Bridging the Gap: Enhancing Budget Transparency in Kenya’s County Supplementary Budgets.

Kenya’s County Budget Transparency Survey 2022

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Summary Findings

1. Since the onset of devolution, Supplementary Budgets have become a common feature in county budget processes. The findings show that 44 Counties passed supplementary budgets in FY 2021/22, but most do not make them publicly available, as only seven were published. It has also been common where counties pass more than one supplementary budget in a financial year, and, in some instances, it has been done towards the end of the financial year. This is best indicated by the revised budget estimates numbers as captured in the reports from the Office of the Controller of Budget.

2. In some cases, counties publish Supplementary budgets but does not publish the approved Programme Based Budget for the same year, while others do not follow the program-based budget format, which should allow for comparisons to the original approved budget.

3. The level of comprehensiveness in the Supplementary Budget published is 62 out of 100 points. Five of the seven counties provided adequate information, which is more than 60 out of 100 points, with Nyandarua county publishing the most comprehensive Supplementary Budget with 88 out of 100 points. However, it did not publish the approved Programme Based Budget.

4. Counties are supposed to provide the need that justify the need for budget changes, however five of the seven counties evaluated have some information, how it is presented is scanty and not specific. The findings further show counties provide comprehensive expenditure information. For example, the coming years projections were provided by all the seven counties assessed on Supplementary Budgets. The challenges are on the narratives that show how counties adhere to fiscal responsibilities even after making changes which was provided by Nyandarua County only.
Introduction

The County Budget Transparency Survey (CBTS) is one of the few consistent and comprehensive transparency initiatives conducted at the sub-national level across the world. It is an annual independent survey that provides fair and comparative measures on the level of the information provided by all sub-national units (known as counties) in Kenya as required by the Public Finance Management Act (PFM Act), 2012, and its accompanying regulations. The survey is conducted in two stages. The first focuses on the availability of ten key budget documents on the official websites of either the county executive or county assembly while the second stage focusses on the level of information provided in the key budget documents.

This modular research evaluates trends across counties regarding the formulation and approval of supplementary budgets. It will also seeks to understand 1) the extent to which counties publish and publicize supplementary budgets and 2) the level of information provided in the supplementary budget and how it aligns with the format of a Programme Based Budget.
Why the Transparency of Supplementary Budgets Matters

Whereas the law allows county governments to introduce supplementary budgets under certain circumstances, we have observed that counties have been passing them in many instances. Still, most of them do not publish or publicize them. In addition, the priorities in the approved budgets are likely to be shifted by the introduction of supplementary budgets. Therefore, it is important to understand how the counties are handling supplementary budgets and if they adhere to the law in how they are formulated and approved.

What We Did

Article 135 of the PFM Act, 2012 allows a county government to submit a supplementary budget to the County Assembly under certain circumstances. Article 135 (1) qualifies this by stating that a county government may spend money that has not been appropriated if the amount appropriated for any purpose under the County Appropriation Act is insufficient or a need has arisen for expenditure for a purpose for which no amount has been appropriated by that Act or money has been withdrawn from the county government Emergency Fund.

The Supplementary Budgets are not compulsory, and counties are not required to revise their budgets except in scenarios where there are unforeseen budget demands and emergencies as outlined in Article 223 of the constitution and section 135 PFM Act. There could be a scenario where all the 47 counties do not revise their budgets. Therefore, supplementary budgets cannot be evaluated fairly across all 47 counties as part of the main survey which focuses on all key budget documents that must be produced and published across all the counties; therefore, the need for a modular piece is done only for the counties that passed them.

Additionally, the PFM Act has provided details on what Supplementary Budget should have; therefore, the survey evaluates the details provided by counties on the supplementary budgets using eight questions.

Box 1: The Information that Should be Provided in Supplementary Budgets

The county subsidiary legislation 2015, 38 (6), the request for the supplementary budget in paragraph (5) shall be presented in a format that facilitates comparison with the original budget and shall contain all the information necessary to enable a decision on the application to be reached and shall include:

a. The vote, program, sub-programme, broad expenditure category which it desires to supplement, the original sum voted thereon, and any supplements which may have since been added.

b. The actual expenditure and the outstanding liabilities or commitments against the item on the date the request is made.

g. The amount of the supplement required, the reasons why the supplement is necessary, and why it has not been possible to keep within the voted provision.
Public Availability of Supplementary Budgets

The CBTS acknowledges that a budget document is publicly available when it is available to the public at no cost and not at the discretion of any government official. The availability of supplementary budgets was assessed based on their availability on either the county executive or the county assembly website. This was done for all 47 counties to ensure fairness, which is one of the key principles County Budget Transparency Survey.

According to CBTS 2022, 45 of the 47 counties passed supplementary budgets for FY2021/2022. However, the 4th quarter budget implementation report FY 2021/2022 by the Controller of Budget indicates that 44 counties revised their budgets which is done through supplementary budgets and only three counties did not.

Figure 1: Format of Supplementary Budgets

Justification for evaluating only seven out of the nine supplementary budgets that were published.

40 (6) “The request for supplementary budget in paragraph (5) shall be presented in a format that facilitates comparison with the original budget and shall contain all the information necessary to enable a decision on the application to be reached...”

Source: Section 40 (6) of the Public Finance Management Act Regulations, 2015

Whereas 45 counties passed supplementary budgets, only nine counties published their supplementary budgets on their official websites. However, out of the nine counties that published the supplementary budgets, only seven counties adhered to the Programme Based Budget (PBB) format as provided by law. Therefore, these are the seven supplementary budgets considered in this modular research.

The seven counties that published the supplementary budgets in the correct format are Bungoma, Busia, Kakamega, Kisumu, Kitui, Lamu, and Nyandarua. Kiambu and Narok are the two counties that published their supplementary budget but did not adhere to the PBB format.

Out of the seven counties that published their supplementary budgets that were considered in this survey, five of the counties passed one supplementary budget. In comparison, two counties passed more than one for the financial year 2021/22.
In comparison to the national level, over the last three financial years, there have been at least two supplementary budgets passed in each financial year. There is also a trend noted at the national level where the supplementary budgets are passed in April and June of every financial year. On the contrary, the passing of the budgets at the county level does not follow any trend as the dates differ, as seen in Table 1. It is important to note that other counties passed as many as three supplementary budgets.

Table 1: Dates when Supplementary Budgets are Passed by the County Governments

<table>
<thead>
<tr>
<th>County</th>
<th>Month Supplementary Budget was Passed</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Bungoma</td>
<td>February 2022</td>
<td></td>
</tr>
<tr>
<td>2 Busia</td>
<td>September 2021</td>
<td></td>
</tr>
<tr>
<td>3 Kakamega</td>
<td>June 2022</td>
<td>The county passed three Supplementary budgets</td>
</tr>
<tr>
<td>4 Kiambu</td>
<td>March 2022</td>
<td></td>
</tr>
<tr>
<td>5 Kisumu</td>
<td>February 2022</td>
<td></td>
</tr>
<tr>
<td>6 Lamu</td>
<td>November 2021, May 2022</td>
<td>Two Supplementary budgets</td>
</tr>
<tr>
<td>7 Nyandarua</td>
<td>May 2022</td>
<td></td>
</tr>
</tbody>
</table>

As seen in Table 1, some of the counties passed their supplementary budgets in the last two months of the financial year. This is so close to the end of the financial year and has a direct impact on the implementation of the budgets.

Comprehensiveness of Supplementary Budgets

Comprehensively, we look at the level of information provided by counties in the published Supplementary Budgets. As highlighted in Box 1, the law requires that the budgets follow the format of the Programme Based Budget, which means that the budget must contain a certain level of information to enable the public to follow and track the changes made in the budget. Further, this format should facilitate comparison with the original budget. To obtain a fair assessment of the level of information presented in the available supplementary budgets across the counties, the supplementary budgets were subjected to a questionnaire with a total of eight evaluation points.

The level of information provided by the seven counties on Supplementary Budgets is 62 out of 100 points. Five of the seven counties provided adequate information which is more than 60 out of 100 points with Nyandarua county publishing the most comprehensive Supplementary Budget with 88 out of 100 points. It is also important to highlight that Nyandarua county had not published the approved Programme Based Budget but published the Supplementary Budget. Out of the seven counties that published their supplementary budgets, five counties provided information that was above the average score while two provided information that was way below the average score.
Some counties still highlight Covid-19 as a reason for changes in the budget two years later, which is a vague and general reason.

Bungoma and Kitui are the counties that presented information that was below the average score on their Supplementary Budgets however the scores in their approved Programme Based Budget were higher. The study further highlights in four other counties which include Busia, Kisumu, Kakamega and Lamu counties the information provided in approved Programme Based Budget was lower than what the counties provide in the Supplementary Budgets.

Analysis of the type of information provided in the supplementary budgets

Information on reasons for changes in the budget

Whereas five of the seven counties present general reasons why the budget changes were necessary, two counties (Bungoma and Kitui) did not provide any reasons why it was necessary to change their budgets. For example, some counties notes that the previously they have not achieved revenue targeted, putting in measures and ways to pay pending bills, competition of the ongoing capital projects could be some of the specific reasons which should also be seen in the figures. Some counties still highlight Covid-19 as a reason for changes in the budget two years later which is a vague and general reason.

Further, it is important to note that only three counties (Busia, Kisumu and Nyandarua) presented information on the reasons for the budget changes at the departmental level. Therefore, it is important for counties to present information not only at the general level, but also at the departmental level so that the county citizens can be able to easily understand why the county found it necessary to pass the supplementary budget. It also helps the citizens to be able to track and hold the county to account based on the priorities that were passed in the original budget.

Source: IBP Kenya, CBTS 2022 data analysis.
Information on whether the changes exceed the 10 per cent of the approved expenditure

The PFM Act requires the total of all re-allocations made to or from a program or sub-vote to not exceed ten percent of the total expenditure approved for that program or Sub-Vote for that year. Busia and Kakamega are the only counties that present financial information indicating that the counties have either exceeded or not exceeded the given provisions of ten percent. However, they fall short of providing a narrative information of the votes and programmes that have been affected. The rest of the counties which include Bungoma, Kisumu, Kitui, Lamu and Nyandarua do not provide any information on whether the county has exceeded or not exceeded the ten percent provision. Where counties do not provide this information, it is difficult to ascertain the level of compliance of the supplementary budget to the provisions of the law. In addition, the executive may be revising a bigger proportion of the budgets and affecting more priorities. Further, since counties can spend and seek approval later, this opens up a scenario where the executive can override the approval role of the assemblies by simply spending beyond the ceilings set in the law.

Sources of financing for the additional expenditure

Apart from Bungoma County, all the other counties gave information on the proposed source of financing for the additional expenditure resources required. This is a good practice for counties to emulate as it recognizes that where there is additional expenditure, there must be a corresponding source of the resources that are required to meet the additional expenses.

Expenditure information by Departments/Ministries

By law, counties are expected to provide information on expenditure by departments/ministries with figures from the approved budget, actual expenditure when the supplementary request is made, and supplementary budget figures. This information is supposed to make it easier for citizens to compare the changes in the supplementary budget in relation to the approved budget. An analysis of the budgets reveals that six of the counties provide a good comparison by providing the expenditure information for at least two of the three parameters. On the other hand, Kitui County is the only one that provided one set of information and it is not specified whether it is the figures of the approved budget or the supplementary budget, therefore we take it that the figures are of the supplementary budget since the document is marked as such. This makes it very difficult to compare the proposed changes in relation to the approved budget.

Expenditure information at the programme level

In addition, the counties are expected to provide expenditure information at the programme level with figures from the approved budget, actual expenditure when the supplementary request is made, and revised budget figures. Bungoma, Lamu and Nyandarua all provide the expenditure information at the programme level with figures from the approved budget, actual expenditure when the supplementary request is made, and revised budget figures. On the other hand, Busia, Kakamega and Kisumu provides expenditure information at the programme level but fails to provide details of the actual expenditure at the point that the supplementary budget is being prepared. Once again, Kitui county falls short of providing the figures for the three categories above but only provides the revised budget figures.
Importantly, when budget is revised, the changes should be seen in both sides of the budget that is financial and non-financial components. Sometimes the financial side of the budget changes significantly, but the same does not happen on the non-financial information, i.e., service targets, this is why counties must ensure they publish both figures from the approved budget and supplementary budget to enable the public to see the changes made.

> **CHAPTER TWELVE – PUBLIC FINANCE**
> **PART I – PRINCIPLES AND FRAMEWORK OF PUBLIC FINANCE**

201. **Principles of public finance**

The following principles shall guide all aspects of public finance in the Republic—

(a) there shall be openness and accountability, including public participation in financial matters;

(b) the public finance system shall promote an equitable society, and in particular—
   
   (i) the burden of taxation shall be shared fairly;
   
   (ii) revenue raised nationally shall be shared equitably among national and county governments; and

   (iii) expenditure shall promote the equitable development of the country, including by making special provision for marginalised groups and areas;

(c) the burdens and benefits of the use of resources and public borrowing shall be shared equitably between present and future generations;

(d) public money shall be used in a prudent and responsible way; and

(e) financial management shall be responsible, and fiscal reporting shall be clear.

Source: Constitution of Kenyan 2010

Article 201 of the Constitution of Kenya highlights the principles of public finance that shall guide all aspects of public finance. In light of this provision, the supplementary budget needs to present information that explains the fiscal impact of the expenditure changes in relation to the fiscal responsibility principles and financial objectives of the county. This is critical as all budgets prepared by the counties need to adhere to these principles. Our analysis indicates that only Nyandarua County provided an explanation of the fiscal impact of the expenditure changes in relation to the fiscal responsibility principles and financial objectives. All the other counties provided an explanation of the fiscal impact either in relation to the fiscal responsibility principles or financial objectives, or none of the above. Therefore, emphasis needs to be made for counties to clearly indicate how the expenditure changes in supplementary budgets adhere to these principles and the financial objectives.

Fiscal projections are important as they help counties to utilize data on their past and present financial performance to predict future financials. Therefore, supplementary budgets need to present information on the latest fiscal projections. An evaluation of the available supplementary budgets revealed that all the counties have presented the information on the latest updated fiscal projections over the Medium Term. The only difference is that Bungoma and Kisumu have provided the information only at the department level while Busia, Kakamega, Kitui, Lamu and Nyandarua have provided the information at both the department and below departmental level.
Public Participation in considering supplementary budgets.

Public participation in the consideration of supplementary budgets remains a challenge. This is compounded by the fact that there is no law that compels either the national or county government to subject the supplementary budget to public participation. However, given that there are potential shifts to previously identified priorities, it is important for the process to be opened up to the public. In the supplementary budgets that were published, the counties did not provide any information on public participation. Essentially, best practices dictate that the supplementary budget should provide details of the input provided by the public and how that information was used to inform the decisions taken in the final document.

Drawing from the precedence set by the Budget and Appropriations Committee of the National Assembly while considering Supplementary Estimates I FY 2022/2023, where for the first time in the history of Supplementary Budgets in Kenya, it was subjected to public participation. The National Assembly put out a public notice in the daily newspapers to invite interested parties to submit their memoranda on the budget. The final report submitted by the Budget and Appropriations Committee highlighted the input given by the public. This is a good practice that county assemblies should emulate as a way of promoting not only participation but inclusion in the budget process at all stages especially in implementation.
Conclusion

Whereas the law provides for supplementary budgets to be passed under certain circumstances, they should not disrupt the budgeting process. The supplementary budgets should be passed solely to address any emerging issues that may have not been anticipated. Although it is almost certain that the budgets will always be changed during budget implementation, it is important to bear in mind that these changes will affect the implementation of the budget as originally approved.

It is also clear, that some counties pass Supplementary Budgets towards the end of the financial year thereby not enough time for the county to implement the changes, but often questions on whether it is only done for formality or the funds were already spent upfront? Also, it is important to highlight some counties passes more than one Supplementary Budget which pegs the questions on the counties reliability in targeting and ensuring budgets are well implemented.

As highlighted, majority of the counties pass supplementary budgets but do not publish them for the public to have access to them. Therefore, it is imperative that counties take on the best practice of publishing all budget documents whether it is a requirement by law or not. In other situations, counties publish Supplementary Budgets but there is no Approved Programme Based Budget which should provide a baseline.

The role of the County Assembly isn’t limited to approving budgets only. They have a critical role to ensure that any amendments to the budget adhere to the laws provided. They should be able to interrogate the budget to ensure the final approved supplementary budget does not interfere with the approved budget. Therefore, they need to embrace their role on accountability especially during the implementation period of the budget. This will enable public to continue monitoring the budget implementation seamlessly using the latest budget changes.
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