REPUBLIC OF KENYA

PARLIAMENTARY SERVICE COMMISSION
Parliamentary Budget Office

Setting the Pace

Budget Watch for 2022/2023 and the Medium Term

October 2022 |Edition No. 15

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For more information, contact:
The Director,
Parliamentary Budget Office
Parliament of the Republic of Kenya
Protection House, 10th Floor
P.O. Box 41842 – 00100 GPO
NAIROBI, KENYA

Tel: +254-20-284-8810

Email: pbo@parliament.go.ke

The document can be downloaded from www.parliament.go.ke

15th Edition of the Budget Watch (2022/2023)

Key Contributors

The 15th edition of the Budget Watch was prepared by a team under the leadership and guidance of Dr. Martin Masinde (Ag. Director, Parliamentary Budget Office); and close supervision from Mr. Robert Nyaga (Deputy Director and Head of Budget Analysis and Expenditure Review Department) and Ms. Lucy Makara (Deputy Director and Head of Senate Affairs Department).

Key contributors are from the three departments of Macroeconomic Analysis and Statistics, Budget Analysis and Expenditure Review and the Senate Affairs department.

The Budget Watch disseminates findings by the Parliamentary Budget Office on key issues regarding implementation of the budget estimates in a particular financial year. The 15th edition of the Budget Watch has been prepared to facilitate the monitoring of the budget for the Financial Year 2022/2023 by the Legislature and other stakeholders. The findings, interpretations and conclusions expressed in this publication are entirely those of the authors. They do not necessarily represent the views of the Parliament of the Republic of Kenya.

This report is available for download at the Parliament of Kenya website (www.parliament.go.ke)

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List of Acronyms and Abbreviations

A-in-A/ AiA	Appropriations in Aid
CBC	Competency Based Curriculum
CIT	Corporation Income Tax
CFS	Consolidated Fund Services
COVID	Corona Virus Disease
EAC	East African Community
EBITDA	Earnings Before Interest Tax, Depreciation and Amortization
ERS	Economic Recovery Strategy
ESP	Economic Stimulus Programme
FY	Financial Year
GoK	Government of Kenya
GDP	Gross Domestic Product
ICT	Information Communication Technology
IMF	International Monetary Fund
LPG	Liquefied Petroleum Gas
MTP	Medium Term Plan
PMI	Purchasing Managers Index
PSSS	Public Servants Superannuation Scheme
SoE	State Owned Enterprises
SFR	Strategic Food Reserve
USD	United States Dollar
VAT	Value Added Tax
EPRA	Energy and Petroleum Regulatory Authority
PDL	Petroleum Development Levy
OMCs	Oil Marketing Companies
EFF/ECF	Extended Fund Facility/ Extended Credit Facility
PPP	Public Private Partnership
NHIF	National Health Insurance Fund
UHC	Universal Health Coverage
PHC	Primary Health Care
HISP	Health Insurance Subsidy Programme
IPA	Inter Partnership Agreements
EMMS	Essential Medicines and Medical Supplies
KEMSA	Kenya Medical Supplies Authority
PWDs	Persons with Disabilities
NDEF	National Drought Emergency Fund
KPI	Key Performance Indicator
MDA	Ministry, Department or Agency
MT	Metric Tonnes
OSC	One Stop Centre
ICD	Inland Container Deport

MGR	Meter Gauge Railway
KRA	Kenya Revenue Authority
URA	Uganda Revenue Authority
RRA	Rwanda Revenue Authority
TRA	Tanzania Revenue Authority
MSME	Micro, Small and Medium Enterprises
KQ	Kenya Airways
SGR	Standard Gauge Railway
NG-CDF	National Government Constituency Fund
BRT	Bus Rapid Transport
ABMT	Appropriate Building Materials& Technologies
GCP	Gross County Product
COB	Controller of Budget
EFAB	Equalisation Fund Advisory Board
PFM	Public Finance Management
ADP	Annual Development Plan
CFSP	County Fiscal Strategy Paper
CIDP	County Integrated Development Plan

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Preamble

Does the 2022/2023 budget set a pace for the new administration?

1. **The 2022/2023 budget is being implemented at a time when the economy is facing significant internal and external challenges.** Externally, the global economic outlook remains uncertain due to a number of prevailing challenges notably high inflation and negative spillovers from the Russia-Ukraine war. High inflation particularly in the United States has led to interest rate hikes leading to the weakening of the Kenya shilling and other global currencies against the dollar. On the other hand, the Ukraine-Russia conflict has resulted in supply chain disruptions and a general increase in global commodity prices especially that of fuel, liquefied petroleum gas, food grains and fertilizer. It is noted that Kenya relies on Russia for import of wheat, fertilizers, iron and steel, and paper. On its part, Ukraine is a major exporter of grains in the world market and over the years, Kenya has imported cereals, oilseeds and seeds, animal/vegetable fats and oils from Ukraine. This business environment has been complicated by the fact that COVID-19 global pandemic had already created business challenges in the manufacturing and hospitality industries that were just starting to recover before the Ukraine-Russia conflict.
2. **Internally, notable challenges include inflation which has been on an upward trend due to high food and energy prices; and the weakening of the Kenya shilling against the dollar for a protracted period.** The country is dealing with drought conditions in some parts of the country which has adversely affected agricultural production. These drought conditions appear likely to persist for the rest of the year as the meteorological department predicts below-average rainfall in the October to December 2022 short rains season. The government is therefore expected to provide adequate resources not only towards drought mitigation measures such as relief food but also towards long-term food security measures including the provision of quality inputs (seeds and fertilizers), irrigation and water projects; and stocking up of the Strategic Food Reserve (SFR). It is noted that these were not adequately prioritized in the 2022/2023 budget. The allocation for the Government subsidy programmes on food and fuel had also been exhausted before the end of the financial yearese
3. **The 2022/2023 budget is anchored on three key policy documents: The Medium Term Plan III which is also the anchor document for the Big Four Agenda; the Post-Covid Economic Recovery Strategy (ERS) and the Economic Stimulus Programme (ESP).** It is noted that the MTP III and the Big Four agenda are in the final year of implementation. However, there are key ongoing projects under the Big Four agenda which may require continuity and may have to be subsumed into the MTP IV. Notably, the 4th Medium Term Plan is expected to integrate the bottom-up economic transformation agenda which is the current government's manifesto, in order to ensure that the projects therein are aligned with Vision 2030 and have a clear implementation path. Some notable programmes lined up in the new government's manifesto include the social housing programme which promised the roll out of massive construction of affordable houses and the hustler fund.
4. The post-Covid ERS was developed in August 2020 and was first introduced in the 2020/2021 budget as a key policy document to mitigate the impact of the covid-19 pandemic. The government is also implementing the third phase of the Economic Stimulus Programme (ESP) which was first introduced in the first supplementary budget for 2021/2022 to mitigate against the negative effects of the covid-19

pandemic. It is noted that these strategic interventions particularly under the post-covid ERS are not clearly linked to the budget and may therefore be difficult to track.

5. **In implementing the 2022/2023 budget, the government will be guided by the fiscal and monetary targets agreed upon with the IMF**. The performance benchmarks of this agreement include target setting for the budget deficit, tax revenue, stock of central bank net international reserves and public debt targets. Furthermore, some reforms are expected under revenue administration, government procurement process, containment of the public wage bill, restructuring of State Owned Enterprises (SoEs) and rationalization of public investment projects. The government should therefore ensure that implementation of the budget does not expand the deficit above the agreed levels over the medium term and that all other set benchmarks are adhered to.

Chapter One:

Economic Outlook for the Medium Term*

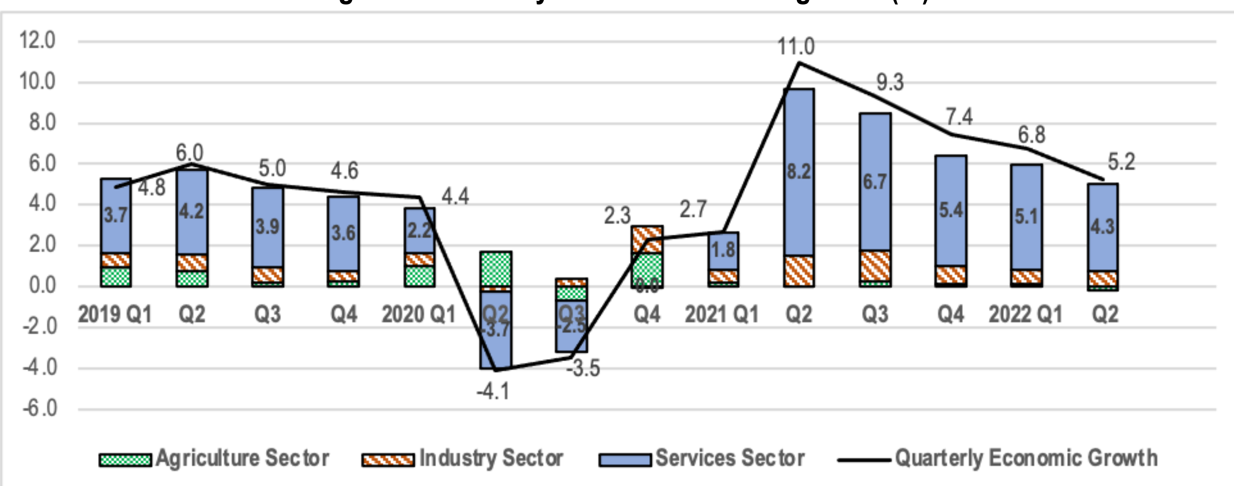
*This chapter was prepared by the Macroeconomic Analysis and Statistics Department led by Ms. Millicent Makina. The key contributors were as follows: Ms. Julie Mwithiga, Mr. Danson Kachumbo, Mr. Igogo Ndirangu, Mr. Ringine Mutwiri, Ms. Loice OLesia, Ms. Judith Kiprop and Mr. Jibril Leruk

1.1. Macroeconomic Context of the 2022/2023 Budget

Economic Growth Outlook

6. **The country has continued to experience a strong and steady economic recovery from the covid-19 shock, with real GDP expanding by approximately 6.0 percent in the first half of 2022.** Recent statistics[1] indicate that in the first and second quarter of 2022, real GDP grew by 6.8 percent and 5.2 percent respectively. This growth is largely attributed to **the** continued recovery of activities in the services sector which is estimated to have expanded by 5.1 percent in the first quarter of 2022. Specifically, significant growth has been recorded in transport and storage, accommodation and food services, wholesale and retail trade, professional administration services, and financial and insurance sub-sectors. Conversely, the agricultural sector's performance remained subdued during this period and is estimated to have contracted by approximately 1.4 percent in the first half of 2022 mainly due to the cumulative effects of poor rainfall performance over the last four rain seasons.

Figure 1: Quarterly Sectoral GDP Real growth (%)



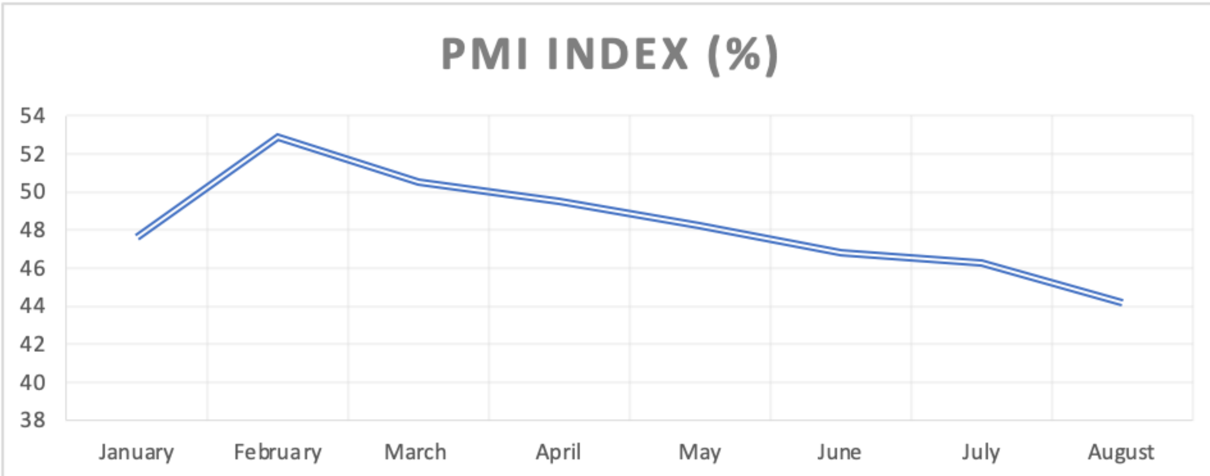
Source: KNBS

7. **It is noted however that in the second and third quarter of 2022, the Purchasing Managers Index (PMI)[2] registered a consistent decline; remaining below 50% between April to August 2022 which signifies a contraction in production/business activity (Figure 2)**. This decline in the PMI index has been attributed to caution over the elections as well as other significant risk factors such as the ongoing drought, depreciation of the Kenya Shilling, increased fuel prices and high debt

[1] KNBS Quarterly GDP statistics
[2] an indicator of economic health and current business conditions

servicing costs and declining levels of income. This could be attributed also to a "wait and see" that may have been adopted by investors as a result of uncertainties caused by the general election that was held in August 2022.

Figure 2: Trend in Purchasing Managers Index

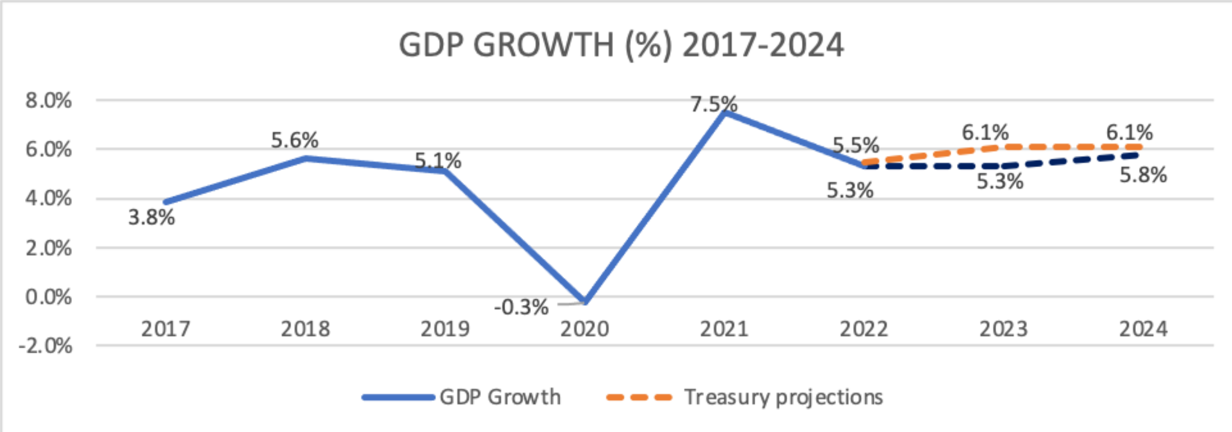


8. **With the successful transition to a new government administration, the 4th quarter offers an opportunity for accelerated growth**. Given the likelihood of improved investor sentiments, business activity may pick up, especially in the fourth quarter. Indeed, the PMI index for September 2022 bounced back to 51.7 percent signalling a significant improvement in business conditions. Furthermore, the implementation of the new administration's policies offers an opportunity for enhanced investment, especially in the agriculture and manufacturing and construction sectors which could boost growth in the coming months. It is also noted that with the approach of the festive season, pent-up demand may drive an increase in consumption typical of the fourth quarter. This growth is likely to emanate strongly from the services sector.

9. However, the seasonal outlook for the October to December 2022 short rains season indicates a strong likelihood of delayed onset and generally poor distribution of rainfall in both time and space. Without targeted interventions, this will impact negatively on agricultural performance and could continue to be a drag on growth as a result of the increased cost of agricultural produce.

10. PBO had initially projected a GDP growth of 4.9 percent for 2022. However, given the rapid improvement in business conditions as well as enhanced investor sentiments, the GDP growth is revised upwards to 5.3 percent[3] in 2022. This is against a growth projection of 5.5 percent from the National Treasury. If growth is lower than projected, it will impact negatively on projected revenue collection which, if lower, may necessitate lower revenue projections.

[3] PBO projections



Source: KNBS; PBO, National Treasury projections

Inflation

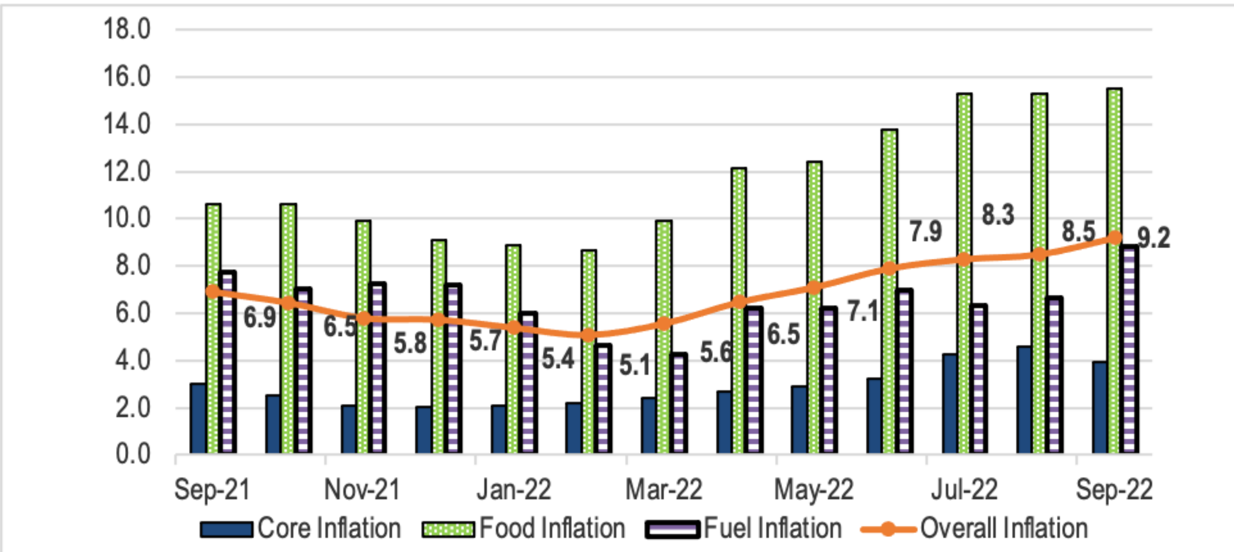
11. **Overall inflation has increased significantly since the beginning of the year and by June 2022, it had breached the upper target of 7.5 percent.** This is mainly on account of higher food and fuel prices. As of August 2022, food inflation was estimated at 15.3 percent; the highest since June 2017[4] due to poor agricultural performance[5] as earlier indicated. Fuel inflation has also been steadily edging upwards; primarily due to the Russia-Ukraine conflict which led to supply chain disruptions resulting in higher importation costs for fuel in addition to other crucial products such as fertilizer, wheat, edible oils, iron and steel. Furthermore, the weakening of the Kenya shilling as well as challenges in budgetary provisions for the fuel subsidy and bad publicity associated with the level of risk coverage and management in terms of import cover by the Government of Kenya exacerbated the situation leading to higher fuel prices with knock-on effects to other sectors such as transport whose prices have increased by 7 percent in the last 12 months; and housing and utilities by 5.6 percent.

12. **Inflationary pressures are likely to remain elevated for the rest of the year.** The continued decline in crop production and livestock productivity due to four consecutive below-average rainfall seasons has led to reduced food availability leading to higher food prices. As of July 2022, maize prices, the country's staple food, were estimated to be 30–125 percent above the five-year average[6]. It is noted, however, that global food prices have been reducing steadily over the last five months following the signing of the black sea grain deal which has enabled the resumption of grain shipment from Ukraine and Russia. The fast consignment of grains from Ukraine under this deal only arrived in Kenya in mid-October 2022. As a result, grain and fertilizer are now more readily available which could moderate the rise in food prices in the country going forward.

[4] In June 2017, food inflation was estimated at 15.8 percent
[5] The country is expected to experience a 5th consecutive below average rainfall season according to Famine Early Warning Systems Network
[6] Famine Early Warning Systems Network

13. In terms of energy costs, a scaling back of the fuel subsidy and an increase in electricity costs (due to fuel, forex and inflation adjustments) has significantly increased the cost of energy leading to higher input/production costs which will invariably be passed on to the consumer. This coupled with higher transportation costs is likely to lead to high consumer prices.
14. **In this regard, PBO estimates that inflation will average 7.6 percent for the year 2022.** Higher inflation is likely to erode the purchasing power of consumers leading to a slowdown in consumption and overall economic activity. The impact will be disproportionately felt among the lower-income earners who may then be pushed further into poverty.

Figure 3: Trend in categories of Inflation (%)



Source: KNBS

Table 1: Contribution to Overall Inflation (%)

Category	**Jan 2022**	**Feb 2022**	**Mar 2022**	**Apr 2022**	**May 2022**	**Jun 2022**	**Jul 2022**	**Aug 2022**	**Sep 2022**
Food & Nonalcoholic Beverages	57.0	58.6	61.7	61.2	61.0	60.6	59.5	58.3	58.9
Alcoholic Beverages, Tobacco & Narcotics	2.2	2.2	2.2	1.9	1.8	1.6	1.6	1.8	1.8
Clothing & Footwear	1.2	1.2	1.1	1.0	0.9	0.9	0.8	0.8	0.9
Housing, Water, Electricity, Gas and other Fuels	14.5	14.3	13.6	12.2	13.1	13.3	9.7	9.5	12.3
Furnishings, Household Equipment and Routine Household Maintenance	3.6	4.1	4.6	4.1	4.4	4.6	4.3	4.5	4.6
Health	0.5	0.5	0.6	0.5	0.4	0.3	0.4	0.5	0.5
Transport	12.8	9.0	6.7	10.2	9.2	9.1	8.0	8.5	11.4
Information & Communication	3.8	4.0	3.5	2.9	2.8	2.5	8.3	8.1	0.8
Recreation, Sports & Culture	0.2	0.3	0.4	0.3	0.7	0.7	0.6	0.6	0.7
Education Services	1.1	1.0	0.9	0.8	0.8	0.8	0.7	0.6	0.6
Restaurants & Accommodation Services	0.3	2.1	2.3	2.8	2.7	3.2	3.8	4.3	4.5

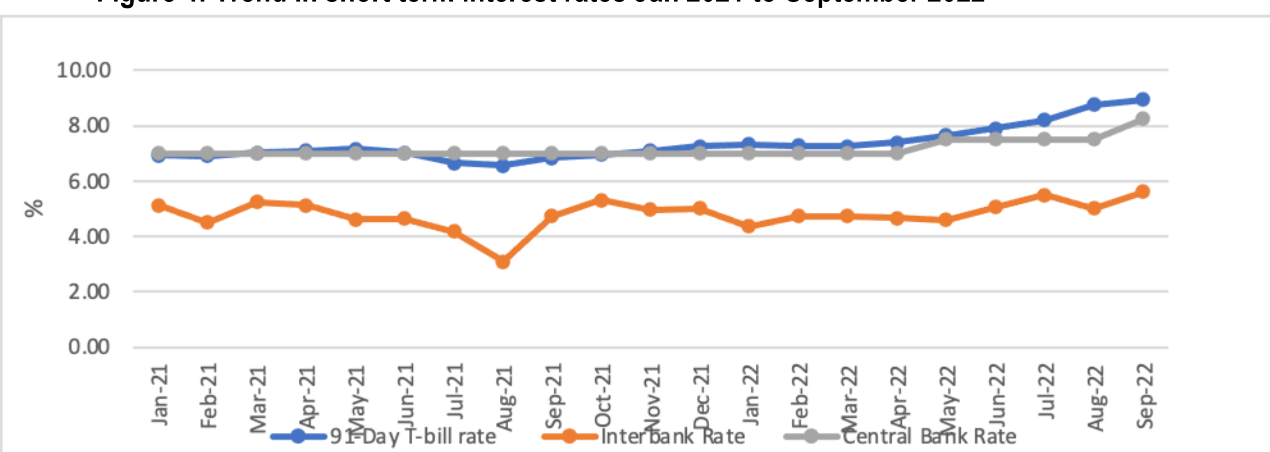
Category	Jan 2022	Feb 2022	Mar 2022	Apr 2022	May 2022	Jun 2022	Jul 2022	Aug 2022	Sep 2022
Personal Care, Social Protection and Miscellaneous Goods & Services	2.4	2.4	2.4	1.8	2.0	2.1	2.2	2.5	2.8
Insurance and Financial Services	0.3	0.2	0.2	0.2	0.1	0.1	0.1	0.1	0.1
TOTAL	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**
Inflation Rate	**5.4**	**5.1**	**5.6**	**6.5**	**7.1**	**7.9**	**8.3**	**8.5**	**9.2**

Source: KNBS, PBO, 2022

Monetary Sector

15. **The Monetary Policy Committee (MPC) has been pursuing a tighter monetary policy stance since May as signalled by the gradual increase in the CBR rate.** In September 2022, the Monetary Policy Committee revised the Central Bank Rate (CBR) upwards to 8.25 percent from 7.5 percent in July 2022. The CBR signals the monetary policy stance and may provide anchorage for inflation expectations. The tightening of the monetary policy stance by 75 basis points was informed by the elevated inflationary pressure emanating both from the domestic and the external front. As a result, short-term interest rates have been on the rise. The interbank rate, the rate at which commercial banks borrow from one another to finance short-term liquidity requirements, increased from 4.36% in January 2022 to 5.6% in October 2022 indicating tightened liquidity in the banking industry. The 91-day treasury bill rate has also been on an upward trajectory from 7.32 % at the beginning of the year to 8.95% as of September 2022. This upsurge may be partly attributed to an increased appetite for domestic borrowing by the Government which tends to crowd out the private sector.
16. The continued acceleration of Treasury Bill and Treasury Bond rates will have a bearing on the cost of financing the FY 2022-2023 budget. This may be illustrated by the recent underperformance of the August 2022 treasury bond where the National Treasury sought to raise Kshs. 50 billion but was only able to accept bids worth Kshs. 38.5 billion as investors sought better returns. The inability to raise resources domestically may result in non-adherence by the National Treasury to the planned 2022/23 fiscal deficit financing strategy.

Figure 4: Trend in short term interest rates Jan 2021 to September 2022



Data Source: CBK 2022

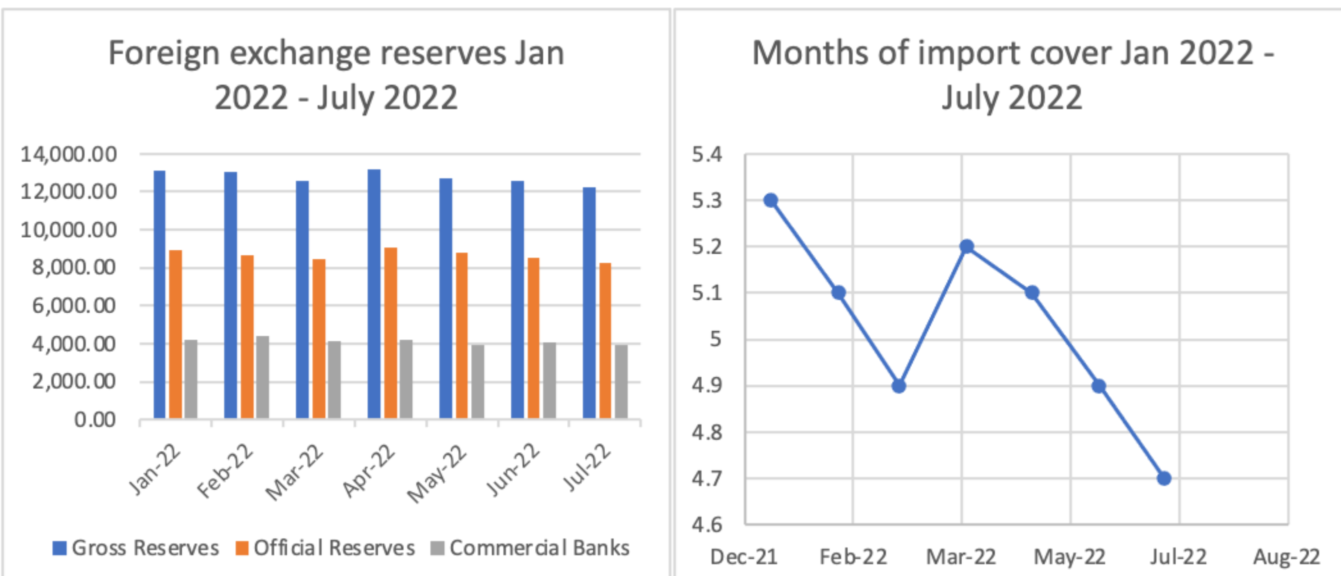
The External Sector

17. **The current account deficit worsened in the first half of 2022 compared to the first half of 2021.** This is attributed to a 24.2 percent growth in imports which was mostly on account of an increase in global prices of petroleum products. Although exports grew in the same period, faster growth in imports resulted in a worsening of the balance of the trade deficit. It is noted that secondary income grew on account of diaspora remittances which is a major foreign exchange earner. Nonetheless, the contribution of secondary income to the current account was cancelled out by the high deficit in the balance of trade account .

18.

19. The 2022/2023 budget speaks to external trade promotion services including establishing commercial offices in targeted countries and resolving non-trade barriers in order to diversify and increase market access. There are also targets to develop new export product lines. It is expected that this will increase the value of exports and the value of Foreign Direct Investments leading to higher receipts of foreign currency.

Figure 5: Foreign Exchange Reserves and Months of Import Cover.



Exchange Rate

20. The Kenya shilling has been depreciating against the dollar with the exchange rate estimated at approximately Ksh. 120 in September 2022 from Ksh. 108 in July 2021. This is attributable to the increased demand for the dollar by importing businesses coupled with interest rate hikes by the US government which has led to increased demand for the dollar. A depreciating shilling increases the import bill for the country as imported goods become more expensive for local traders and importers who rely on imports either as raw materials for production or as goods for consumption.

21. **The protracted weakening of the Kenya Shilling against the US dollar may slow down economic recovery.** Kenya is a net importer with a huge oil import bill which has increased significantly in the recent past particularly due to the rise in global oil prices. This is a significant contributing factor to the inflationary pressures in the economy which may dampen consumer demand and therefore slow down growth. It is noted that diaspora remittances and the forex reserves have been declining which renders the shilling more vulnerable to external shocks.

Chapter Two:

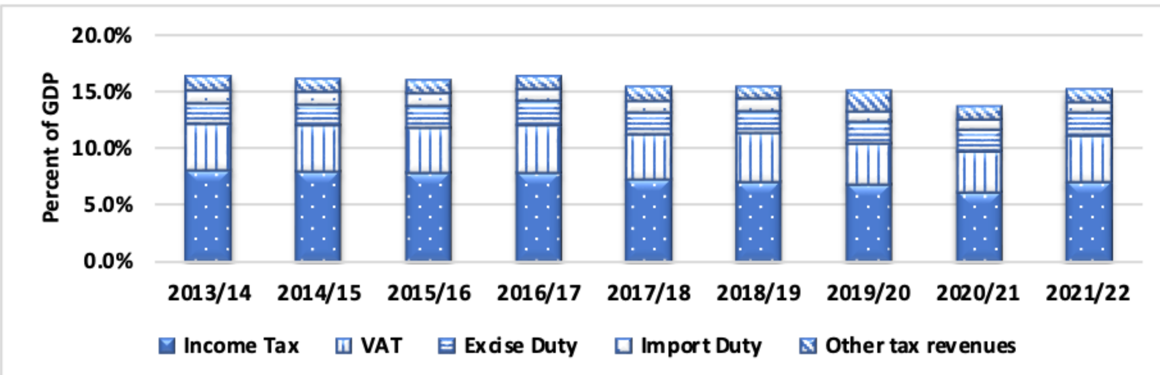
The Fiscal Performance and Outlook*

*This chapter was prepared by Dr. Abel Nyagwachi, Mr. Chacha Machage, Mr. Kioko Kiminza and Mr. Job Mugalavai from the Macroeconomic Analysis and Statistics Department; and Mr. Josephat Motonu from the Budget Analysis and Expenditure Review Department

2.1. Fiscal performance

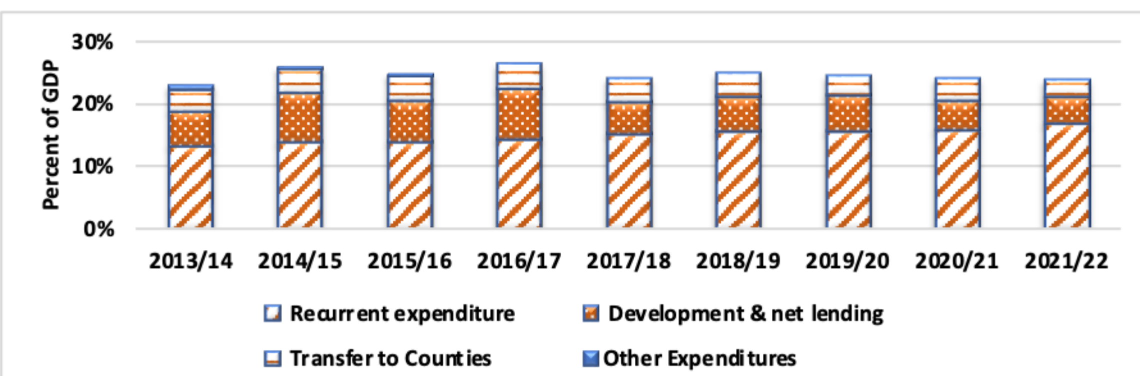
22. **Kenya's tax revenue collection as a share of economic output is still below the desired EAC target of 25 percent of GDP.** Ordinary revenue as a share of GDP recorded a slight improvement from 13.7 percent in 2020/21 to 15.1 percent in 2021/22. However, the improved revenue collection as a share of GDP in 2021/22 FY was still below the average of 16 percent achieved between 2010 and 2017, as well as the average of around 25 percent of GDP in other comparable economies such as South Africa. Consequently, it is evident that policy options and investments by the Government aimed at expanding the tax base, enhancing tax compliance and reducing tax expenditures have been unsuccessful.

Figure 6: Tax Revenue as a Share of GDP



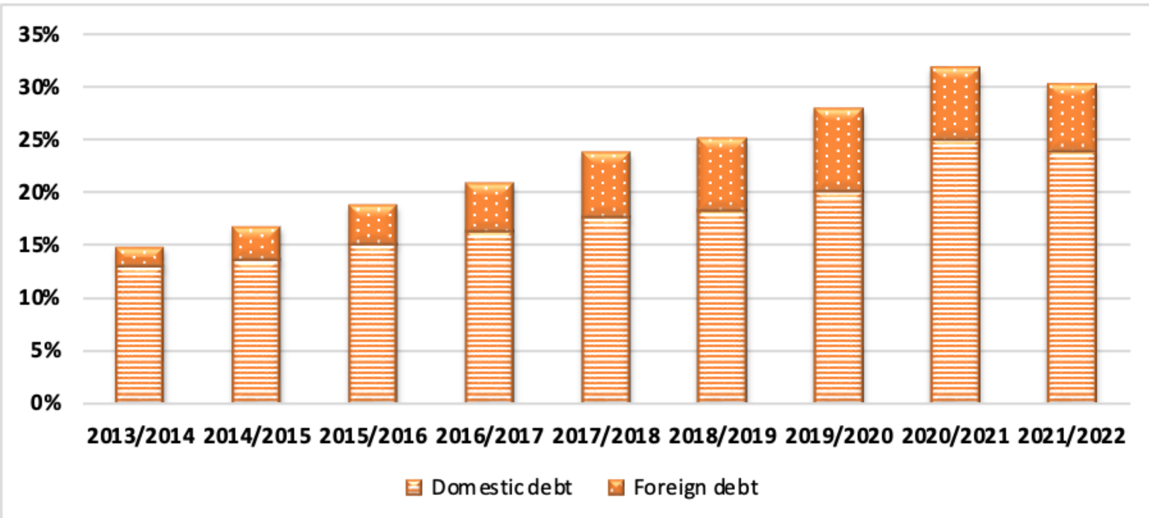
23. **Total expenditure and net lending as a share of GDP declined marginally from 24.2 percent in 2020/21 to 23.7 percent in 2021/22.** However, despite this decline, recurrent expenditure as a share of GDP has been on an upward trend and increased by one percentage point to 16.8 percent in 2021/22 FY. The increase in recurrent expenditure over the years may have contributed to the crowding out of development expenditure as a share of GDP, which declined from around 7.9 percent in 2014/15 to 4.2 percent in 2021/22.

Figure 7: Expenditure as a Share of GDP



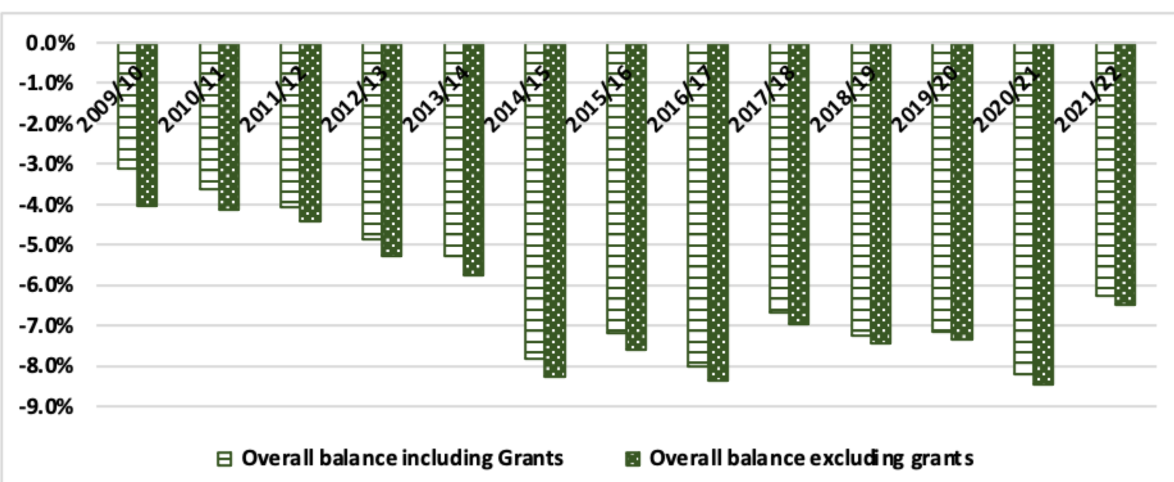
24. Increased expenditure on public debt interest payments coupled with growth in expenditure on operations and maintenance have been some of the drivers of the accelerated growth in recurrent expenditure relative to economic output. Further, the share of ordinary revenue used to service interest payments on the public debt increased from about 15 percent in 2013/14 to around 30 percent in 2021/22. Therefore, over the medium-term, expenditure on debt servicing and other routine recurrent expenditures may continue to crowd out development spending.

Figure 8: Interest Payment as Share of Ordinary Revenue



25. The fiscal deficit excluding grants (including grants) as a share of GDP contracted from 8.5% (8.2%) in 2020/21 to 6.5% (6.3%). This contraction is attributed to recovery in revenues as a share of GDP to the pre-COVID-19 levels. Therefore, without concrete policies that result in either the expansion of revenue as a share of GDP or contraction of recurrent expenditure over the medium term, the fiscal deficit as a share of GDP will remain above 5 percent.

Figure 9: Fiscal Deficit as a Share of GDP



2.2. Revenue Target for 2022/23 and the Medium-Term

26. The National Treasury projects that the **total revenue collection** for the financial year 2022/23 will amount to **Ksh. 2,462 billion** (17.5% of GDP), with **ordinary revenue collection** contributing **Ksh. 2,142 billion** (15.3% of GDP) and A in A contributing **Ksh.321 billion**. The target of **Ksh. 997 billion** for income tax collection and **Ksh.585 billion** for VAT collection are expected to contribute to around 74 percent of the projected ordinary revenue.

Table 2: National Treasury Medium Term Revenue Projections

National Treasury Revenue Projections (KSH. Billion)								
	2018/19	2019/20	2020/21	2021/22		2022/23	2023/24	2024/25
	Actual	Actual	Actual	Budget	Prel	Budget	Proj	Proj
Revenue & grants	1,724	1,815	1,815	2,101	2,231	2,496	2,883	3,228
Total Revenue	1,704	1,796	1,784	2,039	2,200	2,462	2,835	3,179
Ordinary Revenue	1,500	1,573	1,562	1,776	1,918	2,142	2,516	2,841
Income tax	685	707	694	835	877	997	1,179	1,286
VAT	414	384	411	473	523	585	692	793
Import duty	107	98	108	119	118	145	170	199
Excise duty	194	195	216	241	252	297	347	395
Other	99	189	133	108	148	118	129	168
Appropriation in Aid	205	222	222	263	282	321	319	339
Grants	20	20	31	62	31	33	48	49
Expenditure & Net Lending	1,805	2,112	2,147	3,030	3,027	3,359	3,580	3,894
Deficit Incl Grants	(520)	(645)	(594)	(929)	(797)	(863)	(697)	(665)
Deficit Excl Grants	(550)	(672)	(621)	(991)	(828)	(896)	(745)	(714)
As a percent of GDP (%)								
	2018/19	2019/20	2020/21	2021/22		2022/23	2023/24	2024/25
	Actual	Actual	Actual	Budget	Prel	Budget	Proj	Proj
Revenue & grants	17.6	17.3	15.9	16.6	17.5	17.8	18.4	18.4
Total Revenue	17.4	17.1	15.6	16.1	17.3	17.5	18.1	18.1
Ordinary Revenue	15.3	15.0	13.7	14.0	15.0	15.3	16.0	16.2
Income tax	7.0	6.7	6.1	6.6	6.9	7.1	7.5	7.3
VAT	4.2	3.7	3.6	3.7	4.1	4.2	4.4	4.5
Import duty	1.1	0.9	1.0	0.9	0.9	1.0	1.1	1.1
Excise duty	2.0	1.9	1.9	1.9	2.0	2.1	2.2	2.3
Other	1.0	1.8	1.2	0.9	1.2	0.8	0.8	1.0
Appropriation in Aid	2.1	2.1	1.9	2.1	2.2	2.3	2.0	1.9
Grants	0.2	0.2	0.3	0.2	0.2	0.2	0.3	0.3
Expenditure & Net Lending	24.9	24.5	24.1	24	23.7	24	22.8	22.2
Deficit Incl Grants	(7.2)	(7.2)	(8.2)	(7.4)	(6.2)	(6.2)	(4.4)	(3.8)
Deficit Excl Grants	(7.5)	(7.3)	(8.5)	(7.8)	(6.5)	(6.4)	(4.7)	(4.1)
Nominal GDP					12,752	14,002	15,706	17,549

27. **Over the medium term, total revenue as a share of GDP is projected to increase to 18.4 percent.** However, it is noted that during the preparation of the 2022/23 budget, the National Treasury did not spell out concrete fiscal policies that deviate from what was contained in past budget policy documents. Therefore, it is expected that total revenue as a share of GDP which reverted to its pre-COVID-19 pandemic average of around 17.4 percent in FY 2021/22, will remain below 17.5 percent over the medium-term.

28. This projection is expected to be revised as the new government sets its priorities during the supplementary budgeting process. There seems to be over-emphasis on short term polices around agricultural produce and funding of areas that are popular with the bottom-up ecpnomic philosophy in the short-run. This is expected to affect government expenditure priorities. There is also talk of reduction of govermnet recurrenet expenditure by KES 300 billion in the upcoming supplementary budgeting process. The question is whether these priories are likely to improve consumption and lead to increased demand translating to increased income in this period of a recession world over spur up of economic long-run. This analysis should however be judged in context given absence of a clear fiscal policy position approved by Parliament following the change in government. PBO has thefore relied more on pronouncement in the media as well as the Kenya Kwanza manifesto. A clearer analysis will be given once the fiscal and monetary policy framework approved through the Budget Policy Statement has been approved by Parliament.

Table 3: PBO Medium Term Revenue Projections

PBO Revenue Projections (KSH. Billion)						
	2021/22		2022/23		2023/24	2024/25
	Budget	Prel	Budget	Proj	Proj	Proj
Revenue & grants	**2,101**	**2,231**	**2,496**	**2,487**	**2,780**	**3,088**
Total Revenue	**2,039**	**2,200**	**2,462**	**2,455**	**2,748**	**3,055**
Ordinary Revenue	**1,776**	**1,918**	**2,142**	**2,129**	**2,369**	**2,616**
Income tax	835	877	997	975	1,084	1,202
VAT	473	523	585	580	642	709
Import duty	119	118	145	132	152	165
Excise duty	241	252	297	281	313	347
Other	108	148	118	162	177	193
Appropriation in Aid	263	282	321	327	379	438
Grants	62	31	33	**32**	**33**	**33**
Expenditure & Net Lending	**3,030**	**3,027**	3,359	**3,363**	**3,620**	**3,974**
Deficit Incl Grants	**(929)**	**(797)**	**(863)**	**(876)**	**(840)**	**(886)**
Deficit Excl Grants	**(991)**	**(828)**	**(896)**	**(908)**	**(872)**	**(919)**
As a percent of GDP (%)						
	2021/22		2022/23		2023/24	2024/25
	Budget	Prel	Budget	Proj	Proj	Proj
Revenue & grants	**16.6**	**17.5**	**17.8**	17.5	17.6	17.6
Total Revenue	**16.1**	**17.3**	**17.5**	17.3	17.3	17.4
Ordinary Revenue	**14.0**	**15.0**	**15.3**	15.0	14.9	14.9
Income tax	6.6	6.9	7.1	6.9	6.8	6.8
VAT	3.7	4.1	4.2	4.1	4.1	4.0
Import duty	0.9	0.9	1.0	0.9	1.0	0.9
Excise duty	1.9	2.0	2.1	2.0	2.0	2.0
Other	0.9	1.2	0.8	1.1	1.1	1.1
Appropriation in Aid	2.1	2.2	2.3	2.3	2.4	2.5
Grants	0.2	0.2	0.2	0.2	0.2	0.2
Expenditure & Net Lending	**24**	**23.7**	**24**	23.7	22.8	22.6
Deficit Incl Grants	**(7.4)**	**(6.2)**	**(6.2)**	**(6.2)**	**(5.3)**	**(5.0)**
Deficit Excl Grants	**(7.8)**	**(6.5)**	**(6.4)**	**(6.4)**	**(5.5)**	**(5.2)**
Nominal GDP			**14,002**	**14,214**	**15,848**	**17,601**

29. The projected revenue collection for the financial year 2022/23 by PBO is in tandem with the National Treasury's target. The forecasted ordinary revenue collection in the current financial year will be

between Ksh. 1,129 billion and Ksh. 2,146 billion buoyed by robust economic performance in the service and industry sectors. However, in a no-policy change scenario, PBO projects that the fiscal deficit excluding grants will remain above 5 percent over the medium term. Therefore, the objective of reducing the fiscal deficit as a share of GDP to 4.1 per cent by 2024/25 may not be realized.

2.3. Tax Policy Changes in the 2022/23 Fiscal Year

Income Tax

30. Notable tax policy changes in 2022/23 fiscal year under the income tax regime include the increase of Capital Gains Tax from 5% to 15%; introduction of the tax on financial derivatives with respect to non-residents at the rate of 15%; exemption of non-residents who have a permanent establishment in the country from the provisions of Digital Service Tax and providing allowable deduction on donations made to charitable organizations. These measures are aimed at expanding the tax base as well as easing the administrative burden.

31. Nonetheless, it is worth to note that some tax policy measures that were introduced are likely to curtail revenue mobilization efforts. For instance, the reduction of Corporation Income Tax (CIT) from 30% to 15% for companies operating carbon exchange or emission trading system as well as companies operating shipping business, will not only lead to revenue loss but also affect the principle of fairness. Further, it is noted that whereas the investment deduction regime was overhauled in 2020 by removing the hitherto certain investment deductions that were as high as 150% and limiting them at 50% with some few exemptions at 100%, the policy changes in 2022 saw a return to investment deduction to 150% for investments outside the cities.

32. On the transfer pricing front, recent policy shift saw a change from thin capitalization rule of debt-to-equity ratio of 3:1 in determining interest deduction; to Earnings Before Interest Tax, Depreciation and Amortization (EBITDA) that capped the interest deductible at 30%. The exemptions were granted to banking and microfinance institutions because of the role they play in facilitating credit access to Micro, Small and Medium Enterprises and to the economy in general. However, additional exemptions were introduced that span so many other sectors to an extent that makes the provision somewhat otiose. This seems to run counter to the revenue mobilization efforts at a time the economy is relying on revenue yields to recover from the effects of the pandemic in the face of debt servicing constraints.

Value Added Tax

33. Supply and use of liquefied petroleum gas is one of the measures of ensuring utilization of clean cooking initiatives. In this regard, there was a reduction of Value Added Tax for the supply of LPG from the standard 16% to 8%. Also, other tax expenditure measures such as the VAT exemption on capital goods meant to promote investment in the manufacturing sector, zero-rating of services in support business processing outsourcing (BPO) among others would lead to unprecedented revenue loss which may not have been envisaged in the original revenue forecast. This may potentially undermine the implementation of the budget for the 2022/23 financial year and the medium term.

Excise Duty

34. In addition to inflation adjustment for excisable goods under specific tax rate category that took place in October 2022, the tax policy changes saw an increase of 10% on a wide range of excisable items ranging from juices, bottled water, sugar confectionery, tobacco, and alcoholic products among others. Other tax enhancement measures comprised of excise duty at the rate of 10% for cellular phones and sim cards, excise duty at the rate of 20% on fees charged by digital lenders. All these measures are geared towards the expansion of the tax base to enhance revenue yield as well as hinder the excessive consumption of tobacco, sugar-sweetened drinks and alcohol products which have been shown to have negative health effects.

Miscellaneous Fees and Levies

35. There have been claims of increased vandalism of public infrastructure facilities such as rail guards on roads, railways and other critical structures and it is believed that the metals are sold as scrap. To address this problem, an export levy was introduced on iron ores and concentrates including roasted iron pyrites at the rate of USD 175 per tonne. The business community believes that this is so punitive. However, the underlying reason for the measure is to discouraging the destruction of public infrastructure. Nevertheless, there could be genuine export businesses in this area of iron ores and related materials that would collaterally suffer due to the misdemeanours in this industry.

36. Exemption was granted on the raw materials for the manufacture of pharmaceutical products and other human vaccines, from the Import Declaration Fees as well as the Railway Development Levy. This is meant to encourage local manufacturing of the said products. However, other factors other than taxation may be contributing to the cost of production further, the revenue loss that may arise because of these tax incentives may be counterproductive.

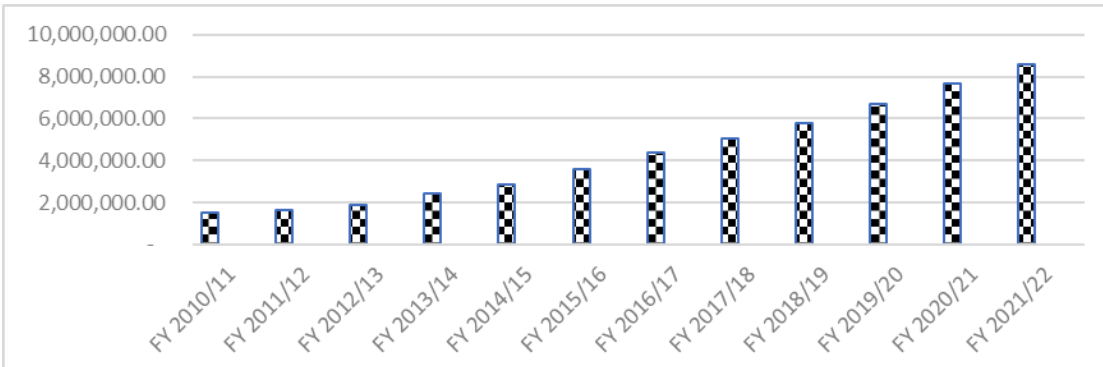
Keep an eye on…

i. The successful implementation of revenue-raising measures through effective oversight on robust enforcement especially on Capital Gains Tax among others, to ensure the requisite revenue yield is realized to fund government programmes and projects.
ii. Ensuing effects of the unprecedented revenue losses especially on the reduction of Corporation Income Tax to certain businesses among others, that would be occasioned by tax incentives introduced at a time in the budget cycle where it is not entirely possible to ascertain the actual impact. The extent these tax incentives undermine the revenue yield is like distortions that occasion mid-year revision of government expenditure plans.
iii. Impending reforms in the income tax regime by expediting the review of the income tax act as well as approval of the National Tax Policy to address emerging issues in the taxation of the digital economy as well as multinational enterprises.
iv.

2.4. Public Debt and CFS Expenses

37. Kenya's public debt stock has grown significantly over the last decade. Between FY 2011/12 and June 2022, the public debt stock grew by 428% to reach Kshs 8.61 trillion. This comprises of Kshs. 4.31 trillion in domestic debt and Kshs. 4.29 trillion in external debt. As a proportion of GDP, debt has grown from 43% in 2011 to 68% in 2022. An increasing debt to GDP ratio poses risks to debt/fiscal sustainability over the medium term. Kenya?? is classified at B+ with a negative outlook[7], dependent on fiscal consolidation measures. Without any policy change, the total debt stock is projected to grow by approximately Kshs 863 billion; the estimated fiscal deficit for FY 2022/23.

Figure 10: Stock of Public Debt FY 2010/11- FY 2021/22



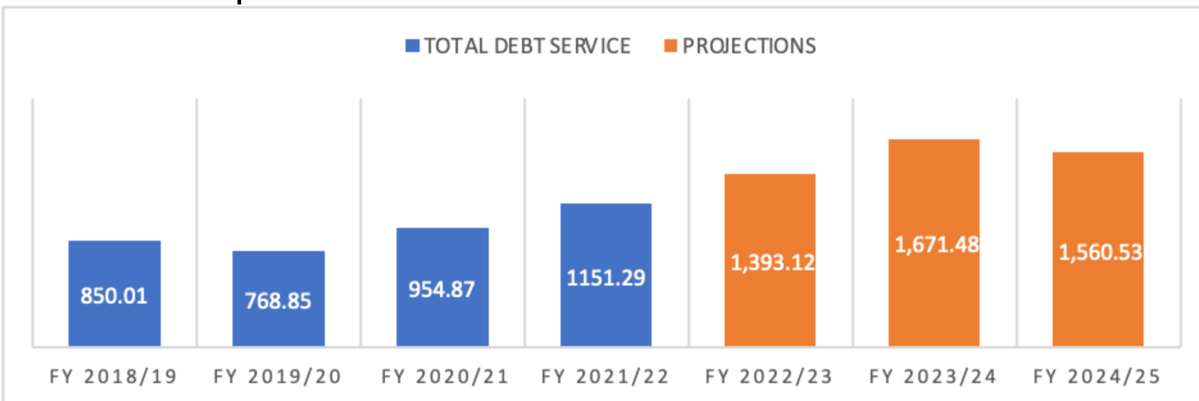
Source: National Treasury Publications

38. **The depreciation of the USD exchange rate has a significant impact on external debt servicing expenditure.** External debt which amounts to Kshs. 4.29 trillion is primarily denominated in US Dollars (USD) - 68%, followed by the Euro – 19% and Yen – 6%. As such, currency depreciation could impact negatively on the related external debt servicing expenditure through foreign exchange translation risk exposure.
39. Domestic debt on the other hand is composed of treasury bills, treasury bonds and over draft (and other debt) at 15%, 83% and 1.57%, respectively. The ratio of treasury bills has been declining in favour of treasury bonds as restructuring seeks to reduce domestic debt refinancing pressures. Such restructuring could therefore affect the projected returns of the primary domestic debt holders who include domestic banking institutions (47.8%) and pension funds (32.6%).

40. Debt service expenses have increased over the last few years consistent with the growth of public debt; from Kshs 850.01 Billion in FY2011/22 to Kshs 1.3 trillion in the fiscal year 2022/23. It is projected that this will increase to Kshs 1.8 Trillion in FY 2024/25. Public debt expenses account for 88% of the Consolidated Fund Expenses[8] (CFS).

[7] Fitch Rating, September 2022
[8] Consolidated Fund Expenses are non -discretionary expenses charged directly on the consolidated fund.

Figure 11: Debt Service Expenses



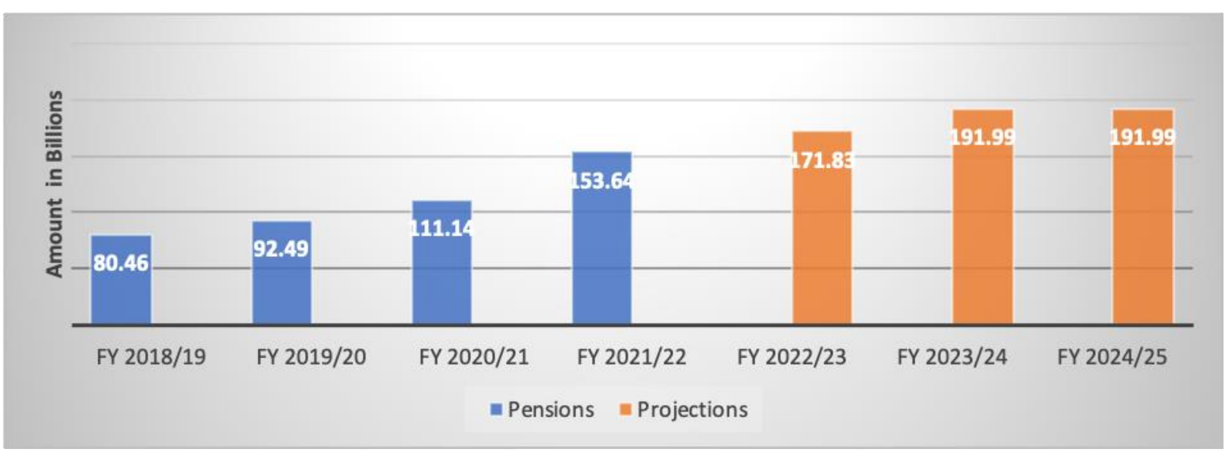
Source: Budget Summary, BPS.

41. Debt service expense as a proportion of ordinary revenue has increased from 49% in FY 2019/20 to 65% in FY 2022/23. This indicates that generated revenues are increasingly being used to repay public debt which is a non-productive expenditure, rather than to meet productive expenditure needs. Debt service is a non-discretionary expenditure and as such tends to minimize fiscal space. This promotes a vicious cycle of borrowing and deficit thereby presenting a risk to budget implementation. A reduction in debt service expenses is therefore critical to break the cycle and to slow down the rate of debt accumulation.

Pensions Expenditures

42. Pension expenses have increased by more than 100 percent between FY 2018/19 and FY 2022/23 when it is estimated that they will amount to Ksh. 171.8 billion. Pension expenses form an important social welfare cushion for public servants during retirement. It is noted that the Public Servants Superannuation Scheme (PSSS) which was initiated in 2021 and is contributory could ease pension expenditure pressures.

Figure 13: Pension Expenses

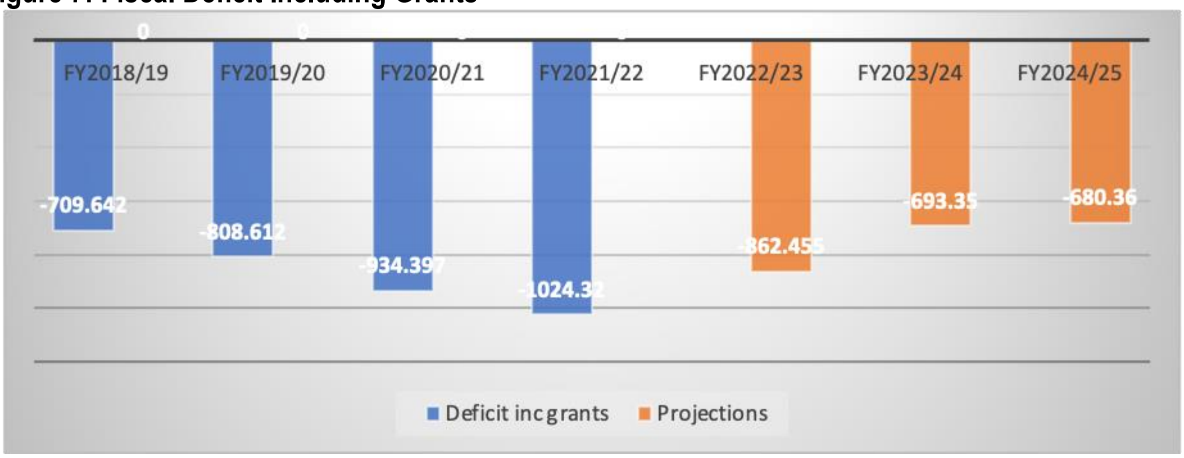


Source: National treasury budget estimates,

Deficit Financing

43. The projected fiscal deficit for FY 2022/23 is estimated to amount to Kshs 862 billion and will be financed as follows: Kshs 280.7 billion as foreign financing and Kshs 581.7 billion financed as domestic financing. This indicates that the domestic market will be key in generating deficit financing for FY 2022/23. Whilst this strategy reduces the overall medium-term impact of external debt exposure, the domestic market could present a challenge due to rising interest rates as well as the risk of crowding out the private sector.

Figure 7: Fiscal Deficit Including Grants



Source: Budget Summary, Budget Policy Statement

44. Risks to the provided borrowing strategy arise from in-year budgetary variations without an appropriate review of the overall debt strategy. If in-year budgetary changes do not take the medium-term fiscal deficit target into consideration, it can distort the approved fiscal framework leading to higher debt risks and rendering the medium-term debt management strategy ineffective.

Keep an eye on…

- ❖ In year budget revisions that may lead to an increase in fiscal deficit and subsequently an increase in borrowing beyond the approved limits as contained in the Medium-Term Debt Management Strategy.
- ❖ A growing proportion of domestic debt which is associated with more interest costs that could increase debt service expenses.
- ❖ Currency composition of external debt to prevent budget disruption from higher debt service expenses as a result of local currency depreciation.
- ❖ The contrast between development expenditure and borrowed funds, and whether borrowed funds could be funding recurrent expenditure contrary to Section 15(c) of the PFMA act.
- ❖ The contributory pension scheme for public servants need to ensure it is performing optimally and managed prudently to provide sustainable pension management in the future.

Chapter Three:

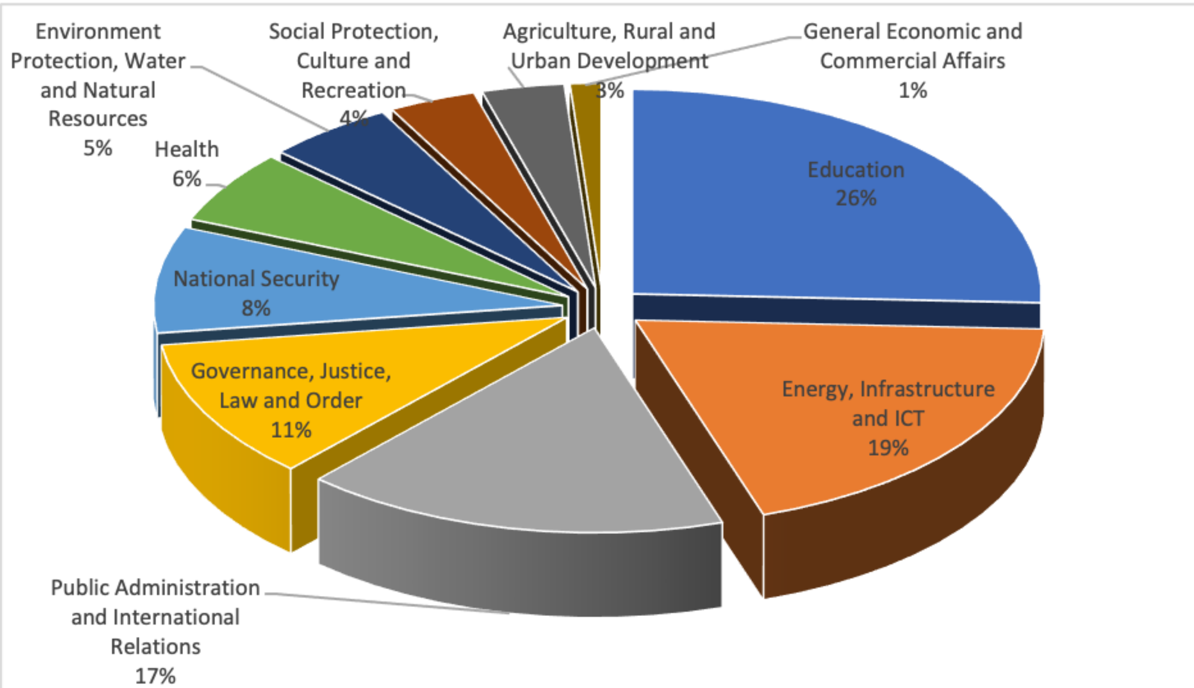
National Government Expenditure: Focus on Key Budget Areas*

*This chapter was prepared by the Budget Analysis and Expenditure Review Department. The key contributors are as follows: Dr. Benjamin Ng'imor, Mr. Josephat Motonu, Mr. Fredrick Muthengi, Mr. Edison Odhiambo, Mr. Robert Ng'etich, Mr. Abdinasir Moge, Mr. Abdirahim Omar, Ms. Terry Ondiko, Mr. George Ndenjeshe, Mr. Brian Njeru, Mr. Eric Kanyi, Mr. Wilson Mwangi, Mr. Hiram Kimuhu, and Mr. Edwin Mwebi

3.1. Overview of the FY 2022/23 Expenditure Estimates

45. The approved ministerial expenditures for the FY 2022/23 amount to Ksh. 2.1 trillion of which Ksh. 1.4 trillion is for recurrent expenditure and Ksh. 0.7 trillion is for capital expenditure. When broken down into sectoral expenditure, the sectors allocated the largest share include the Education sector with 26 percent of the expenditure, Energy Infrastructure and ICT, 19 percent and Public Administration and International Relations (17 percent)

Figure 14: Breakdown of FY 2022/23 Expenditure Estimates by Sector



Recurrent Expenditure

46. The recurrent expenditure amounting to Ksh. 1,403.8 million includes Ksh. 624.2 billion which is equivalent to 45% of the total recurrent as transfers to government agencies such as semi-autonomous parastatals. Allocation for payment of salaries in the national executive amounts to Ksh. 537.2 billion which is equivalent to 38 percent of the total recurrent budget. Ksh. 127.6 billion is allocated for the purchase and payment of goods and services, while other recurrent spending takes Ksh. 114.9 billion or 8 percent of the recurrent share.

47. The largest transfers to government agencies include the allocation to the Kenya Defence Forces (Ksh. 125.6 billion) under the National Security sector, Universities (Ksh. 86.9 billion) under the Education Sector and Kenya Roads Board (Ksh. 66.7 billion) under the Energy, Infrastructure and ICT Sector. For Compensation to Employees, the key spending includes teacher salaries amounting to Ksh. 295.7 billion and salaries for police (Ksh. 81.2 billion).

48. On the other hand, the leasing of police vehicles and purchase of specialized equipment allocation of Ksh. 19 billion is notable. Lastly, the largest costs under other recurrent expenditures are the grants for Free Primary Education and Free Secondary Education (Ksh. 80 billion) under the Education Sector and the fuel price stabilization subsidy (Ksh. 20.4 billion) under the Energy, Infrastructure and ICT Sector.

Table 4: Breakdown of Recurrent Expenditure by Sector FY 2022/23 (Ksh. billions)

Sector	Compensation to Employees	Use of Goods & Services	Current Transfers to Government Agencies	Other Recurrent	Total
1. Education	307.2	8.5	119.5	80.4	**515.6**
2. Governance, Justice, Law and Order	140.0	50.7	31.3	2.2	**224.1**
3. Public Administration and International Relations	54.8	54.2	58.7	10.3	**178.0**
4. National Security	2.1	0.5	171.7	0.0	**174.3**
5. Energy, Infrastructure and ICT	5.1	3.9	101.4	20.6	**131.0**
6. Health	13.5	1.9	52.5	0.5	**68.5**
7. Social Protection, Culture and Recreation	3.6	2.6	35.3	0.2	**41.7**
8. Agriculture, Rural and Urban Development	6.8	2.1	17.9	0.3	**27.1**
9. Environment Protection, Water and Natural Resources	2.2	1.9	20.3	0.1	**24.5**
10. General Economic and Commercial Affairs	1.8	1.4	15.6	0.3	**19.1**
Total	**537.2**	**127.6**	**624.2**	**114.9**	**1,403.9**

Development Expenditure

49. The allocation for development expenditure amounts to Ksh. 715.4 billion with Ksh. 304.1 billion funded from the government revenue sources and Ksh. 292.8 billion funded from foreign-sourced loans (41 percent), and Ksh. 85.2 billion from local AIA. Grants to projects will amount to Ksh. 33.3 billion in the 2022/2023 financial year.

50. The key projects funded by the government revenues include the construction of road infrastructure (Ksh. 55.6 billion), the National Government Constituency Development Fund (Ksh. 44.2 billion) and strategic investment in Kenya Airways (Ksh. 30 billion). The key projects funded through foreign project loans include the construction of road infrastructure (Ksh. 69.5 billion) and construction of energy infrastructure (Ksh. 61.6 billion), and the construction of water infrastructure (Ksh. 52.1 billion).

51. On the other hand, the Appropriations-in-Aid in the development spending is mainly sourced from the Railway Development Fund (Ksh. 27.8 billion), the Roads Maintenance Levy Fund (Ksh. 23.7 billion), and the National Sports, Arts and Social Development Fund (Ksh. 15.8 billion). The grants from bilateral

partners will be committed to the Special Global Fund projects amounting to Ksh. 9 billion and Covid-19 Response Projects (Ksh. 8 billion) under the Health Sector.

Table 5: Breakdown of Development Expenditure by Sector, FY 2022/23 (Ksh. billions)

Sector	GoK Exchequer	Local AiA	Project Loans	Project Grants	Total
Energy, Infrastructure & ICT	82.6	36.3	152.6	5.2	**276.8**
Public Administration & International Relations	107.4	33.2	27.2	11.1	**178.9**
Environment Protection, Water and Natural Resources	25.5	-	53.6	3.6	**82.7**
Health	33.6	-	12.6	7.8	**54.0**
Agriculture, Rural & Urban Development	14.6	-	24.7	2.6	**41.9**
Social Protection, Culture & Recreation	10.3	15.8	4.2	1.3	**31.5**
Education	13.2	-	14.7	1.0	**28.9**
Governance, Justice, Law and Order	9.4	-	0.2	0.7	**10.3**
General Economic & Commercial Affairs	3.9	-	2.9	0.1	**7.0**
National Security	3.5	-	-	-	**3.5**
Total	**304.1**	**85.2**	**292.8**	**33.3**	**715.4**

3.2. Expenditure Oversight: Key Focus Areas

Expansion of Road Network and Financing

52. Over the years the Government has been committing substantial resources towards the development, maintenance and rehabilitation of road infrastructure. These resources are sourced from tax revenues, loans, grants and local appropriations in aid (AIA) mainly on account of the fuel levy that is managed and disbursed by the Kenya Roads Board.

Table 6: Roads Approved Budgets by Source of Funding (Ksh. Millions)

Source	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
Net GoK	55,069	65,811	122,434	54,397	54,415	57,290
Local AIA	64,499	75,736	79,971	80,247	78,560	91,511
Loans	27,116	28,429	35,443	51,915	58,978	69,482
Grants	2,760	1,550	2,327	2,240	3,250	3,010
Total	149,444	171,526	240,175	188,799	195,203	221,293

Source: National Treasury

53. In FY 2022/23, the roads subsector has been allocated Ksh. 221.29 billion for construction, maintenance and rehabilitation of roads through the various road agencies. Over 2,000 projects, including the public participation projects, were approved for implementation. The challenge has always

been the equitable distribution of road projects across the country prompting the National Assembly to make amendments through critical roads intervention and spot improvements across the country.

54. To relieve the huge funding pressure on the exchequer, the government leveraged on the private sector capacity through the Public Private Partnership (PPP) by creating the annuity fund. However, the annuity fund model had implementation headwinds and proved to be a relatively more expensive model of financing road projects at least based on one single project completed since its inception in 2014. It was under this backdrop that the Road Maintenance Levy Fund Act of 1993 was amended through the Finance Act of 2022 to allow for the utilization of the annuity resources to finance other similar roads approved by the National Assembly. Consequently, the National Assembly identified road projects worth Kshs. 2.6 billion across the country for this purpose.

55. Despite the enhanced budgetary allocations relative to most of the other sectors, roads subsector has accumulated pending bills partly because of the multi-year nature of the projects and delays in payments to contractors occasioned by among other reasons, delays in exchequer releases. The pending bill obligations as of 31st March, 2022 amounted to Ksh.121 billion which may negatively affect project implementation and delays the intended benefits from these projects to the public.

56. **Keep an eye on ……...**
    i. Implementation of the public participation critical roads by ensuring the timely release of the allocated resources.
    ii. Adherence to the amendments to the roads Maintenance Levy Fund Act and implementation of the resultant projects.
    iii. Measures put in place by the State Department to address the challenge of pending bills.

Marine, Rail and Government Investments

57. An efficient transportation system is required to ensure seamless transportation of both passengers and cargo as well as efficient trading and employment opportunities. The approved budgets for marine, rail, and government investment in FY 2022/2023 were Ksh. 2,820.6 million, Ksh. 30,028 million, and Ksh. 38,350.38 million, respectively. Substantial resources under Rail, Marine and support to government investments are held in the National Treasury budget. Notable projects in this sector include: Naivasha ICD station, Longonot station, Malaba Yard, Kisumu Marine School, Credit Guarantee Scheme and capital injection to Kenya Airways.

58. Alternative transportation options are required in order to reduce traffic congestion and transportation costs. As a result, the government implements alternative transportation options in order to meet its objectives.

59. **Keep an eye on…**
    i. The effective utilization of the KSh. 30 billion capital injection to the national carrier, Kenya Airways and the revenues generated by the carrier post the bailout.
    ii. The targeted easing of road congestion after the completion of the railway construction at the Malaba Yard.
    iii. The disbursement schedule of credit to the Micro, Small and Medium Enterprises in the manufacturing sector in the Credit Guarantee Scheme.

The Housing Sub-Sector

60. Achieving Housing Shortfall: with regard to housing and urban development, the biggest impediment to access to formal housing for the low-income population is affordability, which is exacerbated by a lack of access to formal sources of financing for home ownership. The cost of land, construction costs, and lengthy, costly, and time-consuming processes such as duty payment, approvals from multiple authorities, and other land and construction processes that impede both buyers and developers are major drivers of the affordability constraint.

61. Since 2018, the government has been working on an ambitious program of affordable housing through the Big Four Agenda to meet the constitutional right to accessible and affordable housing enshrined in Article 43 of the constitution, it worked towards constructing 500,000 affordable housing units for the lower- and middle-income population segment by the end of 2022, but the government fell short of the target. It has only managed 2,235 housing units in Kisumu (250), Machakos (152 civil servants housing) and Mavoko (463), with 200 units in Kiambu nearing completion. This is in addition to the 1,710 units already in service with the National Police and Prisons of the country.

62. In the State Department of Housing and Urban Development's approved estimates for FY 2022/23, the project is allocated KSh. 2,200 million to deliver 70 affordable housing units and 25 social housing units.

63. Keep an eye on.....

i. Construction of 70 affordable housing and 25 social housing units with a budget of Ksh. 2.2 billion which is part of 9,317 affordable housing units and 18,135 social housing units to be delivered over the medium-term period 2022/23-2024/25

Allocation for Support towards Implementation of the New Curriculum

64. The FY 2022/23 approved budget for the sector is Kshs 545 Billion. The sector is implementing sixteen (16) programme with each having set targets and outputs. More than half of the allocation to the sector is under the Teachers Service Commission primarily meant to manage the teaching resources in public primary and secondary schools as well as public Teachers training colleges.

65. The FY 2022/23 allocation to the sector is on the traditional priority areas in the sector to support interventions that are aimed at improving education outcomes. Some of the traditional interventions in each Department within the sector are highlighted below:

Table 7: Allocation to Education sector and key areas funded

MDA	FY 2022/23 Allocation (Ksh. Billions)	No. of programmes	Key priority areas funded in 2022/23
Early Learning and Basic Education	110.7	4	FPE, FDSE, Infrastructure support to basic learning institutions to support CBC
University Education	109.8	3	Funding to Universities, Research and HELB
Vocational and Technical Training	24.9	3	Funding to TVET students, infrastructure support to TVET institutions
Post Training and Skills Development	0.36	3	Support internships and apprenticeship initiatives
Implementation of Curriculum Reforms	0.34	2	Initiatives to understand and support CBC
Teachers Service Commission	298.4	3	Resources to manage teaching resources and recruiting teachers
Total	**544.5**	**18**	

Source: National Treasury

66. One of the key areas of focus for the education sector in the FY 2022/2023 is the support towards the rollout of the Competency Based Curriculum (CBC). The main emphasis under the CBC is to give more attention to competency and skills rather than examinations as a measure of learners' ability. Under the CBC, the learners will follow the 2-6-3-3-3 structure (two years in pre-primary school, six years in primary school, six years in secondary school and three years in a tertiary institution).

67. The implementation of CBC is currently at the grade six level of primary school and in January 2023, the first cohort of learners is expected to join junior secondary school. To support its implementation, the government embarked on a grand plan to expand both physical as well as the teaching resources, two aspects which are critical in actualizing the smooth implementation of this new curriculum. This has primarily been done through the provision of resources through the budget to cater for these focus areas.

    The need to expand the learning amenities in basic learning institutions is still critical, especially in 2023 and 2024 where double enrolments are expected in secondary school on account of a concurrent implementation of both the 8-4-4 and the CBC curriculums. Thus, the success of the CBC will largely depend on the Country's preparedness, that is, continued investment in infrastructural expansion at both primary and secondary level, expanding the teacher resources as well as retooling?? of teachers to handle the new curriculum.

68. To support the implementation of the CBC, the FY 2022/23 approved budget for the basic education sub-sector has an allocation of Ksh. 10.4 billion towards infrastructure support to learning institutions including the provision of desks as well as recruitment of teachers where key targets which require close monitoring have been set. These are the key areas for intervention in support of the implementation of the new curriculum.

Table 8: Interventions to support CBC implementation (Ksh. Billions)

Area	FY 2022/23 Allocation	Targets set for the FY 2022/23
Primary schools infrastructure	1.2	• Construct 150 new classrooms in public schools • Procurement of desks for public schools • Renovate infrastructure in100 public schools • Construct 20 WASH facilities in public schools
Secondary school infrastructure	5.5	• Construct 6,390 new classrooms in public schools • Construct 256 laboratories in public schools
Recruitment of contract (intern) teachers	1.20	• Recruitment of 6,000 interns (secondary & primary)
Recruitment of teachers secondary	2.50	• Recruitment of 5,000 secondary school teachers
Total	**10.4**	

Source: National Treasury

69. Keep an eye on…

i. The utilization of resources allocated in FY 2022/23 for infrastructural support and allied interventions at the primary and secondary school levels and recruitment of teachers. These are critical in supporting the implementation of the new curriculum.

ii. The attainment of the set targets in the two critical areas of intervention whose long-term outcomes are:
   - Improved infrastructure in both public primary and secondary schools to support the implementation of CBC.
   - Improved teacher-pupil ratio in public schools to ease the implementation of CBC

iii. Reforms on the CBC curriculum that will be suggested once the taskforce appointed to review this curriculum completes its assignment. If the report demands higher allocations for both development and recurrent expenditure in the education sector, the government must then find a funding solution amid the constrained fiscal space.

Delivery of the Universal Health Coverage

70. The approved budget for the Ministry of Health, for the financial year 2022/23 amounts to Ksh. 122.5 billion comprising Ksh. 68.5 billion for recurrent expenditure and Ksh. 54 billion for capital expenditure. There are 5 programmes being implemented by the Ministry and Table 1 below gives a summary of their respective budgetary allocations.

Table 9: Summary of the Health Sector budget for FY 2022/2023 (Ksh. billions)

Programme	Recurrent	Capital	Total	Key Areas funded
National Referral & Specialized Services	40.0	11.8	51.8	Funding of the five referral hospitals
Health Policy, Standards and Regulations	7.7	15.1	22.8	Funding of UHC and other social protection programmes such as Free maternity and Health Insurance subsidy programme
Preventive, Promotive & Reproductive Health	2.1	24.3	26.5	Funding towards TB, Malaria and HIV, family planning commodities and COVID-19 pandemic interventions
Health Research and Development	10.8	1.5	12.3	Funding of KMTC and KEMRI
General Administration, Planning & Support Services	7.7	1.0	8.8	Funding of operations at the Ministry headquarters
Total	**68.5**	**54.0**	**122.5**	

Source: Approved FY 2022/23 budget estimates

71. Notably, Kshs. 16.4 billion has been earmarked to support Universal Health Coverage (UHC) related interventions being implemented by the Health Sector. In order to accelerate the delivery of Universal Health Coverage, it is critical to keep an eye on the implementation of the Universal Health Coverage projects and ensure the outlined targets are achieved at the end of the financial year 2022/2. Further, full implementation of Universal Health Coverage (UHC) will ensure that all Kenyans access the medical services they need without facing financial hardship.

72. Some of the interventions that were outlined to ensure the actualization of the UHC programme include increasing National Health Insurance uptake (NHIF), establishing 10 new referral hospitals and increasing the number of health facilities and healthcare workers at the community level, including mobile health services and free maternity services, among others. It is also on this account that affordable healthcare was identified as one of the government's 'big four agenda' and National Health Insurance Fund (NHIF) was identified as the best platform to implement UHC. Towards this end, NHIF (Amendment) Act, 2022 seeks to ensure all Kenyans are covered with health insurance by paying a mandatory monthly contribution of at least Ksh.500 to NHIF.

73. Some of the key challenges that have hampered the implementation of UHC include high out-of-pocket health expenditures (26% of total health services expenditure is Out-of-Pocket), slow uptake of health insurance in informal sectors, and poor financing of primary health care, among others. Table 2 below shows the targets set from the onset of the implementation of UHC and actual achievement as of the financial year 2021/22.

Table 10: Performance of UHC related interventions targets set (2018-2022)

Key Deliverable	Target by 2022	Achievement as at 2021	Remarks
Establishment of new national referral hospitals (level 6)	10	1	This seems to be off-target as only KUTRH has been established.
Establishment of new comprehensive cancer centres	4	1	Not clear whether the established centre has been operationalized
Establishment of Centre of Excellence for Kidney Health	1	1	Though reported as being completed, it is still an ongoing project
Additional hospitals equipped under the MES	21	21	The MES was expanded to include 21 hospitals
Ratio of Health workers to 10,000 people	14:10,000	13:10,000	Significant progress seems to have been done
Formal sector members covered by NHIF	9 million	4.5 million	Only 50% achievement recorded
Informal sector members covered by NHIF	12M	5M	Less than 50% achievement
Number of women under Linda mama	1.36M	1,163,712	Progress made
% of Health budget compared to the National Budget	15%	6.9%	Not achieved

Source: Ministry of Health

74. Though progress has been made in the achievement of some of the targets set, some interventions are still ongoing and some are not clear in terms of what has been achieved. Thus, a number of the deliverables set may not be attained at the lapse of 2022 and may have to be rolled over for continued implementation.

75. Key Challenges faced in the implementation of UHC in the recent past:

i. The limited funding to UHC-related interventions/projects has in the recent past been a barrier to access to affordable health care, especially for poor Kenyans. The situation is orchestrated by high out-of-pocket expenditure incurred by Kenyans seeking healthcare services in public hospitals (26% of total health services expenditure is Out-of-Pocket). Further, about 50% of all health services expenditure costs, are attributable to the cost of medicines.

ii. Although the government has announced more subsidized insurance for vulnerable groups, enrolment in the NHIF scheme has been slow. Further, the high unemployment rates in Kenya has been a barrier to government attempts to enrol informal sector worker under NHIF (only 5 million informal sector members have been registered against a target of 12 million by end of the year 2022). This indicates that the need to put in place proper measures in order to increase enlisting of NHIF insurance cover members thus meeting the Kshs. 93 billion revenue inflows targeted in the financial year 2022/23.

iii. The GoK has prioritized the financing of specialized care/referral healthcare services over primary healthcare (which is the foundation of UHC). In the recent past, conditional grants to county governments have increasingly financed medical equipment for specialized services; an increasing share of drugs is spent at national referral hospitals; There is a need to support Primary Healthcare given the growing burden of non-communicable diseases and the ageing population, which will increase the need for prevention and routine services, many of which can be provided at the Primary Health Care level.

iv. Fragmented UHC financing systems. The Ministry of Health has continuously allocated resources to separate state-sponsored insurance schemes i.e.; Health Insurance Subsidy Programme (HISP), Linda Mama Programme etc. Pooling creates opportunities for the redistribution of resources to support equitable access to healthcare services and greater financial protection even if additional revenues for UHC cannot be raised. However, fragmentation creates barriers to redistribution.

v. The capacity of county governments to quantify HPTs is also inadequate; prior to the scale-up of the UHC program, only 23% (11 out of 47) of counties undertook adequate quantification. There are still significant discrepancies between what is quantified and what is ultimately made available as a result of the weak links between Health Products and Technologies (HPTs) quantification outputs, procurement plans, and annual budget estimates.[9]

76. A total of Ksh16.4 billion has been earmarked for UHC interventions in the financial year 2022/2023, with Ksh5.3 billion going to the UHC coordination and management unit. The goal is to guarantee that 2.5 million households nationwide are covered under the UHC program. The allocations for the UHC-related interventions and their corresponding targets are summarized in Table 11 below.

Table 11: UHC Projects allocation and targets in FY 2022/23

Project	**Allocation 2022/23 (Ksh. billions)**	**Targets**
Roll out of UHC	4,098	• 72% of the Population with Social Health Insurance
Transforming Health systems for universal care project	900	• 205,000 households for vulnerable persons accessing subsidized health insurance
UHC Coordination & management unit	5,348	• 2.5 million Households Covered under the UHC scheme
Health Insurance Subsidy Programme	1,873	• 72% population with Social Health insurance. • 253,400 indigents accessing healthcare through HISP. • 58,800 elderly & persons with severe disabilities
Free maternity Programme	4,098	• 1,285,720 mothers accessing healthcare services through the Linda mama program
Total	**16,317**	

Source: National Treasury

77. The signing into law of the NHIF (Amendment) Act, 2022 is progressive and intends to increase UHC coverage in the country through NHIF mandatory contributions for all Kenyans. This will increase revenues for the implementation of UHC and encourage NHIF uptake in the country. However, UHC

[9] HPT Supply Chain Strategy 2020-2025

service coverage index in the country is at 56%[10] meaning the programme is yet to fully take shape in the country. Further, the ministry of health is yet to come up with NHIF regulations that will see the implementation of matching on contributions by employers.

78. Keep an eye on….

i.
ii. The implementation of new NHIF regulations by the ministry of health should be fast-tracked to ensure that Kenyans enjoy medical services as envisaged by NHIF (Amendment) Act 2022. The slow pace of reforms at NHIF is a risk to the utilization of Kshs. 16.4 billion funds allocated to UHC-related interventions.
iii. The rollout of the social health insurance cover under a reformed NHIF as part of UHC where in the 2022/23 financial year target is to cover 72% of the Kenyan population. The slow pace of registration of members from the informal sector, which currently stands at 5 million Kenyans, may hinder the absorption of Ksh.4 billion allocated towards rolling out UHC.
iv. It's critical to monitor the implementation of Inter Partnership Agreements (IPAs) between the national government and county governments under KEMSA in the provision of HPTs. Untimely delivery of affordable and quality Health Products and Technologies is an impediment to a full rollout of UHC in the entire country. For instance, the order fill rate for Essential Medicines and Medical Supplies (EMMS) for KEMSA is 83% while for facilities is 52%[11]. This will strengthen the national capacity to deliver the UHC agenda.

Providing Social Protection for the Vulnerable

79. Some of the government's social protection initiatives include programmes aimed at cushioning the vulnerable members of society against the adversities that they face. With the ongoing global economic crises occasioned by the prolonged Covid-19 pandemic, the Russian invasion of Ukraine, the prolonged drought in the northern frontier counties, and the aftermath of the general elections among other factors, the situation is likely to worsen that the vulnerable are more likely to suffer destitute conditions and the population may increase considerably over the next few months.

80. The State Department for Social Protection has been allocated Kshs. 34.646 billion for FY 2022/23. The allocation is a slight decrease from the Kshs. 35.696 billion allocated in the financial year 2021/22. The bulk of the allocation Kshs 31.775 billion is for the recurrent expenditure, of which Kshs. 28.7 billion is a transfer to other levels of government?.

81. Key Ongoing Social Protection Initiatives

i. An allocation of Kshs. 29.8 billion for National Social Safety Net Programme through the cash transfer project whose objective is to cushion vulnerable groups to meet basic human needs and live a dignified life.
ii. The allocation is composed of Appropriation in Aid grants of Kshs 61.8 million, external revenue grant of Kshs 97.9 million, and external revenue loans of Kshs 1.115 billion, all by the World Bank. This means that the net GoK financing is Kshs 1.595 billion.

[10] Tracking Universal Health Coverage (UHC) in the WHO African Region
[11] MOH Supply Chain Strategy 2020-2025

iii. Kenya Social and Economic Inclusion Project with an allocation of Kshs. 2.551 billion. This is largely a donor-funded project and aims at increased access to social inclusion interventions by providing nutrition-sensitive cash transfers to 7,500 households and 75% of National Safety Net Programme (NSNP) beneficiaries enrolled in NHIF.
iv. National Development Fund for Persons with Disabilities (PWDs) Kshs. 259 million
v. Social Development and Children Services: Kshs 4.5 billion
vi. Kenya Hunger Safety Net Programme has been allocated Kshs. 5.081 billion
vii. National Drought Emergency Fund (NDEF) is a new project that was first allocated Kshs 300 million in the financial year 2021/22. It is a 2 billion 10-year GOK Funded project to support drought preparedness, response and recovery of livelihoods. This Fund is meant to fund both resilience and response.
viii. Kenya Social and Economic Inclusion Project: the project has been allocated Kshs. 267 million and has the same output and KPIs as the Hunger Safety Net Programme.
ix. Ending Drought Emergencies: Support to Resilient livelihood II: the project is allocated Kshs. 379 million
x. Kenya Development Response to Displacement Impact: The Project has been allocated Kshs. 2.6 billion for communities hosting refugees in Garissa, Turkana and Wajir

82. The targeted social protection needs to be scaled up. The current drought in the northern frontier counties has acerbated the situation. According to the National Drought Management Authority (NDMA) close to 4.35 million people are faced with food insecurity arising from afourth consecutive failed rain season among 23 counties mainly in the arid and semi-arid regions. This shows the urgency to put in place measures to respond and cushion vulnerable households and scale up the social protection measures. Secondly, responding to these needs requires more government interventions as opposed to relying heavily on external development partners' support.

83. Keep an eye on….

i. Lack of a specific law on social assistance exposes citizens to abuse and exploitation in the design of social assistance Programmes, thus the need for wider coordination of both state and non-state actors in social assistance interventions particularly in regard to regulating standards to cushion citizens from abuse.
ii. Need to fast track a subsidiary legislation to guide the provisions of social protection as provided in the constitution and establish a legal framework to safeguard the vulnerable against political manipulation and to ensure the Country's long-term political and financial commitment to designated social protection Programmes.

Sports Promotion and Accountability

84. The Sports, Arts and Social Development Fund is established under the Public Finance Management Act (Sports, Arts and Social Development Fund) Regulations 2018. The mandate of the fund is to provide financial support for the development and promotion of Sports, Arts and Social Development including Universal Health Care. The fund commenced in the third quarter of the financial year 2018/19.

85. The Sports, Art and Social Development fund has played a major role in promoting sports in the country. Since its inception and up to the third quarter of FY 2021/22, the fund has managed to collect Kshs. 31.92 billion out of a target of Kshs. 50.7 billion. Through the funding of sports organisations and sports

persons, the country has been able to participate in major sporting events both locally and internationally.

86. Through the intervention of the fund, various programmes in the health sector have been supported through the Covid-19 stimulus programme, Mathare Nyayo Hospital and the purchase of equipment at the National Cancer Radio Therapy Treatment as well as rehabilitation of various monuments under the State Department of Culture.

87. In the MTP III, the government also intended to construct three national stadia and rehabilitate thirty county stadia to international standards in order to facilitate the development of sports, culture and arts. Several stadiums were constructed through the intervention of the Sports, Art and Social Development Fund. The government is also rehabilitating seven (7) regional stadia. However, currently, it is only Chuka Kirubia Stadium which is complete with the others still ongoing.

88. Despite the achievement made by the sports sector, the sports, arts and social development fund has faced innumerable challenges such as the opaqueness of implementation of the fund. This has led to the sector's inability to conduct monitoring and evaluation of funds disbursed to sports organizations and sports persons. In addition, sports organizations are unable to account for the funds disbursed to them resulting in the government's inability to get value for money. In addition, rehabilitation of the 7 regional stadia has also lagged due to delays in completion, contractual challenges caused by variations resulting from additional works and delays in the disbursement of funds.

89. During the financial year 2022/23, the Sports, Art and Social Development Fund is expected to collect Kshs. 15.75 billion. Therefore, the sector should fast-track the completion of all the 7 regional stadia and the promotion and development of sports. In addition, in the financial year 2022/23, Sports Art and Social Development Fund will be funding 118 sports programs for institutions and organizations, Sports and recreational facilities, programs funded to facilitate talent development, training and capacity building for technical personnel, programs to facilitate the acquisition of specialized equipment, 1 health infrastructure and programs to facilitate acquisition, development and maintenance of cultural centres, cultural heritage sites, National monuments and arts.

90. Keep an eye on….

i. The allocation criteria and procedures to avert skewed allocation of funding and its disbursement to programmes and sporting organisations – As raised by the Auditor General reports, the Sports, art and social development fund has funded sports organisations not registered under the Sports Act 2013, therefore, contravening regulation 14 (3) of the PFM (Sports, art and social development fund) regulations, 2018.

ii. Interventions from the state department to ensure utilisation and accountability of the funds disbursed to these organisations as well as monitoring and evaluation to ensure the government gets value for money – Funds allocated to various sports organisations or persons to support specific events, lack expenditure returns, receipts, well maintained cashbook and bank statements as raised by the Auditor General reports. The sector should ensure there is proper financial reporting from the beneficiaries of the fund.

iii. Interventions from the Sports, Art and Social Development fund to fast track and accelerate the completion of all the 7 regional stadia – Through the intervention of the Fund 4 stadia, Kirigiti stadium, Posta Jamhuri ground, Kisumu International Stadium, Wanguru Stadium, were started in

2020 and are at the completion stages, therefore, the fund should support the completion of the 7 regional stadia.

iv. Interventions to support the State Department for Culture and Heritage – According to regulation 4 (2) of the PFM (Sports, Art and Social Development Fund) regulations, 2018 an amount not exceeding twenty (20%) percent is allocated towards the promotion and development of arts, therefore, more programmes should be supported to ensure more appreciation of the role of culture and heritage in promoting national development.

Addressing Food Insecurity: E-Voucher, Fertilizer Subsidy Program and GMOs

91. The country is currently facing serious food shortages with staple food commodity prices being high and out of reach for most citizens. Kenya Food Security Steering Group (KFSSG) estimates that approximately 4.1 million Kenyans are experiencing high levels of acute food insecurity. Kenya is ranked 87th out of 116 nations by 2021 Global Hunger Index with a score of 23.0 indicating that the country's level of hunger is severe and requires serious government attention. Kenya's food insecurity stems from a number of factors including: the dwindling and unstable agricultural productivity; access to and high cost of farm inputs; high cost of animal feeds; erratic and unreliable weather patterns and rainfall; and pest and disease prevalence.

92. The deepening food security situation in Kenya is anecdotally correlated with several factors, among them: the deterioration of the climate seen through extreme droughts in large parts of the country; inefficient land use; soil degradation; and, water scarcity. Apart from these factors, food production has been declining in recent years due to inadequate use of irrigation in food and crop production, shortages of fertilizer among other inputs, and the limitations of current crop breeding technologies.

93. The government has taken various initiatives to address the challenges facing the agricultural sector. Among the various budget interventions proposed to be implemented in the FY 2022/23, include agricultural input subsidy, crop insurance, and livestock insurance. The key projects, targets and allocations are as shown in the following table.

Table 12: Key outputs, KPIs and Targets

Key outputs, KPIs, and Targets				
Project/Unit	2022/23 Budget (Ksh. Millions)	Output	KPIs	Target
Kenya Livestock Insurance Scheme	140	Vulnerable pastoral communities cushioned against drought	No. of Tropical Livestock Units insured No. of Counties covered	50,000 8
Commodities Fund	405 (Net-50)	Credit support services	Amount in Ksh (Millions) of loans disbursed to coffee and sugarcane farmers	475
			Amount in Ksh (Millions) of loans repaid by coffee and sugarcane farmers	555
Crop Insurance	281	Crop Insurance	No. of farmers covered	450,000
National Value Chain Support Programme	1,580	Input e-voucher services	No. of counties to be covered	38
			No. of beneficiaries	61,200
			MT of assorted fertilizers accessed	14,440
			MT of lime accessed	10,900
			Litres of assorted agrochemicals accessed	122,800
			MT of seeds accessed	1,090
Coconut Industry Revitalization Project	40	Coconut enterprise financing	Amount in Ksh. (millions) of loans disbursed to coconut enterprises	50
			No. of loan beneficiaries	1,500
Cashew Nut Revitalization Project	20	Cashew nut enterprise financing	Amount in KSh.(millions) of loans disbursed to cashew nut enterprises	20
			No. of loan beneficiaries	500

94. In the FY 2022/23, the state departments for Livestock and state department for Crop Development and Agricultural Research has been allocated a total of Ksh. 48,713 million with an allocation of; Ksh. 7,207 million to Livestock department and Ksh. 41,506 million to Crop Development and Agricultural Research. The allocation are assigned to 5 programmes and a total of 64 capital projects.

Table 13: 2022/23 approved budget for the State Departments (Ksh)

Vote	Programme	Recurrent	Capital	Total
State Department for Crop Development and Agriculture Research	**Total**	**14,463,700,000**	**27,042,327,321**	**41,506,027,321**
	General Administration Planning and Support Services	5,227,448,432	3,609,417,513	8,836,865,945
	Crop Development and Management	3,483,779,576	21,241,195,500	24,724,975,076
	Agribusiness and Information Management	138,940,750	1,470,714,308	1,609,655,058
	Agricultural Research & Development	5,613,531,242	721,000,000	6,334,531,242
State Department for Livestock	**Total**	**3,590,200,000**	**3,617,100,000**	**7,207,300,000**
	Livestock Resources Management and Development	3,590,200,000	3,617,100,000	7,207,300,000
	Total	**18,053,900,000**	**30,659,427,321**	**48,713,327,321**

Source: Budget Estimates 2022/23

95. One of the most important intervention towards addressing food insecurity is the provision of the subsidized agricultural inputs to targeted small scale farmers. Small scale farmers constitute a bigger percentage of farmers in Kenya and provision of support programmes to them is inevitable for continued and improved agricultural productivity. This can be done by embedding the subsidy with agricultural extension service to provide crucial training on improved agricultural techniques to maximize farm productivity as well as minimize post-harvest losses.

96. In the FY 2022/23, the e-voucher program has a budget of Ksh. 1,580 million and targets to benefit 61,200 farmers through provision of 14,440 metric tonnes of assorted fertilizers. Note that the targeted beneficiaries and amount of fertilizers to be provided has been declining every year which is a serious indicator that small scale farmers are being neglected. While the agricultural input subsidy programme has been running for the last three financial years, there is serious underperformance which must be relooked at to ensure farmers can access the subsidized inputs. To ensure improved production and productivity, there is a need to ensure that e-voucher input system is working and that it is able to dispense to farmers all the subsidized agricultural inputs within the FY.

97. Fertilizer Subsidy programme- Following the high prices of fertilizers and with the deficiencies of the e-voucher input management system, the Kenya Kwanza government in this FY 2022/23 introduced the subsidy programme that targets to supply 7.5 million 50kg bags of subsidized fertilizers. According to the State Department, 1.5 million bags have so far been distributed through the National Cereals and Produce Board (NCPB) outlets and the remaining 6 million bags will be procured and distributed for the long rain planting season. It will be important to ensure the timely procurement and supply of the subsidized fertilizers to ensure timely access for planting and to guard against abuse by traders or rouge officials at NCPB.

98. Another critical intervention towards achieving food security is crop diversification project. The objective of the project is to avail quality seeds and capacity build farmers towards crop diversification for increased food security and incomes. In the FY 2022/23, the project targets to supply 165MT of maize seed, 40MT of rice seed, and 85MT of drought tolerant seeds among other seedlings. In order to ensure improved food security, it's important to keep an eye on the timely distribution of the seedlings.

99. While above measures together with land use policies, irrigation, access to fertilizer and other inputs can be harnessed to boost agricultural productivity, these set of interventions are unlikely to shift quickly enough or are inadequate to reverse the acute food shortages in Kenya given the extreme climatic conditions seen at least in the last four rain seasons. Thus, the shift in policy towards accelerated adoption of modern agricultural technology to mitigate this problem appears timely. Despite raging controversies against it, adoption of genetically modified crops (GMOs), after necessary field tests and regulatory safety approvals, could provide a viable proposition to feeding the masses through sustainable production of food crops and animal feed.

100. The advances in genetically modified crops include: higher yielding crops, pest and herbicide resistant crops, drought resistant crops, crops with improved nutritional profile relative to conventional crops , among others. These crops can therefore help mitigate the negative impact of climatic changes on food production and also help address mitigate the passthrough negative effects of high input costs (seed and fertilizer) on crop production and farmer incomes.

101. In a move to address the current challenges of: high cost of foods; high cost of productions on account of costly chemicals to control pests and diseases; poor productivity; and vagaries of weather occasioned by climate change, the Kenya Kwanza government lifted the ban on genetically modified organisms (GMOs). With appropriate implementation, the introduction of GMOs is likely to add to the set of critical interventions for ensuring food security in Kenya.

A set of critical oversight focus needs to be given to above programmes or interventions with direct impact on food security. Thus, it is important for the Legislature to keep an eye on:

i. The provision of subsidized agricultural inputs including: 14,440 metric tonnes of assorted fertilizers to be provided to 61,200 farmers in 38 counties; 10,900 metric tonnes of lime; and 122,800 litres of agrochemicals; and the performance of the e-voucher system which members need to keep an eye on.
ii. The timely procurement and supply of the subsidized fertilizers to ensure timely access and equity in distribution.
iii. Crop diversification programme by ensuring the supply of: 165MT of maize seed; 40MT of rice seed; and 85MT of drought tolerant seeds to farmers.
iv. Crop Insurance Programme to ensure timely procurement of crop insurance services to benefit 450,000 farmers.
v. Provision of credit financing for crop revitalization: Ksh. 475 million to coffee and sugarcane farmers; Ksh. 50 million loans disbursed to coconut enterprises to 1,500 beneficiaries; Ksh. 20 million loan dispersed to 500 cashew nut farmers.
vi. The lifting of the GMO ban, with increased oversight of the rollout and adoption of genetically engineered agricultural products, productivity of these novel products relative to conventional crops, biosafety, and the scaling of regulatory efforts to protect conventional crops and preserve biodiversity. Budgetary interventions may equally accompany this policy shift, and therefore the need

to re-enact the targets for the key institutions assigned the GMO agricultural research and biosafety roles in the 2022/23 financial year.

Efficacy of the Fuel Price Stabilization Programme

102. Due to its potential to boost economic growth and serve as a key enabler for vision 2030, the energy sector is one of the government's main priorities, especially in its mandate of ensuring affordability and availability of reliable petroleum and Gas supply. In FY 2022/23, the total budgetary allocation to the energy sector is Kshs.119.60 billion of which the State Department of Energy accounts for Kshs.95.67 billion while the State Department of Petroleum accounts for Kshs.23.93 billion. The table below thus shows a summary of programmes and priority projects as well as KPIs/Targets for monitoring and oversight in FY 2022/23 as indicated.

103. From the table above, the allocation to fuel subsidies accounted for 85% of the total allocation to the State Department of Petroleum while not containing accompanying KPIs/targets. Data from the Energy and Petroleum Authority also indicates that the total fuel subsidies granted for the two financial years (FY 2020/21 and FY 2021/22) amounted to Kshs. 83 billion. With the release of Kshs.16.7 billion as article 223 expenditures towards compensation to Oil Marketing companies in regards to the stabilization programme, its total expenditure allocation is set to surpass the Kshs.100 billion mark. Arising from the factors raised above, there is therefore need for members to enhance their oversight towards the Fuel Stabilization Programme.

Table 14: Summary of key priority programmes/projects for the FY 2022/23

Vote	Programme	Key Project	Allocation (Ksh. millions)	KPIs/Targets
1152	Power Generation	• Bogoria-Silali project	5,771	11 wells drilled and 61.76 MW of steam equivalent
		• Ol Karia I Units Power generation capacity (MW) • 1,2,3 Geothermal Power Plant Rehabilitation Project	5,599	45% completion of 6MW Power Plant
	Power Transmission	• Electrification of Public Facilities	4,841	801 Public facilities connected to electricity
		• Installation of transformers in constituencies	1,000	827 new transformers installed
		• Last Mile Electrification project	5,803	100,000 new customers connected to electricity
1194	General Administration Planning & Support Services	• Subsidies to Financial Private Enterprises	20,360	No targets
	Exploration and Distribution of Oil & Gas	• LPG Distribution and Infrastructure project	471	100,000 6Kg LPG Cylinders Distributed

Source: National Treasury

104. The Fuel Price Stabilization programme traces its inception to The Petroleum Development Levy which was established under section 4(1) of the Petroleum Development Levy Fund Act, 1991. The objectives and purpose of the fund is to provide funds for the Development of Common Facilities for the

distribution or testing of oil products and matters relating to the development of oil industry provided the funds are not used for purposes in competition with the Private Sector. The levy was set at Kshs.0.40 per litre of Super Petrol, Diesel and Kerosene until July 2020.

105. On 10th July 2020, pursuant to the Petroleum Development Fund Act,1991, the Cabinet Secretary Published the Petroleum Development Levy Order, 2020 Legal Notice 124 which revoked the Petroleum Development Order, 1992 which raised the amount collected per litre of Super Petrol and Diesel to Kshs. 5.40, an increase of Kshs. 5.00 while keeping the amount collected per litre of Kerosene unchanged at Kshs. 0.40.The regulatory objective and justification of the Levy Order was to provide adequate funds for the development of the petroleum sector including the stabilization of petroleum prices in instances of spikes occasioned by High Landing Costs above a threshold determined by the Energy and Petroleum Regulatory Authority(EPRA).

106. The programme thus formally commenced in April 2021 when the government started granting subsidies to the Oil Marketing Companies(OMCs) in order to cushion customers from the impact of rising fuel prices, as the international price of crude oil rose rapidly.

107. Since the government started rolling out the programme, the government has had a fair share of success in curtailing the soaring fuel prices. The effect of this has been decreasing the adverse impact of global price volatility and inflationary pressure on the citizens, making energy prices more affordable, especially for poor households and lowering transportation and production costs, particularly for industries which use oil as a vital factor of production.

108. However, the programme has had its challenges which include market distortions due to the difference between the actual and published prices of petroleum products, mounting fiscal burdens with the revenue collected from the Petroleum Development Levy(PDL) fund being unable to adequately cater for compensations to OMCs, income equality with the subsidies tending to favour the well-off in the society, significant energy shortages as witnessed in April 2022 which may encourage fuel adulteration and smuggling as well as crowding out funding to other productive sectors of the economy such as health and education.

109. The programme has been allocated Kshs. 20.36 billion in FY 2022/23, however, there were no corresponding targets in the programme based budget to match the allocation. Compared to the previous financial year (FY 2021/22), this was a substantial decline from the allocation of Kshs. 81.03 billion towards the fuel stabilization programme with the corresponding target being 100% of subsidies disbursed to the Oil Marketers.

110. Lately, the efficacy of the fuel stabilization programme has come under scrutiny due to its sustainability and its operationalization. In its operationalization, the fund has been constantly hampered by late payments to firms for keeping the prices lower than actual and the effect of this was witnessed in April 2022 when the country was faced with a severe shortage of fuel that was attributed to the delay in Payment to the OMCs that amounted to Kshs.49.16 billion in the March-April 2022 pricing cycle.

111. On the sustainability of the fund, the allocation to the programme has also severally been depleted, due to the volatility in international crude oil prices which has further been aggravated by the Russia-Ukraine War that has caused the global crude oil prices to sky-rocket near the USD 100 per barrel mark

as well as the continued weakening of the Kenyan currency against the dollar since the exchange rate affects the landing cost of the imported petroleum products. The effect of this has been crowding out funding to other critical sectors of the economy in order to fund the programme hence exerting unnecessary fiscal pressures on already constrained government coffers.

112. During its third assessment of Kenya's EFF/ECF Facility in July 2022, the IMF also advised against fuel subsidies owing to the fiscal cost associated with them. It is, therefore, in light of this that the government commenced the gradual withdrawal of the subsidy in the September-October 2022 pricing cycle with the regulator now subsidizing only diesel and Kerosene at Kshs.20.82 and Kshs.26.25 per litre. This is a huge drop of 68.54% and 64.61% from the August-September Pricing cycle subsidies per litre of diesel and kerosene. The phenomenon was also replicated in the October-November pricing cycle where diesel was subsidized at Kshs.18.15 per litre while kerosene was subsidized at Kshs.27.47 per litre.

113. Keep an eye on…

i. The 100% disbursement of funds budgeted and owed to the Oil Marketing Companies without delay in order to forestall any future incidences of fuel shortages in the country.
ii. The gradual review of the fuel stabilization programme in view of aligning domestic prices to global prices while avoiding any abrupt adjustments that would have negative socio-economic repercussions on the most vulnerable members of society.
iii. Monitoring the feedback effects of high fuel prices on overall inflation.

National Security and Access to Justice

114. The total appropriation to the Sector amounts to KSh. 234.7 billion comprising of KSh. 224.3 billion for recurrent and KSh. 10.4 billion for development expenditure. The MDAs with major appropriation include State Department for Interior at KSh. 143.6 billion, the State Department for Correctional Services at KSh. 32.3 billion, the Independent Electoral and Boundaries Commission at KSh. 21.7 billion and the Judiciary including Judicial Service Commission at KSh. 18.9 billion. The table below shows the summary of budgetary allocations across the agencies.

Table 15: Summary of Budgetary Allocation (Ksh. Billions)

		Current	Capital	Total
1.	State Department for Interior	136.8	6.8	143.6
2.	State Department for Correctional Services	31.1	1.2	32.3
3.	The Judiciary including JSC	17	1.9	18.9
4.	Independent Electoral and Boundaries Commission	21.7		21.7
5.	State Law Office and Department of Justice	5.2	0.2	5.4
6.	Ethics and Anti-corruption Commission	3.5	0.2	3.7
7.	Office of Director of Public Prosecution	3.3	0.05	3.35
8.	Office of Registrar of Political Parties	2.1		2.1
9.	National Police Service Commission	1		1
10.	Witness Protection Agency	0.6		0.6
11.	Kenya National Commission on Human Rights	0.5		0.5
12.	National Gender and Equality Commission	0.5		0.5
13.	Independent Policing Oversight Authority	1		1
	Total	224.3	10.35	234.65

Source: The National Treasury

115. The sector will be implementing a total of 28 programmes spread across the 14 MDAs. Some of the key programmes include policing services under the State Department for Interior with a budgetary allocation of KSh 103.1 billion, Prison services programme with a budgetary allocation of KSh. 29.7 billion, Dispensation of Justice by the Judiciary with a budgetary allocation of KSh. 18.3 billion and Management of Electoral Processes by the Independent Electoral and Boundaries Commission with a budgetary allocation of KSh. 21.4 billion among others.

116. The GJLO Sector plays an important role in providing a stable environment for the political, social and economic development of the country. Specifically, the role includes the provision of security, dispensation of justice, provision of statutory documents, management of the electoral process, registration and regulation of political parties, and delimitation of Electoral and Administrative Boundaries, among others. The next section discusses projects and programmes which are critical in the implementation of the FY 2022/23 budget.

Enhanced National Security through Equipping of the Forensic Laboratory

117. The National Forensic Laboratory is a vision 2030 flagship project that was intended to help the National Police fast track complex cases which often delays due to the lack of such a facility in Kenya. The project once completed was to aid the prosecution of cybercriminals and fast-track probe into serious crimes such as murder, robbery with violence and rape among other heinous crimes.

118. Over the years, the government has made significant investments in the project. It entailed the construction of the structure in Phase I and equipping of the laboratory in phase 11. The project commenced in 2014/2015 at an estimated cost of Kshs. 1,749 million and by end of June 2021 the

project had expended Kshs. 1,712 million under phase I. Equipping of the laboratory was started in 2018/19 at an estimated cost of Kshs 7,000 million and has been ongoing, with cumulative expenditure of Kshs 2,133 million as of December 2021 giving a completion rate of 35 percent.[12]

119. Despite the significant investments, the returns are yet to accrue. While the project was commissioned in June 2022, the laboratory is still operating below its required capacity due to minimal equipment. Over the years, the project has faced challenges occasioned by inadequate funding and delayed exchequer releases. The delayed payments to contractors often attract interest charges. The challenges have often resulted in the construction and the equipping not being completed as scheduled. For example, the two phases of the project were to be completed during the second Medium Term Plan of Vision 2030. It is now projected that the equipping of the lab will be 100 percent complete within the next MTEF. The project has been allocated Kshs.535 million under development expenditure in the FY 2022/23.

120. Keep an eye on…

i. Progressive equipping of the laboratory from 35 percent to 60 percent by the end of the FY 2022/23. Equipping the laboratory fully will reduce the cost incurred in investigating complex criminal cases. Such cases involve analysis of samples which are sometimes flown to other countries.
ii. Number of days taken to produce a forensic expert report from the current 6 days to 3 days.

Accelerating service delivery through role out of Huduma Namba

121. The National Integrated Identity Management System (NIIMS) commonly known as Huduma Namba is a biometric mass registration system which involves collecting biometric data and generation of a unique number which the government intends to use to deliver services to the people. The project once completed, will give rise to a document to be used by the government for identification and conduct of business.

122. The project however has been slowed down by various challenges through litigation where concerns have been raised about adequate data protection measures. The introduction of a centralised population registers with the sharing of data acrossa range of government and private sector users remains the greatest threat to the success of its completion and implementation.

123. The project commenced in July 2018, and it entailed the issuance of a unique identification number assigned to a resident individual who has enrolled into the NIIMS and the card as a digital multipurpose identity card issued to a resident individual making the integral part of the project to be NIIMS database, Huduma Namba and the Huduma Card.

124. It is estimated that for the NIIMS to be fully completed, a total sum of KSh. 15 billion will be required to facilitate the development aspect of the programme. However, as of 30th June 2021, the project had utilized KSh. 2.4 billion and a further KSh. 1 billion was appropriated towards the project in the FY 2021/22 for development. Moreover, the project over the years has incurred recurrent expenditures through Supplementary Appropriation during budget implementation either through fresh additional funding or re-allocation from development expenditure. For instance, in FY 2019/20, the

[12] Sector budget proposals for FY 2022/23

project was allocated KSh. 242.8 million through Supplementary II in recurrent expenditure. In the subsequent years, the project was allocated KSh. 482 million and KSh. 548 million for FY 2020/21 and 2021/22 respectively through supplementary on recurrent activities, reportedly attached to the project. In the FY 2022/23, the project has a development allocation of KSh. 680 million.

125. Despite the resources that have been channelled to the project, no significant progress has been made. The number of citizens who have been registered remains unknown and those who have been registered, a number are yet to receive their cards five years after the project was launched. It is conceived that the completion of the project and its eventual roll out will reduce the cost of producing other associated documents such ID cards, NHIF cards, NSSF cards, driving license among others.

126. Keep an eye on…

i. Enactment of Huduma Bill which was not completed by the 12th Parliament. The enactment of the Bill will go hand in hand with the court directive that gave clearance for the roll out of the project subject to being anchored within a comprehensive legal framework that complies with the Constitution. This will complement other legislation such as the Data Protection Act that was enacted in 2019, the Data Protection (Civil Registration) Regulations 2020 among others to pave way for its roll out.

ii. In-year budget revision which tends to re-allocate resources from development to recurrent expenditures within the same item. The re-allocation is normally for recurrent items such as hospitality, domestic subsistence, and foreign travel among other non-core spending making the development budget suffer at the altar of its completion.

Fast tracking court cases to enhance access to Justice

127. The Judiciary's major responsibility in any society is deciding on disputes and interpreting the law. The Kenya Judiciary however faces challenges which make access to justice limited. A basic tenet of access to justice is that cases should be dispensed in a fair, equitable and speedy manner. However perennial challenges have persisted where cases have taken more than one year in courts.

128. Despite the efforts that have been put in place to clear cases of backlog, no significant change has been made given that every year more cases continue to pile. It is observed that the backlog of cases has remained fairly the same. As of 2014/15, the backlog stood at 612,309 cases and has even marginally increased to 617,582 cases as of the end of 2020.

129. One of the strategies for reducing this backlog and enhancing access to justice is leveraging technology through the digitization of judiciary processes. The Judiciary projects to digitize fully its processes within the medium term. However, uncertainty over the funding may not enable any meaningful achievement of such set targets. Over the years, the budget for ICT has been unilaterally reduced on account of austerity measures notwithstanding its prioritization as a core programme for judicial transformation.

130. Access to justice requires decentralization of court services to all parts of the country. As of December 2020, the Judiciary had only 39 High Courts implying that some counties did not have access to such services dispensed by the High Courts. Having physical infrastructure for these courts, therefore, becomes critical. According to the State of the Judiciary and Administration of Justice Report 2020, there have been numerous projects ongoing across the country to improve its infrastructure albeit

at a slow pace. The funding from government for the construction of courts has dwindled over time. For example, the funding for these projects was reduced from KSh. 2 billion in 2019/20 to KSh. a paltry 50 million in the subsequent year. Many courts constructed during this period were majorly donor funded. The 2022/23 budget has appropriated KSh. 1.9 billion towards various constructions, refurbishment, and ICT networking.

131. Keep an eye on…

i. Moving towards 50 % digitization of all courts in Kenya by the 30th June 2022 to accelerate access to justice. Digitization of records will enhance efficiency through reduction of paperwork and potentially loss of files and other physical court documents that may delay delivery of justice.

ii. 100 percent construction to completion of 13 courts across the country. The completion of the ongoing construction will enable areas which have had limited access to superior court services to have the physical infrastructure which is critical in the dispensation of justice to such areas which include Nanyuki, Kapenguria, Isiolo, Maralal, Garissa, Makueni, Mombasa, Voi, Kwale and Kakamega among others.

iii. Increasing the clearance rate of all cases filed from 87% to 93 %, with a specific focus on cases related to the General Elections of August 2022. When the backlog is not dealt with within a reasonable time, justice may not be served to the citizens as required by the law of natural justice.

Chapter Four:

A Decade of Devolution*

*This chapter was prepared by the Senate Affairs Department. The key contributors are as follows: Mr. Hussein Salat, Mr. Kennedy Owuoth, Mr. Joseph Lekisima, Ms. Keziah Muthama, Mr. Cyrille Mutali and Mr. William Wambiru

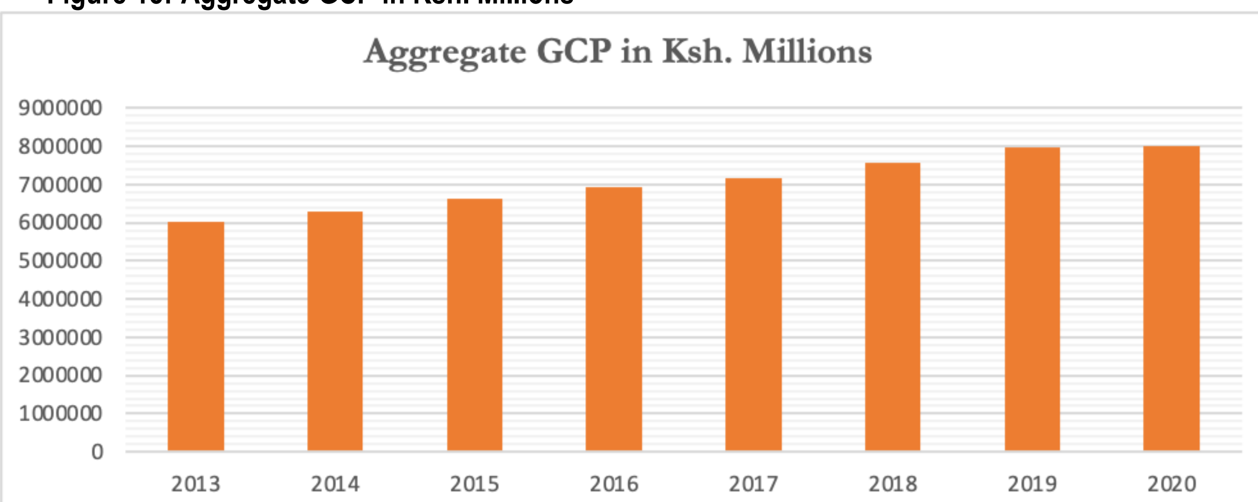
4.1. Introduction

132. Kenya's devolved system of government as provided for under the 2010 Constitution has had a transformative impact on its growth prospects, especially at the county level. The near decade-long devolved system of governance has seen growth in the county economies as measured by Gross County Product (GCP) which is conceptually equivalent to the county share of Gross Domestic Product (GDP). This growth however varies across counties with some county economies having grown faster than others.

133. According to data from the Kenya National Bureau of Statistics (KNBS), the aggregate real GCP by all the counties grew by approximately 3.63 per cent since devolution, rising from Ksh. 6.016 trillion in 2013 to Ksh. 8.001 trillion in 2020. Marsabit, Mandera and Elgeyo Marakwet counties realized the highest growth (expansion) of their economies during the period expanding by approximately 5.88%, 5.52% and 5.46% respectively with West Pokot, Samburu and Bomet also registering above 5% growth. Embu, Muranga and Homa Bay counties realized the least growth during the period registering a growth of 1.87%, 2.15 % and 2.21% respectively.

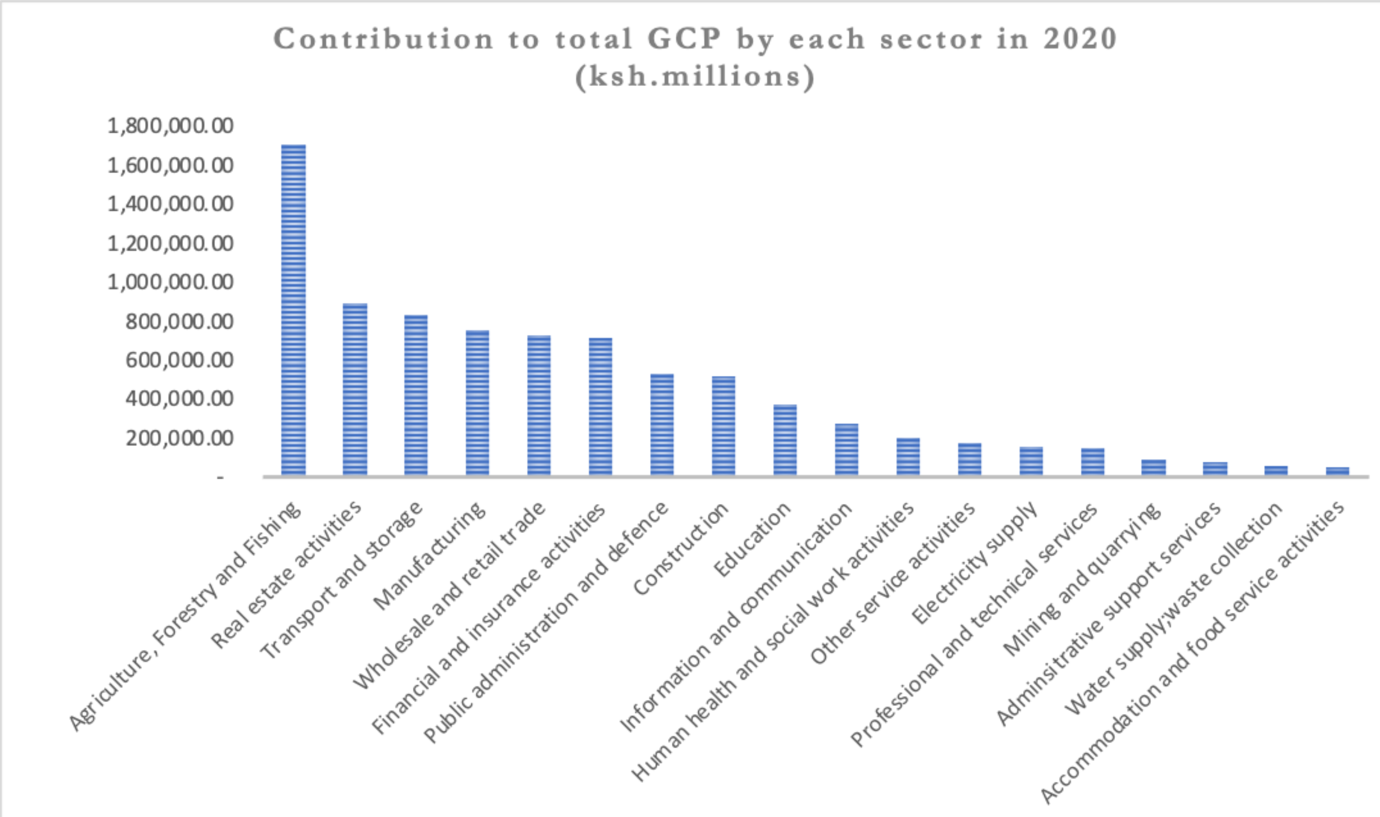
134. The graph below shows the aggregate GCP for counties from 2013 to 2020;

Figure 15: Aggregate GCP in Ksh. Millions



135. In terms of sector contribution to the total GCP by the counties; the broad Agriculture, Forestry and Fishing Sector is the highest contributor of GCP in most of the counties across years, implying that Agriculture is the economic mainstay for most of the counties. In 2020, other key sectors with significant contribution to GCP in the counties included; real estate activities sector, transport and storage sector, manufacturing sector, wholesale and retail sector and Financial and insurance activities sector. Accommodation and food service activities sector and Water supply sector had the least contribution to aggregate GCP in 2020.

Figure 16: Contribution to total GCP by each sector in 2020 (Kshs. millions



136. There is need to Keep an eye on the sectors with substantial contribution to Gross County Product and whether enough resources are being allocated by the counties towards these sectors which have the potential to spur economic growth in the respective counties and especially Agriculture which is a devolved function and the highest contributor of GCP in most of the counties.

137. In addition, keep an eye on the allocations to devolved functions such as Agriculture and Health to ensure that budgets allocated to these sectors are not diverted to other areas midyear as this is evident in the counties where the percentage of total county Budgets actually spent on the devolved functions of health and agriculture is consistently lower than the percentage of total budget allocated to the devolved sectors over the years (See the table 1 below). These in-year changes especially in Agriculture may have a bearing on the growth of county economies as it is the major contributor of GCP in the counties.

Table 16: County Allocations to Health and Agriculture Vs Actual Expenditure

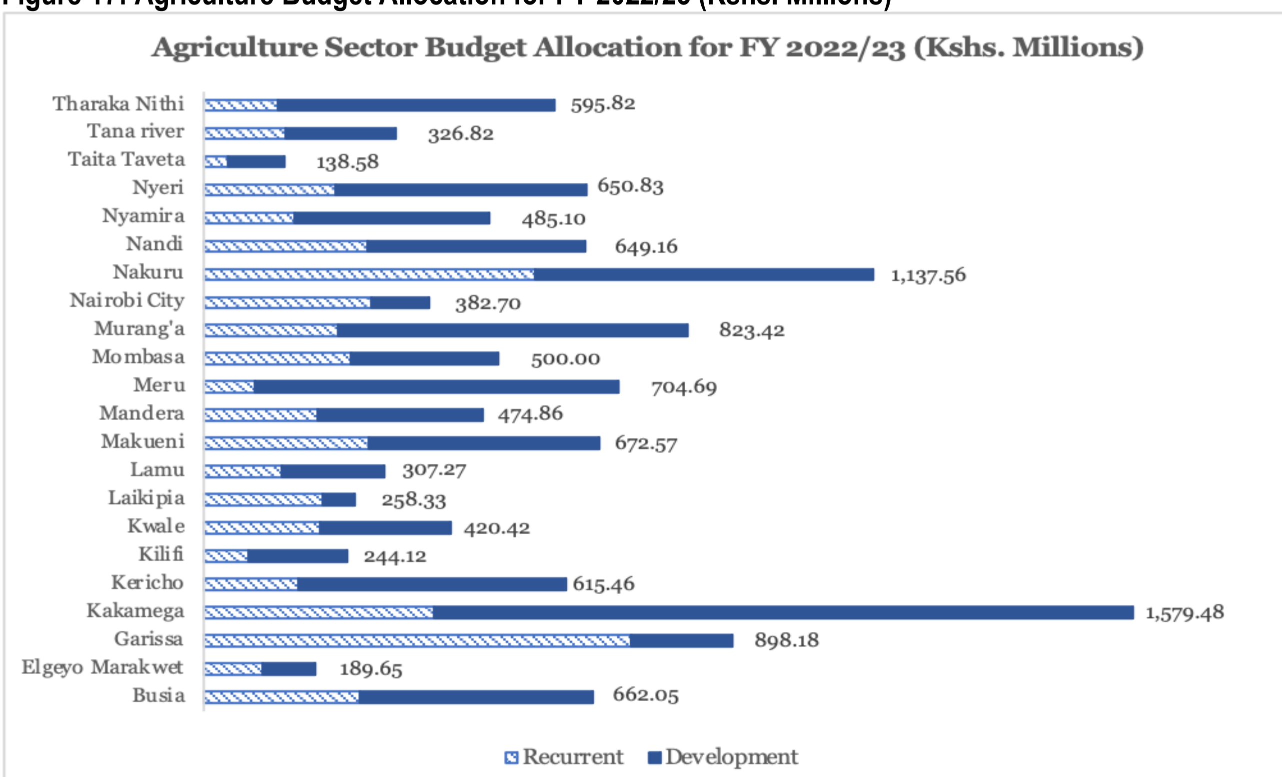
Financial Year	Health		Agriculture	
	% of total budgets allocated to health	% of total budgets actually spent on health	% of total budgets allocated to Agriculture	% of total budgets actually spent on Agriculture
2014/15	21.1	17.0	8.2	4.9
2015/16	23.8	19.4	6.8	4.4
2016/17	24.9	19.0	5.7	4.2
2017/18	26.4	21.0	5.6	4.0
2018/19	25.5	20.1	6.7	4.5
2019/20	25.8	22.2	7.0	4.9
2020/21	25.2	21.2	7.7	4.7

Source: COB Reports for various years

4.2. Agriculture as a devolved function

138. Figure 6 below presents the agriculture sector budget for a sample of counties in the FY 2022/23.

Figure 17: Agriculture Budget Allocation for FY 2022/23 (Kshs. Millions)



Source: Various County Treasury

Keep an eye on…

i) Budget Allocation to Agriculture to ensure that the resources allocated to the sector are not diverted to other areas as Agriculture has a bearing on the growth of county economies.

4.3. Exchequer Issues Vs Scheduled Disbursements to Counties (FY 2014/15-2021/22).

139. The National Treasury pursuant to Section 17 2 (b) of the Public Financial Management (PFM) Act, 2012 pay from the National Exchequer Account without undue delay all amounts that are payable for public services. Purpose being to ensure a timely and predictable monthly transfer of funds from the Consolidated Fund to the respective County Revenue Fund, in order for counties to undertake critical functions of delivery of services to their citizens. PFM Section 17 (7) provides for the disbursement to be done through a schedule prepared by the National Treasury in consultation with the Intergovernmental Budget and Economic Council and submitted to the Senate for approval.

140. The County Disbursement Schedule, is usually submitted to the Senate for approval detailing the manner in which counties will receive the approved funds from the exchequer. Treasury has been allocating 25 percent per quarter for the four quarters in a financial year. This has however, not been met as per the details of the exchequer releases for the past 8 years.

141. As detailed in Table 2, The First quarter has had an average of 9 percent of total allocation as opposed to 25 percent in the past eight years. In addition, FY 2017/18, FY 2019/20 and FY 2020/21 counties never got allocation in the first quarter of the financial year. Part of that can be attributed to the low collection of revenue by the national government, and the stalemate witnessed in the Senate before the passage of the 3rd generation formula.

142. Further, in the fourth quarter, counties on average for the past 8 years have been receiving a larger share of 38 percent allocation as compared with the 25 percentage in the approved disbursement schedule. The deviation by the exchequer from what is provided by the disbursement schedule creates unpredictability and delay on the part of the counties when it comes to budget execution.

Table 17: Quarterly Exchequer Release from Fy 2014-2022

FY	EXHCEQUER RELEASE	Q1	Q2	Q3	Q4	TOTAL
2014/15	**228,530,000,001.00**	0.16	0.20	0.24	0.40	**100%**
2015/16	**264,219,690,000.00**	0.04	0.33	0.24	0.39	**100%**
2016/17	**280,000,000,000.00**	0.20	0.22	0.25	0.33	**100%**
2017/18	**308,000,000,000.00**	0	0.37	0.19	0.44	**100%**
2018/19	**310,000,000,000.00**	0.18	0.19	0.29	0.34	**100%**
2019/20	**310,000,000,000.00**	0	0.38	0.30	0.32	**100%**
2020/21	**316,500,000,000.00**	0	0.39	0.25	0.36	**100%**
2021/22	**370,000,000,000.00**	0.17	0.23	0.19	0.41	**100%**

Source: COB Various Report

143. The County Government Additional Allocation Bill, was introduced to provide for the transfer of additional allocations from proceeds of loans and grants from the development partners. This is now an Annual Bill that will be presented to the Senate alongside the Division of Revenue Bill and County Allocation of Revenue Bill.

144. The County Government Additional Allocation of Revenue Bill, 2022 proposed to share KSh. 37.04 billion amongst Counties for the FY 2022/23 was passed by the Senate and sent to the National Assembly for concurrence but was not considered before the end of the 12th Parliament and therefore the Bill lapsed. The Bill should therefore be fast tracked to ensure counties receive their share of additional allocation that includes the supplement for construction of county headquarters for 5 counties as well as grants from development partners, to ensure projects both new and ongoing aren't stalled.

Keep an Eye on…

i. The cash disbursement to have increased percentage of resources released on time to facilitate implementation of the county budgets before the end of a financial year.

ii. Consideration and Passage of the County Governments Additional Allocations Bill, 2022 by Parliament to ensure counties get the allocation for FY 2022/23 early enough for the implementation of programmes and projects.

4.4. Equalization Fund and regional disparities

145. The Equalization Fund is established under Article 204 (1) of the Constitution of Kenya, 2010 which requires that one half per cent (0.5%) of all the revenue collected by the National Government each year, calculated on the basis of the most recent audited revenue received, as approved by the National Assembly, to be paid into the Fund.

146. The Equalisation Fund was initially administered through the defunct Equalisation Fund Advisory Board (EFAB) under "The Guidelines on Administration of the Equalisation Fund of March 2015" which were declared unconstitutional, null and void by the High Court ruling in November 2019 in Petition no. 292 of 2016. This in effect disbanded the EFAB and stopped any further expenditure from Equalization Fund.

147. The Equalisation Fund is now operational under the Public Finance Management (Equalization Fund Administration) Regulations, 2021 which were published vide Kenya Gazette Supplement No. 69, Legal Gazette Notice No. 54 of 29th April, 2021 and subsequently approved by Parliament.

148. The total entitlement to the Fund since the establishment is **Kshs. 47,383,520.543**. However, the Fund has been allocated **Kshs. 19,225,317,433** as of FY 2021/2022 out of which Kshs. 12.4 billion has been released to the Fund, resulting in a shortfall of Kshs. 34.9 billion as of May 2022.

149. It is important to note that there were no allocations made to the Fund in the first three financial years 2011/12, 2012/13 and 2013/14, that was before the preparation of the first policy identifying the marginalized areas by the Commission on Revenue Allocation. Any unexpended money in the Fund at the end of a particular year like other funds remains in the Fund for use during any subsequent financial year.

150. The Equalization Fund entitlement and allocation since the promulgation of the Kenya Constitution 2010 is as shown in the following table.

Table 18: Equalization Fund Entitlement and Allocation Since Inception

S/No	Financial Year	Most recent audited revenues approved by the National Assembly		Equalization Fund Allocation (KSh.)	Equalization Fund Entitlement (0.5% of most recent audited and approved revenues) (KSh.)
		Base Year for most recent audited revenues approved by National Assembly	Audited and approved revenues by National Assembly (KSh.)		
	(a)	(b)	(c)	(d)	(e)
1	2011/12	2008/2009	468,151,970,000	0	2,340,759,850
2	2012/13	2009/2010	529,300,000,000	0	2,646,500,000
3	2013/14	2010/2010	529,300,000,000	0	2,646,500,000
	SUB-TOTAL			**0**	
4	2014/15	2012/2013	776,900,000,000	400,000,000	3,884,500,000
5	2015/16	2012/2013	776,900,000,000	6,000,000,000	3,884,500,000
6	2016/17	2013/2014	935,600,000,000	6,000,000,000	4,678,000,000
	SUB-TOTAL			**12,400,000,000 ***	
7	2017/18	2013/2014	935,6000,000,000	0.0	4,678,000,000
8	2018/19	2013/2014	935,600,000,000	0.0	4,678,000,000
9.	2019/20	2014/2015	1,038,035,000,000	0.0	5,190,175,000
10	2020/21	2015/2016	1,357,698,000,000	0.0	6,788,490,000
11	2021/22	2016/2017	1,357,698,000,000	6,825,317,433	6,825,317,433
	SUB-TOTAL			**6,825,317,433**	
GRAND TOTAL				**19,225,317,433**	**47,383,520,543**

Source: **EFAB Reports , May 2022**

151. As shown in the table, there was no allocation made to the Fund in the years 2017/18, 2018/19 and 2019/2020 since the Court determined that the guidelines used to administer the Equalization Fund were null and void.

152. A total sum of KSh.12.4 billion on Equalization Fund entitlements relating to financial years 2014/15, 2015/16 and 2016/17 was appropriated to finance projects identified and for administrative expenses in their implementation.

153. The Fund has disbursed a total of **KSh.10,346,573,051** in FY 2016/17, 2017/18 and 2018/19 respectively to the Ministries, Departments and Agencies (MDAs) implementing the identified projects in the 14 marginalized counties.

154. Out of KSh.10,346,573,051 disbursed from the Equalization Fund to MDAs since 2016/17, the MDAs have been able to spend a cumulative of KSh.7,042,468,880 or 68 % of the funds disbursed. This expenditure comprises KSh.121,550,052 for administrative expenses and KSh.6,920,918,828 for development expenditure.

Status of Projects Undertaken by implementing MDAs identified in Financial Years 2016/17, 2017/18 and 2018/19 in the 14 Counties

155. Since the promulgation of the Constitution, projects identified for funding from the Fund have been in the 14 counties based on the First Policy on marginalization. These projects were to be financed from allocations to the Equalization Fund for the FY 2014/15, 2015/16 and 2016/17 and as appropriated in Equalization Fund Appropriation Act of 2018. As such, projects have only been identified once and the same was implemented as per the Equalization Fund Appropriation Act of 2018. New projects to be implemented with the fund will have to be identified based on the second policy on marginalization.

156. It is important to note that the ongoing projects financed from the Equalization Fund are implemented by specific MDAs who periodically forward status reports on these projects to the National Treasury.

157. As at 31st October, 2021, and based on submission by MDAs, a total of 352 projects are financed by the Equalization Fund and are at different stages of implementation as shown in the following table:

Table 19: Status of all the Equalization Projects as at 31st October, 2021.

Implementing MDA	No. of Projects	Tendering/ Awarded	Stalled/Not started	Inception	< 50%	50%-75%	76%-99%	100% (completed)
Ministry of Health	84	11	2	0	7	19	35	10
State Department for Infratsructure; through KeRRA	84	7	8	0	8	22	12	27
State Department for Irrigation	24	0	0	0	0	1	2	21
Ministry Water and Sanitation	128	0	6	0	30	20	35	37
State Department for Technical and Vocational Training	2	0	0	0	1	1	0	0
State Department of Early Learning Basic Education	10	0	0	10	0	0	0	0
Ministry of Energy	20	0	3	0	0	0	0	17
TOTAL	**352**	**18**	**19**	**10**	**46**	**63**	**84**	**112**

Source: EFAB

158. The Fund was operationalized in the FY 2015/16 and projects financed from the Fund identified in December 2016. The operationalization and implementation of the Fund has faced the following challenges since inception:

i. Delay in the implementation of the first policy on identifying marginalized areas. The policy covered three years FY 2014/15, 2015/16 and 2016/17. There was an initial delay in grant of approval of the guidelines for administration of the Equalization Fund. The guidelines were approved by the National Assembly in 2016;

ii. Delayed disbursement of funds from Equalization Fund due to lapse of the Equalization Appropriation Act, 2017.

iii. Court ruling: On 5th November 2019 the High Court made a ruling in Petition no. 292 of 2016 that declared the Equalization Fund guidelines as unconstitutional, null and void this disbanded the Equalization Fund Advisory Board (EFAB) and stopped any further expenditure from the

Equalization Fund. This has had a negative bearing including stalling of ongoing projects and exposing the government to litigation by contractors based on going contracts which are binding.

159. The Equalisation Fund was allocated Kshs 6,825,317,433 for FY 2021/2022, this amount has not been disbursed to the Fund. In the current Financial Year 2022/23 the Fund has been allocated Kshs. 7.06 billion to finance development Programmes that aim at reducing regional disparities. A total of 1,424 sub-locations were identified as marginalised areas with an estimated population of 5 million for funding from the equalisation fund as per the second policy by the Commission of Revenue allocation. The policy also has a set criterion for sharing revenue among the marginalised areas.

Keep an Eye on………

i. The Equalization Fund Advisory Board to ensure approved and incomplete and/or stalled projects initiated by the Fund are fully implemented and pending bills arising from the projects under the First policy cleared. This will enhance and improve quality of life to the citizens of the marginalized areas as envisaged in the Constitution.
ii. Full operationalization of the Fund. Article 204(6) of the Constitution of Kenya provides a lifespan of 20 years to the Equalization Fund after the effective dates unless parliament enacts legislation suspending the same for a further fixed period of years.

4.5. Transparency and Accountability in the Counties

160. Article 201 of the Kenya Constitution, on principles of public finance, requires that there is openness and accountability including public participation in financial matters. Article 232(1) stipulates the involvement of people in the process of policy making, accountability for administrative acts and, transparency and provision to the public of timely and accurate information as some of the values and principles of public service.

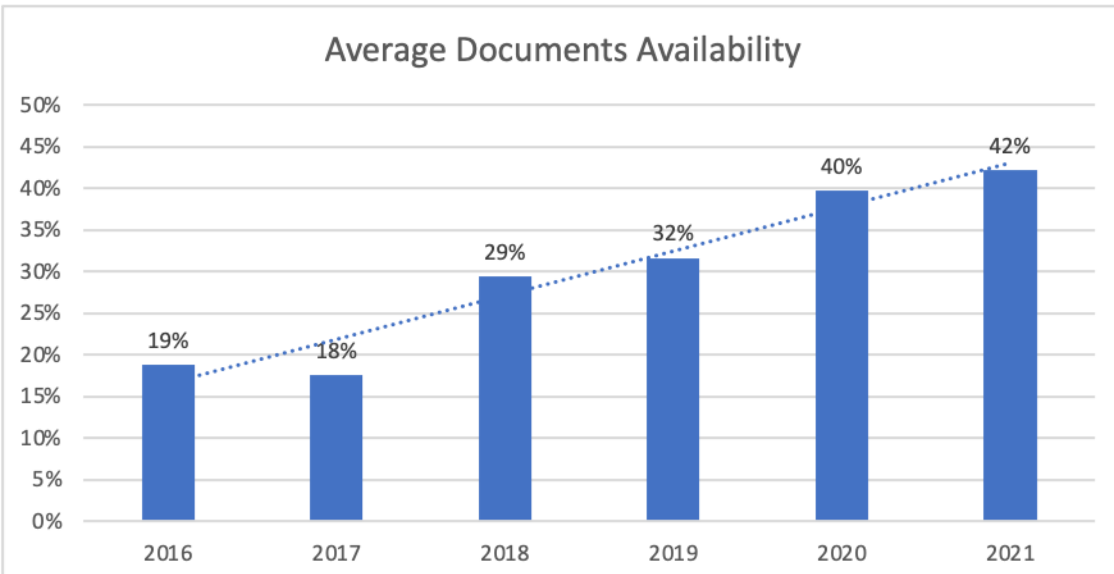
161. Transparency and accountability in the budget making process is further entrenched in the PFM Act which requires that there shall be accountability and public participation in the various stages of the budget process and all budget documents should be published in the form that is clear and easily understood by, and readily accessible to members of the public. This is further strengthened by the provisions of the County Government Act, 2012, that public participation should be mandatory for county planning.

162. In line with the above legal provisions, both national and county governments are required to publicize all the budget documents at all levels of the budget making process accurately and in a timely manner. All counties are required to publish their budget documents and other relevant information and make them available to the public through various means including uploading them in their websites. Comprehensiveness of these documents and their availability to the public are some of the measures of transparency in budget processes.

163. The documents that the counties are expected to publish at the various stages of the budget process are: Annual Development Plan (ADP), County Fiscal Strategy Paper (CFSP), County Integrated Development Plan (CIDP) and County Budget among others.

164. The annual average of documents made available has increased from 19% in 2016 to 42% in 2021 showing that the counties are improving in terms of making the documents available to the public, however, at a very low pace. It is also noted that most published documents are in the Budget formulation and approval stages of the Budget process. Budget Implementation documents remain the least published documents.

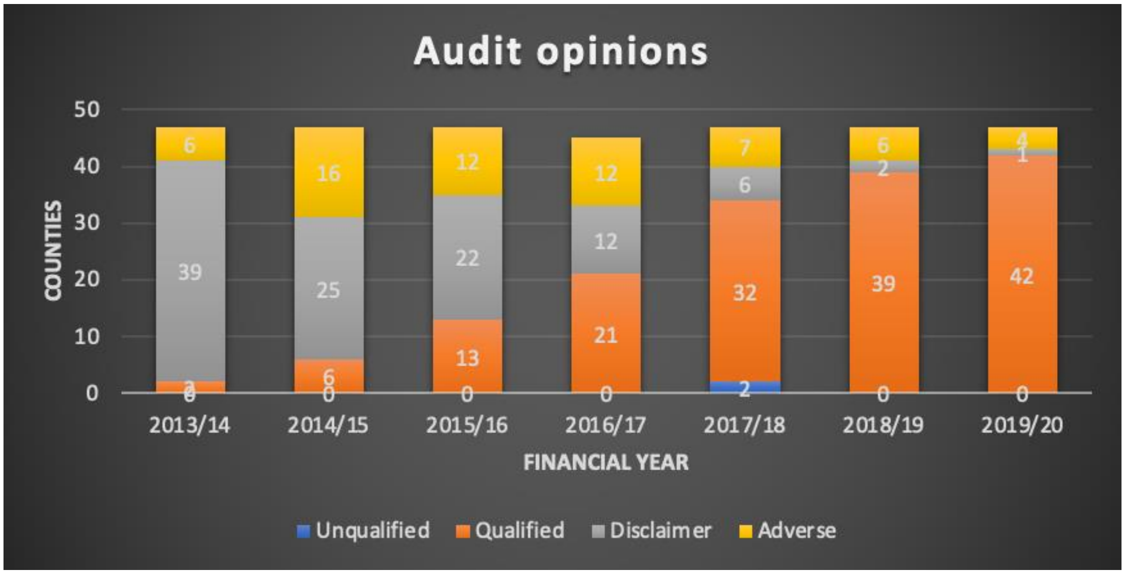
Figure 18: Budget Documents Availability (2016-2021)



Source: International Budget Partnership (IBP)

165. From the analysis Elgeyo Marakwet had the best average score at 63%, followed by Nyeri with 59%, Baringo at 57%, Samburu at 56% and Kitui at 55%. At the bottom end of the list were Garissa with 11%, Kisumu at 10%, Lamu at 9%, Narok at 8% and Migori at 2%.

Figure 19: Analysis of the County Executives Audit Opinions for the Fy2013/14-Fy2019/20



Source: Auditor General Reports.

166. From the analysis on the audit opinions since FY 2013/14 to FY 2019/20, it is notable that only two counties have gotten unqualified opinions since devolution that is Nyandarua and Makueni for the FY 2017/2018. Vihiga, Nairobi City and Kisumu Counties have only achieved a disclaimer or an adverse Opinion since FY 2013/14 to FY 2019/2020.

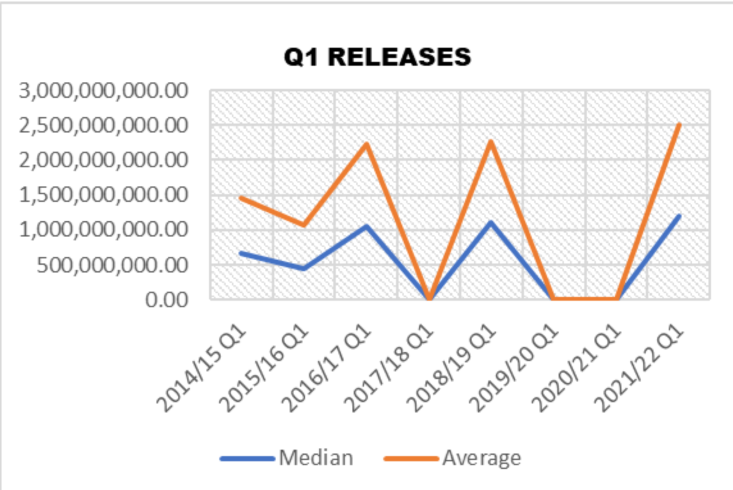
167. It is worthwhile to note a general improvement in audit performance by counties with only 5 counties getting either adverse or disclaimer opinion in FY 2019/20, down from 45 counties in FY 2013/14. The number of counties getting qualified opinion has increased from 2 in FY 2013/14 to 42 in FY 2019/20.

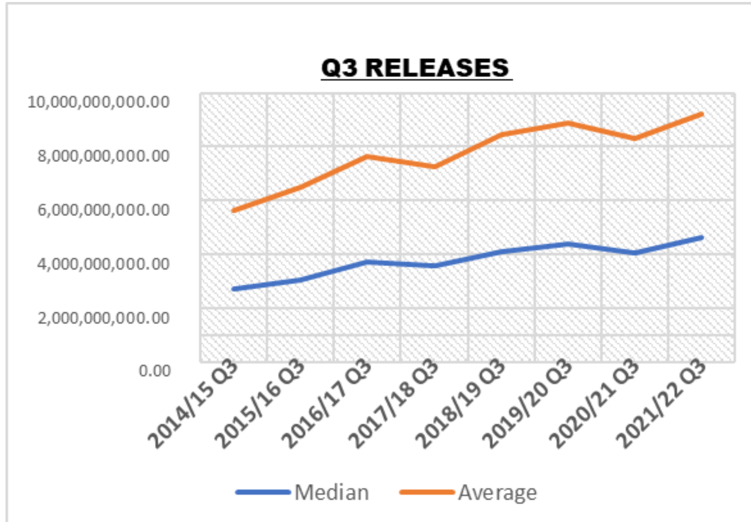
Keep an Eye on…

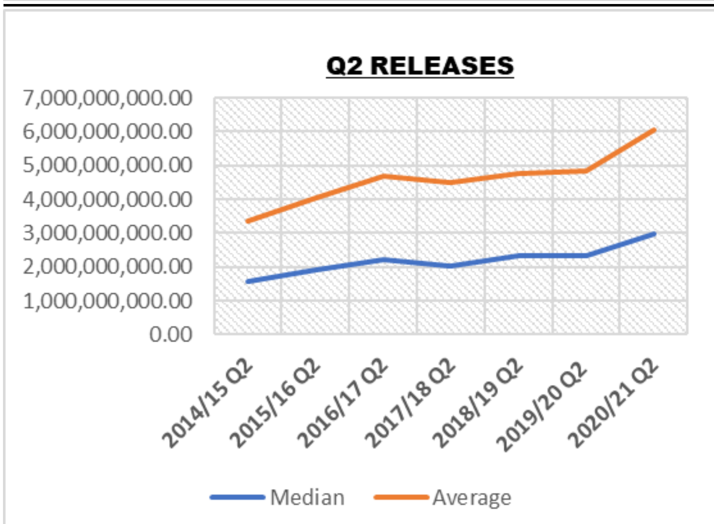
168. Timely publication of the budget documents by all the counties in accordance with the PFM Act, 2012 section 117(8), 129(6) and 135(5) that require County Treasury to publish and publicize the County Fiscal Strategy Paper, Budget Estimates and quarterly reports to facilitate oversight.

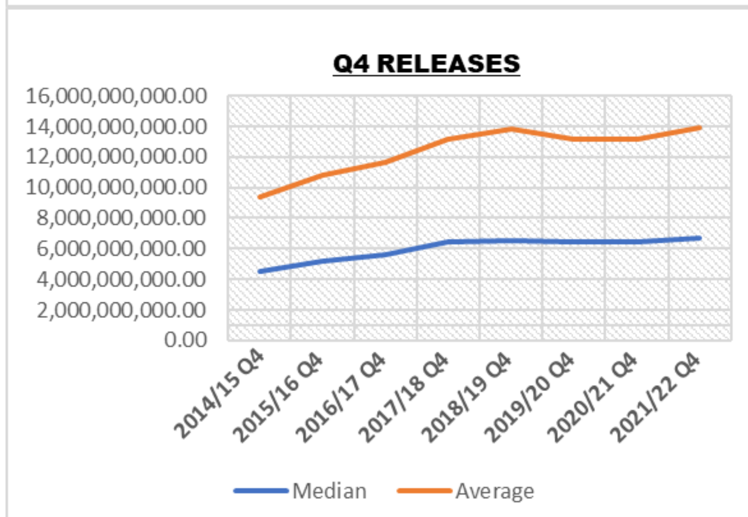
i. The implementation of the recommendations made by watchdog committees on the Auditor General's reports, particularly on capacity of County Treasury officers to comply with the law.

ANNEX 1: QUARTERLY ANALYSIS OF EXCHEQUER RELEASE FY 2014-2021









Annex 2. Budget documents availability per county (2016-2021)

	County	2016	2017	2018	2019	2020	2021	Average
1	Elgeyo-Marakwet	33%	11%	40%	100%	91%	100%	63%
2	Nyeri	22%	33%	50%	57%	91%	100%	59%
3	Baringo	44%	78%	60%	57%	64%	40%	57%
4	Samburu	0%	44%	70%	43%	91%	90%	56%
5	Kitui	44%	22%	50%	71%	55%	90%	55%
6	West Pokot	0%	33%	20%	86%	100%	90%	55%
7	Kiambu	56%	44%	50%	43%	73%	60%	54%
8	Laikipia	0%	33%	30%	86%	100%	70%	53%
9	Makueni	22%	11%	40%	57%	91%	60%	47%
10	Nairobi	33%	44%	60%	43%	36%	50%	44%
11	Kisii	56%	11%	40%	29%	45%	50%	39%
12	Nandi	22%	33%	40%	42%	9%	80%	38%
13	Vihiga	22%	11%	20%	57%	73%	40%	37%
14	Turkana	0%	0%	20%	14%	82%	100%	36%
15	Siaya	22%	44%	20%	29%	27%	70%	35%
16	Uasin-Gishu	0%	44%	70%	29%	36%	30%	35%
17	Busia	33%	33%	50%	43%	9%	40%	35%
18	Nakuru	22%	22%	40%	43%	36%	40%	34%
19	Nyandarua	33%	22%	30%	29%	45%	30%	32%
20	Bomet	56%	22%	50%	0%	9%	50%	31%
21	Kakamega	0%	33%	40%	29%	45%	40%	31%
22	Machakos	44%	0%	20%	14%	73%	30%	30%
23	Mombasa	11%	33%	30%	29%	27%	30%	27%
24	Tana River	0%	11%	30%	29%	36%	50%	26%
25	Marsabit	0%	11%	40%	57%	36%	10%	26%
26	Mandera	0%	0%	0%	43%	27%	80%	25%
27	Kilifi	22%	22%	30%	29%	36%	10%	25%
28	Meru	44%	11%	40%	14%	18%	20%	25%
29	Muranga	44%	11%	30%	14%	27%	20%	24%
30	Kirinyaga	33%	22%	0%	0%	0%	90%	24%
31	Nyamira	44%	0%	10%	29%	36%	20%	23%
32	Embu	11%	22%	30%	14%	36%	20%	22%
33	Tharaka Nithi	0%	0%	40%	29%	45%	10%	21%
34	Taita-Taveta	33%	0%	40%	29%	0%	20%	20%
35	Homa Bay	22%	0%	30%	14%	18%	30%	19%
36	Kericho	11%	22%	10%	14%	27%	20%	17%
37	Kajiado	11%	0%	0%	14%	36%	40%	17%
38	Trans-Nzoia	0%	0%	20%	43%	18%	20%	17%

	County	2016	2017	2018	2019	2020	2021	Average
39	Kwale	0%	0%	20%	14%	36%	20%	15%
40	Wajir	0%	11%	40%	0%	0%	30%	14%
41	Bungoma	11%	0%	10%	14%	27%	10%	12%
42	Isiolo	0%	0%	0%	43%	27%	0%	12%
43	Garissa	0%	0%	10%	0%	27%	30%	11%
44	Kisumu	11%	0%	0%	0%	27%	20%	10%
45	Lamu	11%	11%	0%	0%	9%	20%	9%
46	Narok	0%	11%	10%	14%	0%	10%	8%
47	Migori	0%	0%	0%	0%	9%	0%	2%
	Average	**19%**	**18%**	**29%**	**32%**	**40%**	**42%**	30%

Source: IBP