by Public Works, by end of September 2015.

Resolutions Relating to the Salaries and Remuneration Commission

14. Resolution Fourteen: The Salaries and Remuneration Commission to clarify the inconsistencies in their guidelines on allowances to state and public officers e.g. the housing allowance. The HOBs in collaboration with IBP Kenya to write to OCOB requesting further guidance on the issue of how to implement car loans and mortgages and OCOB to follow up with SRC during the week of 31st August to 4th September, 2015.

Resolutions Relating to the Heads of Budget

15. Resolution Fifteen: HOBs to publish on their County website the database of proposed projects from public participation forums so that other stakeholders (NT, NGOs, CDF etc) can access the information.

5 Implementation/Enforcement of Resolutions

It was agreed that IBP Kenya in collaboration with HOBs through the HOBs Steering Committee would communicate the resolutions to all stakeholders. Letters should be written to specific government agencies indicating resolutions that directly affect them. The list of all resolutions should be attached in all the letters sent out.

The HOBs constituted a Committee of four members. It was agreed that these members will be in office for a term of one year. The members selected the following as committee members:

Name	County	Position
Priscillah Chebbet Mungo	Head of Budget, West Pokot	Chairperson
Muigai Wainaina	Head of Budget, Nyandarua	Secretary
Zahra Kunow	Head of Budget, Wajir	Member
Athuman Ali Mwatunza	Director, Budget & Economic Planning, Kwale	Member

The HOBs also agreed to create a group email and WhatsApp group to facilitate constant communication related to county budgets. The following were selected as the WhatsApp group administrators:

Name	County	Position
Zahra Kunow	Head of Budget, Wajir	Administrator
Waweru Andrew	Head of Budget, Lamu	Administrator

6 Further Points of Discussion

Other matters arising in the deliberations at the convening included (i)The need for HOBs to be prudent as agents of the public in spending public funds (this was in relation to the extra cost of automation). (ii)The Kenyan government is grappling with debt and sound measures need to be adopted. (iii)The wage bill should be managed urgently at the county level. (vi)Counties need to adopt sound policies on debt management and should rethink spending on noncore projects such as county hotels. (v)The combination of expertise by economists and accountants plays a vital role in budget offices and especially in the preparation of PBBs (vi) There is a need to look at public participation and consider whether the current practices are only fatiguing the public. (vii) HOBs should look at the National Treasury guidelines in the budgeting for capital projects and see what lessons can be drawn.

7 Appendices

Appendix A: Welcoming Remarks at the National Convening of County HOBs, Dr. Jason Lakin, IBPK

Good morning and welcome. It is really a pleasure to have so many of you here with us today. I want to recognize also generous support from the Omidyar Foundation for making this meeting possible.

For those of you who don't know me, my name is Jason Lakin. I manage the Kenya office of something called the International Budget Partnership. IBP is a non-governmental organization focused on improving public budgets. We try to encourage greater transparency in budgeting and broader public discussions around budgets. We do this by working with citizens, other NGOs, media and government at both levels. And the tools we use are research, analysis, technical support and engagement.

This meeting is about engagement and I will say more about that in a moment. But I also want to say that in a sense, IBP, along with civil society partners present today, represent the budget users in Kenya, while you represent the budget producers. And so that is the kind of engagement we are trying to have here, between producers and consumers of county budgets.

IBP Kenya has been working on budgets in Kenya for the last five years and we have been working on county budgets since before devolution began. In the past, this work has involved engagement with national officers and county officials, such as CECs for Finance. In May of this year, we hosted a national meeting to discuss the program-based budget. We looked at the national budget, but we also discussed counties and had some CECs for Finance at that meeting. In addition, we had a couple HOBs, including Chebet, who has helped to organize this meeting today. What I noticed at that meeting was that the most interesting comments were from Chebet and the HOBs, and not from the CECs. It was the HOBs who understood the issues we wanted to discuss. And we were clearly not engaging with them enough.

I spoke to Chebet further and learned that the HOBs had never actually met as a collective. This seemed unfortunate, since you are the ones who are doing the hard work of developing budgets and who would benefit most from learning and sharing opportunities with your peers. We started thinking about how we could remedy that, and this meeting is the result.

There is one more thing I want to say about today's meeting and why this engagement is important. I want to explain it by way of a story. In the late nineteenth century, the United States had a problem. Politicians seemed to control everything and the civil servants and professionals were sidelined. The dominant mode of government was distributing patronage to political allies and there was limited space for civil servants to push serious policy or regulation.

Yet by the early twentieth century, this had changed. Government had established new professional agencies to regulate key sectors. Forests and farmland were transformed from patronage industries to well-regulated and productive industries. Government enforced new fees for grazing and logging to control commercial and political misuse. Food and pharmaceuticals came under a strict regulatory regime as well.

These reforms were driven by civil servants, not politicians. How did this happen? I submit that two things drove these processes, both of which are relevant to us today. Number one: civil servants worked hard to build their capacities and to establish strong departments with a reputation for excellence. Number two: these civil servants worked hard to build relationships with what we might call civil society: including universities, farmers' movements, the women's movement, professional associations of chemists and doctors, and even media. Capable civil servants with wide social backing from civil society and professionals then put pressure on the American Congress to act, pushing reforms that politicians actually did not like but ultimately felt pressurized to approve anyway.

I want to suggest that enhancing public finances at the county level in 2015 in Kenya has properties that are similar to this story from 100 years ago in my home country. Politicians currently dominate policy discussions in Kenya, but there are civil servants with the potential to take us in a different direction. If civil servants like yourselves build your own capacity—not just as individuals, but as heads of departments and as a collective of budget officers—and reach out to the non-governmental organizations here, and of course beyond them as well to professionals and media, etc., then there is the potential to improve public finances in Kenya on your watch. We hope that this meeting is just a first step on that very long journey.

And that brings me to something I want to say about the two days of this meeting. Today is your meeting, where we focus on identifying our issues and looking for solutions. Tomorrow we meet national actors, like COB, who may have a role to play in providing solutions. However, while COB and Treasury and others may have a role to play, we should also remember that many of these solutions must come from us. Those actors too will respond to our pressure, but if we leave it to them, they may not act in the way or with the speed we want. So I hope you will own the agenda we establish here and drive it yourselves, rather than waiting for others to act.

With that, let me invite Chebet to give her opening remarks.

7.1 Appendix B: List of Attendants

NAME	INSTITUTION & POSITION
1. Joshua Musyimi	The Office of the Controller of Budget - Director Research And Planning
2. Fesal Mohammed	The Office of the Controller of Budget - Fiscal Analyst
3. Mark Kipkoech	The Office of the Controller of Budget - Chief Fiscal Analyst
4. Kamotho Wanganjo	Commission For The Implementation Of The Constitution - Commissioner
5. Kenneth Waithiru	Tmt/Bd- Economist, National Treasury
6. Edwin Muhia	The Office of the Controller of Budget - County Budget Coordinator
7. Peter Lilford	World Bank- Economist
8. Onyango Deurence	National Taxpayers Association - Rco Nyanza
9. James Muraguri	Global Empowerment Initiatives- Executive Director
10. Rolex Mwamba	Inter-Religious Council Of Kenya- Programme Officer
11. Titus Ogalo	Transparency International Kenya- Programme Officer
12. Timothy Kiprono	Kccdhr – Program Officer
13. Rev Jami Sasaka	Chemchemi Ya Ukweli- Programme Officer
14. Trevor Oketch	The Council of Governors - Technical Assistant
15. Judy Koine	The Council of Governors - Communications Director
16. Job Otiwa	Commission on Revenue Allocation - Senior Analyst
17. Kennedy Monyoncho	Salaries and Remuneration Commission - Director, Research And Compliance
18. Maryanne M. Mwangi	National Taxpayers Association - Central Nyeri RCO
19. Anastacia Mundo	Makueni - Director of Budget
20. Linus Mugambi	Embu- Economist
21. Melody Njeru	Nyandarua- Economist
22. Cyrus M. Kahiga	Nakuru- Economist
23. Dinah N. Makokha	Trans-Nzoia –Head Of Budget
24. Nathan Onduma	Nyamira- Economist/Statistician
25. Abdiharam Noor H	Garissa- Head Of Budget
26. Emilyo M. Wanjohi	Murang'a- Head Of Budget
27. Athuman Mwatunza	Kwale- Director, Budget And Economic Planning
28. Andrew Kigen	Nairobi - Economist
29. David Njenga	Samburu- Head Of Budget
30. Sahara Kunow	Wajir- Head Of Budget
31. Naftaly Muikia	Kirinyaga- Head Of Budget
32. Priscillah Mungo	West Pokot – Head of Budget
33. Onyancha Lazarus	Migori- Director Of Budget
34. Muigai Wainaina	Nyandarua- Budget Officer
35. Andrew Waweru	Lamu- Senior Economist
36. David Michoti	Elgeyo Marakwet - Economist
37. Vincent Ngeywo	Bungoma- Director Of Budget
38. Jane Githui	Mombasa- Head Of Budget And Economic Planning
39. Margaret Osilli	Kisumu- Director Of Budget
40. Priscah J. Omoit	Busia- Head Of Budget
41. Jeniffer Ogola	Siaya- Head Of Budget
42. Osano Robert	Kiambu – Director Of Budget
43. Julius Kingori	Laikipia – Acting Head Of Budget
44. Jason Lakin	IBP KENYA- Country Manager
45. John Kinuthia	IBP KENYA – Research Analyst
46. Vivian Magero	IBP KENYA – Outreach Coordinator
47. Mokeira Nyagaka	IBP KENYA- Rapporteur

Appendix C: IBP Kenya presentation of 10 Budget Challenges

IBP | KENYA
Open Budgets. Transform Lives.

Heads of Budget Meeting
August 2015:
Toward Improved County Budgets

Jason Lakin, Ph.D.
Country Manager

10 Challenges

- To get discussion started, we have identified 10 challenges
- Discuss these challenges and see whether they are widely agreed
- Add more, take some away, etc.
- Focus energy today on widely accepted challenges with a focus on finding solutions

#1: Budget Classification

No clear guidance on recurrent versus development expenditure (affects 30%):

- Different approaches to vehicles, furniture, equipment
- Shifting guidelines on classification of bursaries
- How to treat legacy costs (Economic Stimulus Program, etc.)

#2: Budget Inclusions

- Revenue breakdown to what level?
- Actuals and projections?
- Inclusion of Appropriation in Aid?
- How to account for conditional grants? Some are not transferred to counties at all; how are they reflected/classified in the budget?
- Details of staff, projects by ward, etc. What should be the standard?
- Line item detail at what level and how does it link to the PBB?

#3 Programmes and Subprogrammes

- Programmes should allow public and CA to make choices among different priorities within a ministry
- They are intended to be driven by objectives, but sometimes seem to be administrative units or even items; little guidance on how to design
- Guidelines for how to use "administration" programmes are weak and it is not clear how to distribute staff costs across programmes

#4: Economic Classification

- The current economic classification used by NT does not allow for sufficient detail on either recurrent or development; needs refining
- Overuse of "other" categories undermines transparency especially in absence of narrative
- Capital budget needs additional categories/breakdown beyond "assets" and "transfers," and major projects should be detailed with their budgets
- How to treat compensation to non-employees

#5: Narrative Quality

- May be a need to develop a template to guide narrative
- Budget narratives are not uniform and often do not provide sufficient assistance to readers
- Narratives should illuminate choices, particularly at the programme level and below (choices at sector level dealt with in CFSP)
- Narratives should also explain broad economic classification (which assets? which other recurrent/development?)

#6: Indicators and targets

- Guidance on realistic number/type of indicator
- Many counties have struggled to come up with useful, measurable and achievable indicator/targets
- There are often too many indicators and some have unmeasurable/unreal targets
- Many lack baselines for ensuring reasonableness and change over time
- Type of indicators: Absolute values may be less useful than percentages?

#7 Quarterly Implementation Reports

- These are not being produced (or at least published) regularly by counties
- Lack of guidance on preparation
- Those that are produced are not in a format that matches the approved budget estimates (PBB or line item)
- No narrative explanations of major variances

#8 Simplification of budgets

- Many county budgets are complex and hard to follow for even educated layperson
- Budgets could be made more user friendly and PFMA requires "clear and easily understood"
- Also: good practice to provide a simplified budget, such as a "citizens budget" as National Treasury does
- However, simplified information can sometimes also be too simple: not substantive
- Difficult balance to strike: what guidance can we give?

#9 How to lead sector hearings?

- Most counties have some effort to hold MTEF/sector hearings, but no standards for how to do this well
- What kind of information should be provided in these meetings?
- What kind of inputs from the public are we seeking?
- How do we provide feedback on what we receive?

#10 CBEF and Participation

- Most counties are not utilizing the County Budget and Economic Forum
- CBEF is missed opportunity to build support for executive agenda w/ major interest groups
- There is a general lack of clarity about engagement beyond the sector hearings and how it should be done
- Need guidance on how to think about participation throughout the cycle

7.2 Appendix D: List of contentious items in the classification of recurrent or development expenditure presented to the OCOB for guidance on August 28 at close of meeting

1. **Furniture and fittings for newly constructed building**
2. **Purchase of Ambulances**
3. **Purchase of Vehicles for different extension programmes**
4. **Purchase of Vehicle for the governor and other executives**
5. **Scholarships and bursary funds(school funding)**
6. **ECD capitation**
7. **Purchase of Drugs**
8. **Training /capacity building of farmers , cooperatives and other groups**
9. **Fuel for roads: should development**
10. **Monitoring and evaluation of development projects by someone in the ministry**
11. **Donor programmes**
12. **Purchase of Non pharmaceuticals**
13. **Maintenance of buildings, vehicles and equipments**
14. **Renovation and repair of buildings, vehicles and equipments**
15. **Emergency and disaster fund**
16. **Biashara fund**
17. **Revolving funds e.g. trade revolving funds**
18. **Research and feasibility studies**
19. **Purchase of Computer software and hardware**
20. **Purchase of Printing equipment**
21. **Purchase of ICT networking and communication equipment**
22. **Purchase of animals and breeding stock**
23. **Money for disability mainstreaming**
24. **Funds for Youth Women and people living with disability**
25. **Consultancy services**
26. **Business incubations**
27. **Purchase of Food and rations**
28. **Support to SACCOs**
29. **Contribution to regional bodies (banks/ Jumuia ya Kaunti za Pwani) including monies for the secretariat**
30. **Car loans and mortgages for staff**
31. **Governor sponsored events : sports tournament**
32. **Tourism promotion e.g. Miss tourism events**
33. **Sports activities by MCAs at ward level**
34. **Spatial Planning**
35. **County investment forums expenses**
36. **Agricultural show expenses**