SUMMARY

Since 2019, International Budget Partnership Kenya has carried out continuous analysis on budget implementation at the national and county level intending to understand the challenges affecting Kenya’s budget credibility. The analysis identified delayed intergovernmental transfer of funds from the national to county governments as one of the major challenges to effective budget implementation within counties. Counties depend on national transfers to fund up to more than 70 percent of their budgets. As such, receiving funds particularly late into the financial year affects their ability to spend down. The challenge of delayed exchequer releases has constantly been pointed out by counties in their reporting and also by the Office of the Controller of Budget in their budget implementation reports.

An efficient cash flow process is not a linear process. The law has made great effort to outline various parts of the process; providing timelines, offices/officials responsible, and conditions where applicable, but every detail has not been laid out exhaustively. This has left some facets of the process to the discretion of the actors responsible for certain parts of the process which has, in turn, influenced the practice. For instance, despite there being a disbursement schedule, the National Treasury has on various occasions disbursed funds to counties days to the close of a financial year thus making rollovers inevitable. Further, the National Treasury has seemingly used rollovers as a coping mechanism in delayed disbursements to counties, especially in the first quarter. On the contrary, there are no provisions that justify or allow for delayed disbursement just because counties have some funds. At the county level, there remain grey areas when it comes to prioritization of the various departments in procurement which is centralized and distribution of the limited funds that counties receive during the year.

Key findings and observations from the study include:

- Counties receive little to no disbursements in the first quarter of the financial year; disbursements peak in the fourth quarter when not much spending can be done. Coupled with the reappropriation of funds by the national and county assemblies through supplementary budgets, the result of this beyond delayed implementation is accumulated pending bills and rollover funds.
Table 1: Exchequer issues to counties peak in the fourth quarter

<table>
<thead>
<tr>
<th>% Quarterly Exchequer Issues to Counties</th>
<th>2017/18</th>
<th>2018/19</th>
<th>2019/20</th>
</tr>
</thead>
<tbody>
<tr>
<td>Quarter 1</td>
<td>0%</td>
<td>7%</td>
<td>17%</td>
</tr>
<tr>
<td>Quarter 2</td>
<td>28%</td>
<td>29%</td>
<td>16%</td>
</tr>
<tr>
<td>Quarter 3</td>
<td>29%</td>
<td>29%</td>
<td>24%</td>
</tr>
<tr>
<td>Quarter 4</td>
<td>44%</td>
<td>39%</td>
<td>31%</td>
</tr>
<tr>
<td>TOTAL</td>
<td>99%</td>
<td>98%</td>
<td>91%</td>
</tr>
</tbody>
</table>

Sources: COB CQIRR 2017/18, 2018/19, 2019/20

- Timelines, as set out in the PFM laws, are often not adhered to. This is particularly the case for the submission and approval process of the revenue sharing laws – Division of Revenue Act and the County Allocation of Revenue Act. In some cases, late approval of county budget which has to be approved before an Appropriation Act can be passed, also affect the requisition timeline and the flow of funds to counties.

Table 2: Approval timelines for the revenue sharing laws were not fully adhered to in the last three years.

<table>
<thead>
<tr>
<th></th>
<th>2017/18</th>
<th>2018/19</th>
<th>2019/20</th>
</tr>
</thead>
<tbody>
<tr>
<td>Division of Revenue Act</td>
<td>21st June 2017</td>
<td>10th April 2018</td>
<td>17th September 2019</td>
</tr>
<tr>
<td>County Allocation of Revenue Act</td>
<td>6th July 2017</td>
<td>29th June 2018</td>
<td>18th September 2019</td>
</tr>
</tbody>
</table>

Sources: Division of Revenue Acts and County Allocation of Revenue Acts 2017, 2018, 2019

- The study also found that the requisition process for counties which is done through the County Treasuries is handled in two tiers and is characterized by three major steps. The first tier of the requisition process happens at the County Budget Coordinator’s (CBC) office\(^2\) where the CBC checks whether all the mandatory documents have been provided and are accurate. The second tier of the process happens at the OCOB Head office and involves the two other steps: a second review of the documents at the OCOB Head Office’s Exchequer unit and final review and approval by the Controller of Budget. Clarifications and corrections, where needed, are handled in the first two steps. From the first step at the CBC office to the OCOB Head Office, verified documents are forwarded to the Head Office, through the office of the CBC. This is to be done by physically delivering the documents or via electronic mail. However, key

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\(^1\) The 91 percent in 2019/20 is according to COB Reports; the National Treasury has the percentage at 88 which is before including allocations toward response to the pandemic. Figures in the COB report are inclusive of COVID-19 funds. The other two years, funds were fully disbursed, and the 99 and 98 percentages would be due to margins of error – rounded figures.

\(^2\) This is the Controller of Budget’s office at the county.
interviewees in this study indicated that the documents are physically delivered by the County Treasury-designated officials.

- The requisition process varies depending on whether the requisition is being done at the beginning of the financial year or within year. The variation on whether requisition is made at the beginning of the financial year or within-year is on the supporting documents required. For instance, once the Annual Development Plan has been submitted, it needs not to be submitted again. Procedural documents on the other hand, such as requisition forms (Form A’s) and the accompanying work plans/ itemized schedules have to be submitted each time a requisition is made.

It is important to note that the requisition process as outlined above is manual with hard copy documents and involves the physical submission of documents. This is why the verification process at the CBC office is important.

- Further delays in the flow of funds from the County Revenue Fund to County Operational accounts and eventually service delivery areas also happens on account of processes such as the Procurement process and delayed approval of county budgets which is a requirement for requisition of funds at the beginning of every financial year. Procurement in counties is centralized and with each department needing a procurement plan prior to submitting a request for funds with the County Treasury, the waiting time causes further delays in the flow of funds. After requisitioning for funds through the County Treasury, a follow-up by a department also determines who are served first.

In studying the cash flow process as a factor of poor budget implementation, we note that the process itself has challenges that have contributed to cash flow being a factor of poor budget execution. These challenges were identified during the study and especially from the key informant interviews. They include:

- Extended approval time of the revenue sharing laws as well as the budget estimates. As is extensively discussed under the section on approval, this is where the rain starts beating and the effect snowballs across the financial year affecting disbursement timelines.

- A highly bureaucratic process at the national level as well as at the county level. This is characterized by hierarchical procedures and those that are centrally controlled. Checks and balances are necessary, however, there is also a downside to this. For instance, in 2019/20, counties did not receive the full amount allocated to them. These were majorly conditional grants and key to this, was that the National Treasury had not yet received written instructions from the responsible ministries.

- Unmet revenue targets. Ordinary revenue collection targets have often not been met and connected to this, is poor planning which begins with setting unrealistic revenue targets that are seemingly uninformed.

- Counties’ cash balances. This indirectly affects county receipts and is related to the point above on revenue targets and funds availability. According to the interviewees
from the National Treasury, insufficient funds for disbursement will mean that prioritization has to happen, and the higher a county’s balances are the less likely they are to receive funds. Within-year prioritization is also dependent on what counties have in their accounts with the National Treasury encouraging counties to spend down what they already have in their accounts whenever the issues of delayed disbursements come up.

- A manual requisition system involves the physical delivery of documents and follow-up by county treasury officials with the OCOB Head Office. This is tedious and lengthens the process and should not be the case in this age where processes such as procurement are already automated. The Office of the Controller of Budget has put forward that, plans to automate the requisition process are underway; however, this is yet to be done.
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INTRODUCTION

On-time and consistent budget implementation in counties is imperative to effective service delivery. The linkage between resource allocation and delivery of services within a financial year has to be done through an efficient and effective budget implementation process. Therefore, it’s essential for national and county governments to isolate and address any challenges that may affect budget execution. Analysis on budget implementation carried out by the International Budget Partnership Kenya covering the period between 2014/15 to 2017/18 showed that budget absorption remains relatively low with counties spending approximately only 80 percent of their approved budgets. The study also highlighted some of the key challenges that were leading to these low execution rates. These included:

1. Slow disbursement of intergovernmental transfers.
2. Late approval of county budgets and other public finance policies that facilitate approval of cash disbursements.
3. Poor participatory budgeting practices that lead to wrong allocations for priorities that are selected by the community.
4. Centralized procurement systems in the counties that lead to delays in implementation of approved programs and projects.
5. Budget changes and supplementary budgets that shift allocations compared to the approved budgets.
6. Poor capacity of contractors.

Several root causes of poor budget execution that were identified in the study were related to how funds flow to the points of service delivery. This study is framed around the issues of poor disbursement and flow of resources at different parts of the implementation process as one of the causes of low spending. This study looks into:

i. How resources flow from the National Exchequer Account to the County Exchequer Account as per the legal frameworks.
ii. How resources flow from the National Exchequer Account to the County Exchequer Account in actual practice.
iii. Challenges/gaps observed in the cash flow processes and practical solutions.

For (i) and (ii) the focus is on: requisition, procurement and disbursement processes, timelines and approving offices/officers while making a comparison to the flow of funds to national government entities. In addition, this paper has four accompanying case studies from Baringo, Busia, Tana River and Mombasa counties.

WHAT WE DID

The study has been conducted in two phases/parts. These are:
1. Desk review of legal provisions on the procedures and actors involved in the cash flow process and a review of government budget documents.

This is what would form the basis for the study and entailed looking into the legal documents and finding out what they have on intergovernmental fiscal transfers and processes, timelines and approving offices/officials. Here we looked into the Constitution of Kenya, 2010, Public Finance Management Act, 2012, the national and county PFM regulations, the Controller of Budget (COB) Act. These documents informed the narrative on cash flow according to the legal frameworks.

In addition, we also looked at the Office of the Controller of Budget’s (OCOB) quarterly budget implementation reports for the national government and the monthly gazette notices on the statement of exchequer issues. For these two sets of documents and notices the period studied is FYs 2017/18, 2018/19 and 2019/20. From the COB reports, we obtained data on quarterly disbursements to counties and national MDAs including the Consolidated Fund Services (CFS). Lastly, we analyzed the National Treasury gazette notices which present data on monthly cash disbursements to counties and national MDAs including the CFS. Findings from the data and the desktop research informed the next step; key informant interviews. It is from the desktop research that we were able to determine who we needed to speak to and regarding what.

2. Key informant interviews

Guided by findings and notable observations from the desktop research we were able to narrow down the institutions and officials to approach for the interviews. For information on actual practice, we interviewed informants from:

i) The National Treasury

ii) The Office of the Controller of Budget

iii) The Parliamentary Budget Office

CASH FLOW: THE LEGAL FRAMEWORK

The cash flow process begins at the point of revenue collection by the Kenya Revenue Authority (KRA) and other revenue sources such as domestic and external borrowing. Per Article 206 (1) of the CoK, all money raised or received on behalf of the national government is paid into the Consolidated Fund. The Consolidated Fund is a fund maintained in the National Exchequer Account at the Central Bank of Kenya (CBK) and is administered by the National Treasury (PFMA Section 17(1)(2)).

Withdrawals from the Consolidated Fund are subject to authorization by the OCOB on account of an Act of Parliament or relevant legislation. The Act of Parliament in this context is the Appropriation Act which is passed after the approval of the annual budget estimates.

3 http://kenyalaw.org/kenya_gazette/
The annual budget estimates should be introduced in Parliament at least two months before the end of the financial year, that is, by 30\textsuperscript{th} April (Article 221, CoK 2010). By the same time, on 30\textsuperscript{th} April, there should also have been introduced in Parliament, the annual Division and Allocation of Revenue Bills (Article 218, CoK 2010). Approval of the aforementioned documents is essential to the flow of cash from the national government to county governments. The Division of Revenue and County Allocation of Revenue Acts, provide the legal basis for vertical and horizontal revenue sharing, respectively.

### Cash Flow to National Government Entities

For disbursements to national government entities, requisition has to be made by the National Treasury and submitted to the COB for approval. The COB’s approval, on account of an Act of Parliament or relevant legislation, is sufficient authority for CBK to pay monies. This is according to Sections 44, 45 and 46 of the PFM (National Government) Regulations, 2015\textsuperscript{4}. Breaking down this process further:

- Accounting officers (of national government entities) should prepare and provide the National Treasury with an annual cash flow plan as a basis for the requisition of funds for the financial year. The annual cash flow plans should be broken down into a 3-months rolling basis, hence the quarters. The quarterly cash flow projections as prepared by the accounting officers should, as far as is possible, be supported by an approved procurement plan in accordance with the Public Procurement and Disposal Act.

- The National Treasury should then consolidate all the expenditure projections as forwarded, compare these with projected revenues and in consultation with the Accounting Officers agree on an indicative annual cash flow projection limit. The National treasury then issues a National Treasury circular to the entities communicating the agreed cash flow projections.

- Based on the approved cash flow plans, the National Treasury submits requisitions to the OCOB for withdrawal of exchequer funds.

- Release of funds from the Consolidated Fund to the national government entities is in accordance with the authority granted by COB together with the written instructions of the National Treasury.

**Figure 1: Withdrawal of Funds from the Consolidated Fund**

\textsuperscript{4} [http://www.parliament.go.ke/sites/default/files/2017-05/Legal_Notice_No._34_National_Govt_Regu.pdf](http://www.parliament.go.ke/sites/default/files/2017-05/Legal_Notice_No._34_National_Govt_Regu.pdf)
Cash Flow from National Government to County Governments:

County governments have three main sources of revenue; equitable share, conditional grants and own-source revenue collected within their jurisdictions. The horizontal allocation of the equitable share to counties is as stipulated in the County Allocation of Revenue Act which is passed each year by the Senate in line with the agreed revenue approved in the Division of Revenue Act. Disbursement of monies to county governments should be based on a schedule that is prepared by the National Treasury in consultation with the Intergovernmental Budget and Economic Council (IBEC) and Gazetted not later than 30th May of each year, upon
approval by Senate (Section 17(7) of the PFMA, 2012). The schedule is to be published by the Cabinet Secretary for Finance and annexed in the County Allocation of Revenue Act.

At the beginning of every quarter and not later than the 15th day from the commencement of the quarter, the National Treasury should then disburse monies to county governments based on the schedule mentioned above (Section 17(6) of the PFMA).

The National Treasury publishes a monthly statement of actual revenues and net exchequer issues on actual transfers to county governments as well as to national MDAs and the CFS. However, not all county funds are disbursed directly from the National Exchequer to the CRF. Conditional allocations, apart from those disbursed directly to the CRF by the National Treasury, are to be disbursed to counties through line ministries and the respective government agencies. The National Treasury’s Gazetted Statements of Actual Revenues and Net Exchequer Issues also highlights this. For instance:

![The allocation for County Governments as per the County Allocation of Revenue Act (CARA) 2017 amounts to KSh. 331,013,018,508. The amount of KSh. 306,200,000,000 represents the Equitable share and Level 5 Hospital allocations. The balance of KSh. 24,813,018,508 will be disbursed by the respective National Government Agencies.](https://www.treasury.go.ke/publications/circulars.html?download=1196:circular-no-25-2020-on-frameworks-for-management-of-conditional-allocations-contained-in-county-allocation-of-revenue-act-2020)

However, transfer of these other conditional grants, including loans and grants from development partners, is still the responsibility of the National Treasury upon receipt of written instructions from the Accounting officers responsible for authorizing the transfer of conditional allocations⁵. The exception in the preceding statement is the allocation from the fuel levy fund which is disbursed to county governments through the Kenya Roads Board (KRB)⁶. KRB is responsible for the transfer.

Conditional allocations to county governments from the national government revenue are to be accessed by each county government only after meeting conditions set by the Cabinet Secretary responsible for that function, at the beginning of the FY (Section 5(3) CARA, 2018)⁷. On the other hand, conditional allocation from development partners shall be transferred to the respective county revenue fund in accordance with the disbursement schedule if the Cabinet Secretary and development partner have agreed in writing that funds be transferred.

**Figure 2: Outline of Transfers to Counties**

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⁶ [https://www.krb.go.ke/downloads/](https://www.krb.go.ke/downloads/)

⁷ [CARA 2018](https://www.treasury.go.ke/downloads/)
All funds to counties have to go through the **County Revenue Fund** which is administered by the respective County Treasury (PFMA, 2012, section 109(2)(3)). This fund is maintained in the County Exchequer Account at the Central Bank of Kenya or a bank approved by the County Executive Committee Member (CECM) for finance (Section 109(4)(a) of the PFM Act, 2012).

Instances where funds are not payable into the CRF include:

- Where, as a provision of an act of parliament, money is payable into another county public fund established for a specific purpose.

- Where per the PFMA, county, or other legislation, money may be retained by the county government entity which received it for the purpose of covering its expenses. This has been the route most taken by counties looking to spend at source for health facilities.

- Where money is reasonably excluded by an act of parliament (Article 207, CoK, 2010).

For withdrawal from this fund, the County Treasury must obtain written approval from the COB. To obtain approval, county departmental accounting officers should provide the County Treasury with an annual cash flow plan which is the basis for requisition of funds needed in the financial year (Section 43(1) of the PFMA, 2012). Further, (Section 43(4) of the PFMA, 2012), the quarterly cash flow projections prepared by the accounting officers should be accompanied by a procurement plan approved in line with the Public Procurement and Disposal Act, 2005.

The County Treasury should then consolidate expenditure requirements and projections as forwarded by accounting officers and compare these with projected revenues. Then, the County Treasury in consultation with accounting officers, ought to agree on an indicative annual cash flow plan and thereafter issue a circular on the agreed cash flow projections. Upon agreeing on the cash flow projections, the County Treasury then requisitions for funds.
Approval by COB together with written instructions from the County Treasury requesting a withdrawal (Section 109(7) of the PFMA, 2012) should be sufficient authority for the bank to pay the approved amount. Funds can then be released from the CRF to the county operational accounts.

**Figure 3: An Illustration of the OCOB’s ROLE**

![Diagram of the Controlling Role](source: CABRI – Budget process for the national government)

Section 166 of the PFM Act, 2012 requires the preparation of quarterly (financial and non-financial) reports of county government entities by accounting officers, submission of the reports to the County Treasury not later than fifteen days after the end of each quarter for consolidation and submission to the county assembly. After, the reports should be delivered to the COB, NT and CRA and publicized not later than one month after the end of each quarter. These reports are the checks on not only what a county has received, in terms of revenue, as at the end of each quarter but also what has been done with the revenue received.

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FINDINGS AND OBSERVATIONS

Transfers from the national government to counties, that is equitable share and conditional grants are the major sources of revenue for county governments. These national transfers account for up to 80 percent of actual county revenues.

Counties also generate their own revenue in accordance with the fourth schedule of the Constitution of Kenya. However, over time, most of the county governments have fallen short of their source revenue targets as can be seen from Table 1 below. For equitable share, which forms the highest proportion of county revenue, the proportion of the estimates as well as the actual equitable share received have been going down over time. Even then, the proportion of actual equitable share received in the total county revenue realized is consistently higher than the proportion of the equitable share in the total estimated revenue. This can be explained by the lower-than-estimated receipts of the conditional grants and below-target collection of own-source revenue. One of the things that stand out in terms of estimated revenue is the increasing proportion of conditional grants and cash balances in the total estimates of revenue even as the proportion of equitable share estimate goes down. For cash balances, this implies that counties are spending less and less of the equitable share hence the increase in cash balances which is proceeded by a decrease in the proportion of equitable share to total county revenue. However, this does not imply that the equitable share disbursed to counties has gone down it is just that cash balances have been going up over time as well thus making up an increasing share of total county revenues.
Table 1: National transfers form the biggest share of County revenue, making disbursements to counties critical to service delivery.

<table>
<thead>
<tr>
<th>Proportion of County Governments' Revenues</th>
<th>FY 2017/18 Revenue Estimates</th>
<th>Actual</th>
<th>FY 2018/19 Revenue Estimates</th>
<th>Actual</th>
<th>FY 2019/20 Revenue Estimates</th>
<th>Actual</th>
</tr>
</thead>
<tbody>
<tr>
<td>Equitable Share</td>
<td>80%</td>
<td>84%</td>
<td>74%</td>
<td>80%</td>
<td>73%</td>
<td>80%</td>
</tr>
<tr>
<td>Local Revenue/Own Source Revenue</td>
<td>7%</td>
<td>7%</td>
<td>15%</td>
<td>9%</td>
<td>14%</td>
<td>11%</td>
</tr>
<tr>
<td>Conditional Allocations including all grants</td>
<td>13%</td>
<td>9%</td>
<td>12%</td>
<td>10%</td>
<td>13%</td>
<td>10%</td>
</tr>
<tr>
<td>Sub-Total</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>National Transfers (Equitable share + Conditional Grants)</td>
<td>81%</td>
<td>85%</td>
<td>78%</td>
<td>79%</td>
<td>78%</td>
<td>79%</td>
</tr>
<tr>
<td>Own Source Revenue</td>
<td>12%</td>
<td>8%</td>
<td>10%</td>
<td>9%</td>
<td>11%</td>
<td>9%</td>
</tr>
<tr>
<td>Cash Balance from previous financial year</td>
<td>6%</td>
<td>7%</td>
<td>11%</td>
<td>12%</td>
<td>11%</td>
<td>12%</td>
</tr>
<tr>
<td>Total</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>

Source: Controller of Budget Annual Implementation Review Reports for Counties 2017/18, 2018/19 and 2019/20

Key interviewees from the National Treasury mentioned that counties need to do more on own-source revenue generation to aid in continuity of services and carrying out their functions even when experiencing delays in exchequer issues. However, the lingering question here is whether self-sustenance is feasible for counties even where they are able to realize the full potential of their own source revenue streams.

Withdrawal from the Consolidated Fund

Requisition

Requisitions by the National Treasury to the CoB are required for the withdrawal of funds from the Consolidated Fund.9 The National Treasury requisitions are for disbursement of funds to national MDAs and the CFS and county governments. The requisition process for the aforementioned differs in terms of requirements according to the OCOB’s Withdrawal Authorization Manual Structure.

For National MDAs:

For national MDAs, procurement plans and cash flow projections based on the Appropriation Act are the basis for requisition of funds by the National. The process occurs as follows:

i. MDAs send requests for funds to the National Treasury, through the Principal Secretary who is also the Accounting Officer.

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9 The Consolidated Fund is a fund maintained in the National Exchequer Account at the Central Bank of Kenya (Section 17 of the PFM Act, 2012)
ii. The National Treasury evaluates the requests. Requests are approved based on whether there is adequate revenue to meet all the requests and where there is no, certain amounts are set for each request with respect to Government priorities.

iii. With the Cash flow plan(s), procurement plan (as submitted by the MDAs) and Appropriation Act, the National Treasury prepares and submits to the COB, a request for withdrawal of funds from the National Exchequer Account.

iv. At the OCOB, checks are conducted to confirm the accuracy of figures and further checks to confirm revenue availability and balances in the Exchequer Account and whether the votes for which requisitions have been submitted have enough funds.

v. Next, the requisitioned amounts are posted to the Exchequer ledger balance and the official Exchequer Control Account.

vi. Four hard copies of the Withdrawal Approval Forms are then prepared, reviewed, and certified for approval by the CoB. The copies and supporting documentation are then sent to the COB for signing.

vii. Why the four copies? These are for distributing to the involved offices/institutions as follows:

- Two copies to the Accountant General - National Treasury. One of the copies is for submitting to the CBK confirming amounts to be released as approved.

National Treasury then notifies MDAs of the approved amounts.

- A copy to the CBK. Issued in advance as they await instructions from National Treasury to transfer funds.

- A copy is retained at the OCOB.

Requisitions for payment to the CFS (except debt repayment) follow the process as above but differs with regard to the supporting documentation\(^\text{10}\).

For County Governments:

The law stipulates that, disbursements to counties shall only be done upon approval of the County Allocation of Revenue Act and in line with the approved disbursement schedule. The CARA allocates money to counties whereas the schedule provides for the timelines within which certain amounts of money should be disbursed to counties\(^\text{11}\). Accordingly, withdrawal of funds from the Consolidated Fund can only be done upon approval by the Controller of Budget. For the National Treasury to disburse funds to the County Revenue Fund, the National Treasury has to first submit a request to the OCOB. The requisition is based on the County Allocation of Revenue Act and the accompanying disbursement schedule, together with the Appropriation Act. However, when it comes to actual practice, the National Treasury noted

\(^{10}\) [https://drive.google.com/file/d/1OeRlhJ3jTWoXr0excxZawsQTLaq2Rjt/view?usp=sharing](https://drive.google.com/file/d/1OeRlhJ3jTWoXr0excxZawsQTLaq2Rjt/view?usp=sharing)

\(^{11}\) [http://kenyalaw.org/kenya_gazette/gazette/notice/200016/](http://kenyalaw.org/kenya_gazette/gazette/notice/200016/)
in an interview for this study, that the Appropriation Act and the CARA are sufficient to requisition for funds.

Disbursement

The disbursement of funds to counties should be done per the disbursement schedule (Section 17(7), PFMA, 2012). The National Treasury acknowledged this in an interview; however, they also made it clear that the schedule is just a guide and not a concrete basis for disbursement of funds to counties. According to the National Treasury, the Appropriation Act and the CARA are sufficient to make requisitions and upon approval by COB, disbursements to county governments are made. In the first quarter of 2017/18, disbursements were made to certain counties prior to the approval of the disbursement schedule by the Senate. This was due to a cash crunch that threatened the provision of services at the sub-national level. Delayed approval of the DORA or CARA or the disbursement schedule poses a serious risk to county operations because county budgets and subsequent appropriation acts cannot be prepared and approved before the revenue-sharing laws are in place. This matter was, however, determined in the Supreme Court of Kenya. The court determined that even though, an Appropriation Act cannot come before a Division of Revenue Act, in the case of counties, to ensure continuity in operations, the National Assembly shall through legislation, authorize withdrawal of funds from the Consolidated Fund\(^\text{12}\).

Figure 5: A snippet of the National Treasury Statement of Actual Revenues and Net Exchequer Issues as at end of September 2017

<table>
<thead>
<tr>
<th>Note 1:</th>
</tr>
</thead>
<tbody>
<tr>
<td>The County Allocation of Revenue Act (CARA) 2017 was approved by Parliament and assented to by the President. However, the schedule of disbursement approved by the Senate was in variance with the (CARA). The National Treasury is awaiting clarifications from the Senate on the same. In the meantime, the National Treasury advanced a total of KSh. 20,434,075,558 to some County Governments to enable them pay salaries and provide essential services. The amount is included under The National Treasury Recurrent Vote (R1071).</td>
</tr>
</tbody>
</table>

Disbursements to Counties, in the period studied, were relatively lower in the 1\(^\text{st}\) and 2\(^\text{nd}\) quarters and become increasingly more in the 3\(^\text{rd}\) quarter and peaking in the 4\(^\text{th}\) quarter.

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\(^{12}\) [http://kenyalaw.org/caselaw/cases/view/195034/](http://kenyalaw.org/caselaw/cases/view/195034/)
Table 2: Exchequer issues to counties peak in the fourth quarter

<table>
<thead>
<tr>
<th>% Quarterly Exchequer Issues to Counties</th>
<th>2017/18</th>
<th>2018/19</th>
<th>2019/20</th>
</tr>
</thead>
<tbody>
<tr>
<td>Quarter 1</td>
<td>0%</td>
<td>7%</td>
<td>17%</td>
</tr>
<tr>
<td>Quarter 2</td>
<td>28%</td>
<td>29%</td>
<td>16%</td>
</tr>
<tr>
<td>Quarter 3</td>
<td>29%</td>
<td>29%</td>
<td>24%</td>
</tr>
<tr>
<td>Quarter 4</td>
<td>44%</td>
<td>39%</td>
<td>31%</td>
</tr>
<tr>
<td>TOTAL</td>
<td>99%</td>
<td>98%</td>
<td>91%</td>
</tr>
</tbody>
</table>

Sources: COB CQBIRR 2017/18, 2018/19, 2019/20

Table 3: Monthly Exchequer Issues

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>July</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>August</td>
<td>0%</td>
<td>1%</td>
<td>0%</td>
</tr>
<tr>
<td>September</td>
<td>0%</td>
<td>6%</td>
<td>17%</td>
</tr>
<tr>
<td>Quarter 1</td>
<td>0%</td>
<td>7%</td>
<td>17%</td>
</tr>
<tr>
<td>April</td>
<td>6%</td>
<td>9%</td>
<td>10%</td>
</tr>
<tr>
<td>May</td>
<td>9%</td>
<td>9%</td>
<td>22%</td>
</tr>
<tr>
<td>June</td>
<td>31%</td>
<td>23%</td>
<td></td>
</tr>
<tr>
<td>Quarter 4</td>
<td>46%</td>
<td>40%</td>
<td>32%</td>
</tr>
</tbody>
</table>

Source: Gazette Notices on Statement of Actual Revenues and Exchequer Issues for FYs 2017/18, 2018/19, 2019/20

Late disbursement to counties does not only happen in the first quarter. However, the delays in the first quarter affect subsequent disbursements and delays from the beginning of the financial year can largely been attributed to:

- **Delays in approval of the revenue-sharing laws by Parliament.** The approval process majorly accounts for slow disbursements at the beginning of the financial year, specifically the 1st quarter but slow disbursement has been noted beyond the 1st quarter. Despite there being a record of disbursements and receipts in subsequent quarters, the timeline within which the funds are released from the national

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The 91 percent in 2019/20 is according to COB Reports; the National Treasury has the percentage at 88 which is before including allocations toward response to the pandemic. Figures in the COB report are inclusive of COVID-19 funds. The other two years, funds were fully disbursed and the 99 and 98 percentages would be due to margins of error – rounded figures.
exchequer account remains a challenge. For instance, counties have, in the recent past, received funds for the 4th quarter towards the end of June when the money ought to have been disbursed by the 15th of April. It is fair to acknowledge that the delays at the beginning of the financial year may have a snowball effect on subsequent disbursement schedules.

- **Unmet revenue targets are also a huge factor when it comes to explaining delayed/low disbursement of funds to counties.** The National Treasury, in an interview, acknowledged this and stated that “you cannot disburse what you do not have”. Revenue performance data (Table 5) indicates that for the three years covered in this study revenue targets have not been met and particularly ordinary revenue which forms the total shareable revenue between the two levels of government.

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Quarter 1</th>
<th>Quarter 2</th>
<th>Quarter 3</th>
<th>Quarter 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017/18</td>
<td>-29.9 -9%</td>
<td>-44.8 -6%</td>
<td>-65.2 -6%</td>
<td>-124.6 -8%</td>
</tr>
<tr>
<td>2018/19</td>
<td>-68.7 -17%</td>
<td>-52.7 -7%</td>
<td>-96.0 -8%</td>
<td>-91.2 -6%</td>
</tr>
<tr>
<td>2019/20</td>
<td>-60.2 -14%</td>
<td>-88.4 -9%</td>
<td>-132.3 -10%</td>
<td>-42.0 -3%</td>
</tr>
<tr>
<td>2020/21</td>
<td>-41.7 -11%</td>
<td>-75.8 -9%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Source:** Quarterly Economic and Budgetary Reviews FYs 2017/18, 2018/19 and 2019/20

In FY 2019/20, counties did not receive the full amount of what had been allocated to them with a balance of almost 10 percent as at the end of the financial year. The National treasury attributes this to the constrained fiscal space (which was further fueled by the pandemic) and unmet revenue targets. However, it is noted that cash not transferred within the financial year it was intended for is still transferred to counties in the next financial year because it is already committed. This was the case for the funds not disbursed to counties in 2019/20, according to the Controller of Budget reports, the remaining funds were disbursed in August of the subsequent financial year, that is, 2020/21. Nonetheless, delayed transfers including those carried forward is arguably one of the factors contributing to the pending bills accumulating within counties.14

**Counties’ cash balances are also, indirectly, influencing cash disbursements by the National Treasury to counties.** As is stated at the beginning of this section, the National Treasury advanced cash to certain counties, in 2017/18, pre-approval of the disbursement schedule. While it is not clear why certain counties and not others received cash in advance, officials at the National Treasury acknowledge that counties with minimal or no cash balances are prioritized over counties with high cash balances at the start of the financial year. They hold that counties with high cash balances should not requisition for additional funds; they should

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first spend what they already have. It is not clear how this helps or creates bigger challenges with pending budgets but there is a need for guidance on how to handle rollovers. This practice is not captured in any publicly available guideline or law. However, according to the National Treasury, the practice does help prioritize in the occasional event of non-availability of enough funds at the National Exchequer.

A comparison of cash balances and exchequer issues in the first quarter of the financial year 2018/19 for the four counties sampled in this study, that is Busia, Baringo, Tana River, and Mombasa reveals a strong negative correlation between the two variables. This means that, for the sampled year and counties, exchequer issues in quarter one were lower for every high cash balance.

<table>
<thead>
<tr>
<th>Cash Balance</th>
<th>Exchequer issues (Q1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash Balance</td>
<td></td>
</tr>
<tr>
<td>Exchequer issues (Q1)</td>
<td>-0.89502</td>
</tr>
</tbody>
</table>

Rollovers in counties cannot be discussed exclusively from the basis of slow/delayed disbursements. Exchequer issues beyond the stipulated timeline and in the extreme, just before the end of the financial year for quarter four funds make it impossible for counties to fully spend their approved budgets. This is given the procedures (procurement and requisition) that ought to be followed for further release of funds from the CRF to the operational accounts and finally to service delivery points. While the responsibility of budget absorption lies on the counties, timely disbursement of fiscal transfers is a crucial enabler.

(Non) compliance by counties to certain regulations/directives could affect disbursement of the equitable share to counties. These include containment of expenditure on personnel emoluments at sustainable levels, payment of pending bills. Key interviewees from the National Treasury noted that there are times when the equitable share to counties may not be disbursed as scheduled due to directives such as counties having to first settle pending bills before disbursements are made. The problem of pending bills and delayed/withheld disbursements may be cyclic with one feeding into or leading to the other.

Generally, disbursements to national MDAs are better; this is considering the percentage of total budget allocation disbursed quarterly and monthly. Exchequer issues for MDAs are fairly spread across the financial year unlike in Counties where receipts/issues are higher in the last two quarters. However, looking further at disbursements for MDAs recurrent and development budgets, recurrent budgets perform better in terms of exchequer issues than development budgets.

Figure 6: Quarterly exchequer issues to national MDAs are fairly distributed across the quarters compared to exchequer issues to counties

Source: Controller of Budget Quarterly Budget Implementation Reports 2017/18, 2018/19 and 2019/20
Conditional Grants

Conditional grants fund some of the critical services in the counties such as healthcare, tertiary education, and maintenance of roads. These grants form part of the disbursements to county governments, in addition to the equitable share. There are two types of conditional grants that are disbursed to counties through the County Allocation of Revenue Act: the national government’s share of revenue and development partners. These include:

- **Compensation for user fees foregone**

Institutions involved are the National Treasury, Ministry of Health, and County governments. Spending of this grant is based on investment plans developed by the health facilities. Quarterly, the primary health facilities ought to develop implementation plans plus their associated budgets which are to be approved by the Health Facility Management Committee (HFMC). Authorization for spending is given by the Chief Officer (County Department of Health). Disbursement of this grant, like other conditional grants, is dependent on health facilities meeting conditions. The allocation criterion among counties is population data from the Kenya National Bureau of Statistics. Allocation to health facilities is based on outpatient attendance as routinely recorded in the District Health Information System (DHIS). Notable is that the amount allocated under this grant has remained unchanged over the years, at Ksh. 900 million. The lack of adjustment to the amount allocated under this conditional grant does not take into account the changing cost of delivering outpatient services neither does it account for inflation.

- **Linda Mama Program (Free Maternity Service)**

This grant is a reimbursement to health facilities for services already offered under the Linda Mama scheme, with user fees for maternity services having been abolished. The grant is administered by the Ministry of Health through the National Hospital Insurance Fund (NHIF). The NHIF receives funds from the national government to finance reimbursements. MoH processes the claims then forwards the same to NHIF for disbursement to the CRF from where the funds are then disbursed to facilities. For claims, facilities are to keep records of deliveries and then get reimbursed for actual costs. Payment of claims is a continuous process with no set schedules for disbursement, however, transfers from the NHIF to the County Revenue Fund are done twice a month. Besides the public health facilities, private facilities can also provide services under this grant if contracted through the relevant regulatory bodies.

- **Conditional Allocations for Level-5 Hospitals**

A grant from the national government through the Ministry of Health. This grant is meant to support and sustain the delivery of services in Level 5 hospitals. It is allocated based on bed occupancy and external referrals from other counties. Notably, there are no specifications on what services the grant is meant to fund in the level 5 hospitals. Transfers for this grant has over time shifted between the Ministry of Health and the National Treasury.
Universal Healthcare for Devolved System Program (DANIDA Grant)

This is a development partner grant. The project – Universal Healthcare for Devolved Systems – is implemented by the Ministry of Health and County Governments. The grant is aimed at supporting UHC focusing on financing operations and maintenance costs for level 2 and 3 health facilities. Flow of cash is from the Single Treasury Account to the County Revenue Fund to a Special Purpose Account (SPA) from where they are transferred to the gazetted level 2 and 3 health facilities.

Disbursement of Conditional Grants

Disbursements are made directly through the National Treasury or line ministries such as the Ministry of Health (MoH) for health conditional grants. Access to information requests (2019) to the National Treasury and the Ministry of Health revealed that the National Treasury took over the transfer of health conditional grants from the Ministry of Health (MoH) in the second half of 2018/19.

Nonetheless, the Ministry of Health is still involved in the requisition process of conditional grants. The informant at MoH claimed at the time, 2019, that there did not seem to be any key policies that guide the disbursement of conditional grants for health. There are, however, frameworks governing intergovernmental transfers - conditional and unconditional - to counties (Section 130 (1)(2) of the Public Finance Management (National Government) Regulations, 2015). Additionally, the National Treasury has also put out circulars on frameworks for the management of conditional grants.

Counties do not get (timely) notification upon disbursement of conditional grants and there is a risk of the funds being spent in other areas. The informant at MoH dismissed this claim but then acknowledged that the National Treasury, upon disbursement of these grants, does not inform counties (timely notification), either through the CEC Finance that disbursement has been made. Despite this, it is expected that counties are notified when a disbursement is received at the CRF. For one, a CRF bank statement indicating when a conditional grant disbursement was received is one of the requirements when requisitioning for withdrawal of conditional grant funds. All county funds have to go through the CRF, even the conditional grants which are later redirected to the Special Purpose Account. The risk with all funds going through the CRF coupled with untimely notification of the funds that have been disbursed is counties spending certain funds on areas other than the required.

Disbursement of conditional grants to counties varies from year to year. Even then, disbursement of conditional grants remains relatively poor.

Table 5: Conditional Grants Are Not Fully Disbursed to Counties

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16 The Half Year Implementation Report for 2017/18 is missing from the COB’s Website.
<table>
<thead>
<tr>
<th></th>
<th>2017/18</th>
<th>2018/19</th>
<th>2019/20</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Budgeted Allocation</td>
<td>Actual Receipts (Cumulative)</td>
<td>Receipts as a % of Allocation</td>
</tr>
<tr>
<td>Q1</td>
<td>39.68</td>
<td>4.94</td>
<td>12%</td>
</tr>
<tr>
<td>Q2</td>
<td>62.48</td>
<td>12.07</td>
<td>19%</td>
</tr>
<tr>
<td>Q3</td>
<td>46.54</td>
<td>9.39</td>
<td>20%</td>
</tr>
<tr>
<td>Q4</td>
<td>27.27</td>
<td>26.85</td>
<td>98%</td>
</tr>
</tbody>
</table>

**Source:** COB CQBIRR 2017/18-2019/20

Disbursement of conditional grants is dependent on a couple of things:

1. **Counties adherence to the conditionalities and requirements of these grants.**

   In FY 2019/20, the Exchequer could not disburse certain conditional allocations because some counties had not met requirements as is shown in the below snippet of their statement.

   ![Conditionalities and Requirements](image)

   **Source:** The National Treasury and Planning Public Statement on the Status of Payments to County Governments in FY 2019/20

   Further, this was also the case in FY 2018/19 as shown below:

   ![Conditionalities and Requirements](image)

   **Source:** The National Treasury and Planning Public Statement on the Status of Payments to County Governments in FY 2018/19

   4. Based on the above, aggregate payments to County Governments in FY 2018/19 amounted to Ksh. 360.1 billion, representing 96 percent of the CARA, 2018 allocations. The shortfall arises because of:

   4a) Failure by some Counties to adhere to requirements of specific conditional allocations. For this reason, the Exchequer could not disburse Ksh. 1.04 billion for development of youth polytechnics, and Ksh. 605 million for construction of County headquarters. Likewise, Ksh. 844.9 million from the RMLF was not disbursed because six Counties failed to comply with the KRB Act, a condition for the grant.

   **Source:** The National Treasury and Planning Public Statement on the Status of Payments to County Governments in FY 2018/19

   4b) Failure by some Counties to adhere to requirements of specific conditional allocations. For this reason, the Exchequer could not disburse:

   - Ksh. 617 million for the Water & Sanitation Development Project;
   - Ksh. 338 million for the Transforming Health Systems for Universal Care Project;
   - Ksh. 337 million for the National Agriculture and Rural Inclusive Growth Project (NARIGP);
   - Ksh. 80 million for the Kenya Urban Support Programme (KUSP);
   - Ksh. 395 million for construction of County headquarters; and,
   - Ksh. 1.339 million from the RMLF.

   **Source:** The National Treasury and Planning Public Statement on the Status of Payments to County Governments in FY 2019/20

   ii. **Written instructions to the National Treasury from the relevant ministry under which the purpose of the grant is domiciled.**
According to the *Guidelines for the management of intergovernmental fiscal transfers*, the allocation criteria of these grants is as initiated by the responsible MDA in consultation with the CRA. Upon agreement by the Intergovernmental sectoral working committee (Section 13, IRA) the allocation criterion is then included in the CARB. After CARB has been passed and assented, the accounting officer of the National Treasury ensures that disbursements are made to the relevant CRF upon receipt of written instructions from the Accounting officer of the responsible MDA to authenticate the transfer. A notification of the transfer is then sent to the MDA’s Accounting officer by the National Treasury. The National Treasury in their public statement on the status of payments to counties attribute not disbursing certain conditional grants to delays by the accounting officers of line ministries to submit written instructions. The implication for this is that certain expenditure areas will not receive funds as planned and as a result service delivery will also be affected.

**Withdrawal from the County Revenue Fund (CRF)**

**Requisition**

Exchequer Issues from the Consolidated Fund are disbursed into the respective County Revenue Fund. Once the funds get to the CRF, the Accounting officer at the county treasury is notified and has to submit a requisition for withdrawal of funds from the CRF to the operational accounts. Authorization for withdrawal is based on the Appropriation Act which is a county legislation or subsequent Supplementary Appropriation Acts.

Beyond the Appropriation Acts, there are certain requirements that counties must meet, and documentation needed to requisition for funds. There are requirements that have to be met at the beginning of the financial year and others needed within the financial year. Here is a list of what is required at the beginning of the financial year:

1. County planning documents; the County Integrated Development Plan (CIDP) and Annual Development Plan (ADP). The CIDP is only submitted once unless there is a revision.
2. County Budget Review and Outlook Paper
3. County Debt Management Strategy Paper
4. County Fiscal Strategy Paper with annexures adopted by the County Assembly.
5. Approved Programme Based Budget with the itemized budget as annexures including itemized activities/projects to be funded using conditional grants and information on counterpart funding, schedule of budgeted pending bills. The onus is on the CEC Member for Finance and Clerk of the County Assembly to verify the authenticity of the aforementioned before submission.
6. An Appropriation Act as published in the Kenya Gazette. However, where applicable a vote on account accompanied with the approved appropriation bill as published in the Kenya Gazette by the government printer.
7. A duly dated General Warrant signed by the Governor. This warrant gives the CEC Member for finance authority to make issues from the CRF (Section 20, PFM (County Governments) Regulations, 2015)

8. An annual cash flow plan for the coming financial year

9. Evidence that the budget has been uploaded on IFMIS and that the uploaded budget is in line with the approved budget.

10. A refund statement for funds that remain unspent from the previous financial year. This should be accompanied by bank statements.

11. Evidence of public participation in the preparation of documents such as the ADP, CFSP and Budget Estimates. This is a more recent requirement. The evidence that the CoB expects is a public participation report with an attendance register. The requirement is not extensive in that it does not give weight to public input and whether these were incorporated or not. However, this is a good incentive to ensure that counties are conducting public participation but therein lies the risk of having these done just to check a box or meet a requirement with no meaningful engagement. In future, evidence of public participation should include how counties are incorporating citizen feedback in the county’s budget decisions.

12. A list of authorized signatories to the CBK accounts. This is including their specimen signatures for exchequer requisitions and correspondence. The signatories are appointed by the CECM – Finance.

13. In the event of transfer of functions between the county and national government, certified copies of this agreement should also be availed.

The budget often changes during implementation through supplementary estimates. As such counties are then required to submit to the CoB the following:

- Supplementary Appropriation Act
- Approved supplementary budget with the itemized budget as annexures
- A supplementary budget general warrant signed by the Governor
- Evidence that the supplementary budget has been uploaded on IFMIS.

The requisition process is continuous within the financial year as counties requisition for cash as and when they require. In this regard, there is certain documentation, beyond the county documents outlined above, required by the CoB from counties whenever requisitions are made. These are procedural documents and include:

1. Requisition forms (Form ‘A’) from the County Treasury accompanied by workplans detailing how requested funds will be utilized. Recurrent and development funds are requisitioned separately as is the case for the County Assembly budget.
2. A recent CRF bank statement indicating the availability of funds. This is to ensure the account is not overdrawn.

3. An updated exchequer ledger showing a vote’s balance at any point in time.

4. Certified copies of the most recent Internet Banking reports. These are provided fresh for every subsequent requisition. This is to ensure that requisition is being processed through the authorized financial system. Internet banking allows for the management and monitoring of accounts online.

Other procedural documentation varies depending on what the requested funds will be used for as outlined below:

5. Payment of salaries – Certified copies of IPPD (the government-prescribed system for processing payroll) reports and salary reports for employees not in the IPPD. Requisitions for salaries are also done separately.

6. Operations and Maintenance – Work plan and Internet banking report,

7. Development – A list of development projects to be funded and an Internet banking report.

8. Pending bills – A schedule of pending bills with a clear indication of the bills to be settled.

9. For established county funds such as the Emergency fund – Copy of gazetted legislation establishing the fund (for newly established funds), quarterly financial statements and recent certified bank statements for the fund, work plan, Internet Banking report.

10. Request for conditional grants – Work plans showing how requested funds will be applied, copies of the grant’s latest bank statements (usually CBK Special Purpose Accounts, SPA) and a CRF bank statement indicating when the disbursement was received.

For the above, requisitions are to be made separately, which means different Form A’s for each.

The approval process of requisitions by the County Treasury is slightly different from the National Treasury’s. The approval process is done in three levels:

- County Budget Coordinator’s (CBC) office\textsuperscript{17}: Here is where counties get the initial check on whether they have all the documentation required to make the requisition by a representative of the OCOB. An initial check at the county level is, therefore, supposed to take care of the back n forth that would be there if counties do not meet all the requirements. Here the CBC verifies that all mandatory documents have been provided and are complete and also accurate. The CBC will liaise with the County Treasury for any clarifications on the same. S/he will then confirm the exchequer

\textsuperscript{17} This is the Controller of Budget’s office at the county.
accounts balances as provided in the bank statements and reconcile Internet Banking reports to ensure they do not contain payments previously processed. Next is to check whether the votes requisitioned for have sufficient funds. For conditional grants and county-established funds, the CBC will review and prepare a brief report that should guide the OCOB management. When all this is done and everything is as required, the CBC forwards the verified documents to the OCOB head office for further review and approval. The forwarding process, according to the OCOB guidelines, could be through the CBC official email address or physical delivery. However, what happens is the latter.

- Exchequer unit at the OCOB head office. The confirmation process happens here.

The exchequer documents are stamped at the registry where they are received and an entry of the date and time of requisition is made in a manual register. A review is then done to confirm that everything as outlined in level 1, the process at the CBC office, is in order and for county-established funds, the unit liaises with the legal departments at the OCOB to review the legislation establishing the fund for compliance with the law. Upon review, the exchequer unit prepares 5 copies of the Withdrawal Approval Forms, commonly referred to as Form B’s for each requisition. The forms and supporting documentation are then submitted to the CoB for final review and approval. If in the process there arises a need for clarification, the approved signatories of the County Treasury or their representatives will be contacted via call, email or formal letter for their action and the CBC then follows up from there.

- Final review and approval by the Controller of Budget. Here the Form B’s are reviewed for approval and confirmation is done on whether the requisitions are authorized in law. If approved the exchequer unit communicates this to the county’s representatives/signatories. If not approved, reasons for this are formally communicated to the CEC Member for Finance. The CoB distributes the 5 copies as follows after approval:

  i) Two copies to the County Treasury, one of which will be submitted to the CBK as a confirmation of the exchequer issues to be released as approved.

  ii) A copy is issued to the CBK as they await instruction from the County Treasury to transfer funds.

  iii) Two copies are retained by the OCOB for their records. One is filed at the head office and the other one at the county office.

It is important to note that the requisition process as outlined above is manual with hard copy documents and involves the physical submission of documents. This is why the process at the County Budget Coordinator office, the OCOB office at the county level, is important. Informants at the OCOB acknowledge that there is need to automate the system and consequently improve the turnaround time. The system and process as currently is, cannot be absolved of slowing down the cash flow process and in turn service delivery. Even though disbursements from the National Treasury happen later than expected, counties do not immediately access the funds because the requisition process has to be followed. Therefore,
the time between when funds get to the CRF and when the CoB approves withdrawal from the CRF to the operational accounts could still be a significant amount of time.

**Procurement**

Procurement is the process that government entities must go through to acquire by purchase, rental, lease, hire purchase, license, tenancy, franchise, or by any other contractual means of any type of works, assets, services, or goods. Requisitions are made based on cash flow plans which should be informed by a procurement plan (according to section 43 of the PFMA, 2012), thus making procurement a very key process in the flow of money. All procurement ought to be done in line with the Public Procurement and Disposal Act (PPDA). In 2013 the shift to e-procurement happened against the backdrop of the Integrated Financial Management Information System (IFMIS). The procurement procedures to be followed are as detailed out in the PPDA\(^\text{18}\).

The National Treasury has also provided guidance on the e-procurement process as illustrated below\(^\text{19}\):

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Reporting

Public expenditure should be reported against revenue as provided for in the various guidelines and legal frameworks. Accounting officers of county government entities are required to prepare quarterly financial and non-financial reports to track budget execution (Section 166 of the PFMA, 2012). In this regard, the office of the controller of budget, in carrying out their reporting role, is also required to prepare, publish, and publicize quarterly budget implementation reports for the national and county governments. These reports are an important source of information to the public and are imperative to tracking budget execution. From IBPK’s work on County Budget transparency, most counties do not publish their quarterly budget implementation reports and some of those that do publish do not consider having both financial and non-financial information. In absence of the quarterly budget implementation reports, certain counties publish financial statements or the quarterly implementation reports by the CoB.

The contents of these reports ought to detail out in their content revenue performance which will include receipts from the national government as at each quarter. In addition to revenue performance is expenditure performance including absorption rates. With cash disbursements being the most cited challenge, over time, to proper budget execution, it is essential to further look into expenditure as a proportion of exchequer issues. This would further justify (or not) the cash disbursement challenge as an impediment to budget credibility.

Cash Flow During a Pandemic (Covid-19 Funds)

The COVID-19 pandemic brought about uncertainties and shifts in public finance with the urgent need to finance mitigation measures and responses to the pandemic. In Kenya, health is a heavily devolved function with counties being responsible for a huge portion of the sector. The pandemic struck towards the end of the third quarter and at the beginning of the fourth quarter in 2019/20. Transfers by the national government to county governments, in the 4th quarter of 2019/20 included funds intended for the pandemic’s emergency response measures.

In PFM laws, counties (the national government as well) are expected to set aside emergency funds; this is according to section 110 of the PFMA, 2012. However, a quick sampling by budget facilitators in various counties resulted in varied observations. From the 10 counties assessed, 8 counties had allocations for the Emergency Fund in their 2019/20 budget estimates and there was no specific information with regard to this for the other two counties. However, for the counties with allocations towards the fund, the question on actual availability of the funds showed that the amount as allocated was not available or it was not available in full. This meant that counties still had to depend on additional transfers from the

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20 This are IBPK-URAIA trained community actors on budget process and analysis. They lead the local engagements in different counties and are also participating in the national advocacy processes.
national government in light of the pandemic. A couple of things stand out concerning revenue allocation and disbursements as approved initially:

i. Disbursement of funds to counties as at the end of the financial year was not 100 percent. Counties received 88 percent of all the funds allocated for FY 2019/20. The National Treasury, in their public statements on payments to counties, noted this and further attribute this to shortfalls in ordinary revenue.

ii. Additional funds, aside from the allocations in CARA, 2019, were released by the national government in response to the pandemic. This was from the national government’s share of revenue. The horizontal sharing of these funds was also slightly different and done in two ways:

   i) Through the Equitable revenue share distribution formula

   ii) As guided by the SRC in the case of supplementing allowances for frontline workers.

iii. Donor funds. According to the National Treasury’s public statement, KSh. 350 million from the Danish embassy was disbursed to counties through the Ministry of Health.

CONCLUSION

Evidently, cash disbursement as one of the reasons for poor budget execution in counties is justified to an extent. This is because the delays in the cash flow process that begin with approval of the revenue sharing laws result in subsequent delays in budget implementation. The ripple effect, low disbursement in the first quarter which then peaks in the last two quarters, is a major cause of rollover funds/projects due to counties’ inability to fully spend by the close of the financial year. However, in as much as delayed cash disbursements and processes involving the national government or its institutions contribute to counties underspending, there is need to investigate the role of counties’ processes. There are some shortcomings, in cash flow, at more granular levels in counties, for instance, the prioritization that happens when cash has to move from the operational accounts to the departmental level of service delivery and capacity challenges.

The ripple effect extends throughout the financial year, closing with unspent cash balances due to the low disbursements at the beginning of the financial year which peak in the last quarter. The cash flow process itself is not without challenges. Some of these challenges as identified during the study and especially from the key informant interviews include lengthy bureaucratic processes, lack of adherence to timelines and revenue challenges which compound the challenge of delayed disbursement.

Despite the process having its fair share of challenges at the national level, counties are still accountable for the movement of cash from the CRF to the operational accounts and finally to specific service delivery areas. At this level, the challenges present are partially a snowball effect of the challenges at the national level, however, counties still have their own challenges.