LEGAL NOTICE NO. ....

THE PUBLIC FINANCE MANAGEMENT ACT
(No. 18 of 2012)

IN EXERCISE of the powers conferred by section 205, read with section 12(1)(e) of the Public Finance Management Act, 2012, the Cabinet Secretary for the National Treasury and Planning makes the following Regulations—

THE PUBLIC FINANCE MANAGEMENT (PUBLIC INVESTMENT MANAGEMENT) REGULATIONS, 2021

PART I—PRELIMINARY PROVISIONS

Citation.

1. These Regulations may be cited as the Public Finance Management (Public Investment Management) Regulations, 2021.

Interpretation.

2. In these Regulations, unless the context otherwise requires—

No. 18 of 2012.

"Act" means the Public Finance Management Act, 2012;

"accounting officer" has the meaning assigned to it under section 2 of the Act;

"Bottom-up Approach" means an approach that identifies projects in response to stakeholder needs, through relevant stakeholder consultations;

"Cabinet Secretary" has the same meaning assigned to it under section 2 of the Act;

"completed project" means a project which has been fully implemented and expected output delivered as per the project implementation plan;

"Contract Implementation Team" has the same meaning assigned to it under section 2 of the Public Procurement and Asset Disposal Act, 2015;

No. 33 of 2015.

"county government entity" has the meaning assigned to it under section 2 of the Act;

"End Term Evaluation" means an evaluation for a programme or project conducted immediately after the end of the project implementation activities or when the project enters its conclusive phase.

No.8 of 1999. "Environmental Impact Assessment" has the meaning assigned to it under the Environmental Management and Coordination Act, 1999;

"evaluation" means a scientific analysis conducted periodically on policy, programme or project to objectively determine its effectiveness, efficiency, relevance, sustainability and impact;

"ex-post evaluation" means an evaluation conducted after project completion with the emphasis on the relevance, efficiency, effectiveness, impact and sustainability of the project with the aim of deriving lessons learned and recommendations to help improve future projects;

"feasibility study" means a study undertaken to explore the technical, legal, economic, financial, social and environmental viability of undertaking a project;

"large projects" means projects estimated to cost above 500 million up to 1.0 billion shillings **or as may be determined by the Cabinet Secretary** by the time they are completed and handed over;

"Logical Framework Analysis" means a project planning approach that analyses incremental causal relations in project planning including risks and assumptions;

"Logical Framework Matrix" means a systematic tool for designing, planning, implementing and monitoring and evaluating of a project or a Programme;

"medium projects" means projects estimated to cost above 100 million up to 500 million shillings **or as may be determined by the Cabinet Secretary** by the time they are completed and handed over;

"Mid-Term Evaluation" means an evaluation conducted for an ongoing programme or project in order to inform decision making and taking stock of initial lessons from experience at a period that is almost halfway during implementation.

"mega projects" means projects estimated to cost more than 1.0 billion shillings **or as may be determined by the Cabinet Secretary** by the time they are completed and handed over;

"National Government Entity" has the meaning assigned under section 2 of the Public Finance Management Act, 2012;

"new project" means a pipeline project which have been prioritized and financed but implementation works are yet to commence;

"ongoing project" means a project whose implementation is in progress;

"outcomes" means the expected changes or effects on the intended beneficiaries occurring as a result of project or programme implementation;

"outputs" means direct products or services stemming from the implementation of a project or programme;

"pipeline project" means a project that has been appraised and granted the necessary approvals in accordance with these and uploaded in the Public Investment Management Information System;

"pre-feasibility study" means a preliminary study undertaken to determine, analyse and select the best project option to address an identified problem;

"Procuring Entity" has the same meaning as assigned to it under the Public Procurement and Asset Disposal Act, 2015;

"Project" means a temporary developmental undertaking for the purpose of delivering specific products, services or results within a given budget and timeframe;

"Project appraisal" means an analysis of a project to establish its economic, fiscal, financial and technical viability, benefits to stakeholders and how risks associated with the project are identified and mitigated;

"project coordinator" means a public officer designated by accounting officer to oversee the implementation of an integrated project or program;

"Project Concept Note" means a document prepared for the purpose of initial appraisal of a project idea to assess its relevance and suitability for funding or progress to pre-feasibility stage in order to solve an identified problem;

"Project Cycle" means a series of sequential phases from project identification and planning; pre-feasibility and feasibility; selection and budgeting; implementation, monitoring, evaluation and reporting; closure, sustainability and impact assessment;

"project pipeline" means a database of projects that have been appraised and granted the necessary approvals in accordance with these and uploaded in the Public Investment Management Information System;

"Public Entity" has the meaning assigned to it under section 2 of the Public Procurement and Asset Disposal, 2015;

"Public Investment" means expenditure on the development or an acquisition, hiring or leasing of an asset or service(s)by the Government and its entities to deliver public goods, services or results but does not include government investments in shares and equities;

"Project Manager" means a public officer designated by an accounting officer to oversee the implementation of a project;

No.15 of 2013. "Public Private Partnership" has the meaning as assigned to it under the Public Private Partnerships Act, 2013.

"small projects" means projects estimated to cost less than or equal to 100 million shillings **or as may be determined by the Cabinet Secretary** from time to time by the time they are completed and handed over;

"State Organ" has the meaning as assigned to it under Article 260 of the Constitution;

"stalled project" means a project which has stopped being implemented or has received minimal budget allocations over the medium term which cannot facilitate meaningful progress.

"Top-down Approach" means a project implementation approach that identifies projects in response to policy objectives highlighted in national and county development plans, sectoral and strategic plans and other policy documents such as Budget Policy Statements and County Fiscal Strategy Paper; and

LN. No 34 of 2015. "value for money" has the meaning assigned to it under the Public Finance Management Regulations, 2015.

Purpose of these Regulations.

3. The purpose of these Regulations is to provide a legal framework for efficient and effective public investment management that includes project identification and planning, pre-feasibility and feasibility, selection and budgeting, implementation, monitoring, evaluation and reporting, closure, sustainability and impact assessment to ensure value for money and optimal use of public resources.

Objectives of the Regulations.

4.The main objectives of these Regulations are—

(a) to provide a standard approach in project cycle management to facilitate .the national and county governments and their entities in the project identification and planning, pre-feasibility and feasibility, selection and budgeting, implementation, monitoring, evaluation and reporting, closure, sustainability and impact assessment of viable projects that meet development needs;

(b) to establish and maintain a Public Investment Management Information System to inform decision making on public Investments;

(c) to clarify roles and responsibilities of various institutions in the Public Investment Management processes; and

(d) to enhance transparency, accountability, prudent use of public resources, and public participation.

The scope of the Regulations.

5. These Regulations shall apply to—

(a) national and county governments and their entities, including constitutional commissions, independent offices, and state organs when planning and implementing public investments;

(b) public investment projects whether wholly or partially funded through public finances, irrespective of the source; and

(c) projects considered for implementation through Public Private Partnership arrangements, in so far as the Regulations are not inconsistent with the provisions of the Public Private Partnership Act,2013.

PART II—INSTITUTIONAL FRAMEWORK IN PUBLIC INVESTMENT

Role of Parliament and county assemblies.

6. The role of Parliament and the county assemblies in public investment process shall be—

(a) to provide oversight over the budgeting process and appropriate budget estimates of revenue and expenditure as provided for by the Act; and

(b) to ensure that appropriation for public investments is only for prioritized pipelined projects.

Role of Cabinet and county

7. The Cabinet and the county government executive committee, as the case may be, shall—

executive committee.

(a) provide strategic leadership and interventions in public investment processes;

(b) issue policies required for proper, efficient and effective public investment processes; and

(c) provide necessary approvals in respect of public investment process, where required.

Role of the Cabinet Secretary of the line ministry or County Executive Committee Member of the county department

8. The Cabinet Secretaries or County Executive Committee Members shall:

a. Provide strategic leadership and interventions during implementation of public investments;

b. Provide necessary approvals for projects emanating from State or County corporations.

Responsibilities of the National Treasury.

9. (1) The National Treasury shall have the following responsibilities for both national and county governments and their entities in respect of public investment process—

(a) review these Regulations and communicate any changes to accounting officers in national and county governments and their entities;

(b) reviewing the Public Investment Management Schedules under these Regulations and communicate any changes to accounting officers in national and county governments and their entities;

(c) oversee the implementation and ensure compliance with these Regulations;

(d) formulate, develop and oversee the public investment management policies;

(e) design, develop and maintain an efficient, effective and reliable Public Investment Management Information System in accordance with regulation 28 to be used by national and county governments and their entities;

(f) administer the Public Investment Management Information System including assigning role based user and access rights to accounting officers and officers designated by them;

(g) build and strengthen the capacity of national and county governments and their entities on the use of Public Investment Management processes and systems;

(h) establish a Public Investment Management Department, which shall be the focal point for public investment management;

(i) develop and set out criteria for appraisal of project concept notes, pre-feasibility and feasibility studies;

(j) develop a public investment management information disclosure framework in accordance with the provisions of the Access to Information Act, 2016;

(k) ensure, where applicable, that financing agreements with development partners are entered into for projects that have been approved and uploaded in the Public Investment Management Information System; and

(l) issue circulars to national government and county government and their entities with respect to implementation of these Regulations.

(2) Where national government projects are concerned, the National Treasury shall be responsible for—

(a) developing and maintaining a framework for project planning, conceptual design and implementation;

(b) reviewing project concept notes for medium, large and mega projects and recommending whether or not pre-feasibility and feasibility studies should be undertaken;

(c) reviewing pre-feasibility and feasibility studies and recommending the projects for inclusion in the project pipeline;

(d) monitoring the use of Public Investment Management Information System;

(e) consolidating portfolio of public investment projects in the pipeline, which have been approved by accounting officers;

(f) approving new projects prioritized by accounting officers for funding where there is fiscal space;

(g) reporting on all ongoing projects that do not receive funding in the succeeding year to

Cabinet and the National Assembly when submitting budget estimates;

(h) preparing analytical reports based on project data in the Public Investment Management Information System to inform decision making on policy planning and budget execution;

(i) sharing project analytical reports during the Intergovernmental Budget and Economic Council for coordination; and

(j) organizing annual public investment forums for knowledge sharing.

Responsibilities of county treasury.

10. A county treasury shall have the following responsibilities with regard to public investment process—

(a) establish a Public Investment Management Unit at the county treasury, which shall be the focal point for public investment management for the county government;

(b) review Project Concept Notes for medium, large and mega projects, and recommending whether or not pre-feasibility and feasibility studies should be undertaken;

(c) build and strengthen the capacity of county government and its entities on the use of Public Investment Management processes and systems;

(d) ensure, where applicable, that financing agreements with development partners are entered into for projects that have been approved and uploaded in the Public Investment Management Information System;

(e) review feasibility studies and recommending the projects for inclusion in the project pipeline;

(f) monitor the public investment management information system to ensure that approved project pipelined;

(g) report on all ongoing projects that do not receive funding in the succeeding year to County Executive Committee and county assembly when submitting budget estimates;

(h) consolidate portfolio of public investment projects in the pipeline, which have been approved by accounting officers;

(i) approve new projects prioritized by the accounting officer for funding where there is fiscal space;

(j) prepare analytical reports based on project data in the Public Investment Management Information System to inform decision making on policy planning and budget execution;

(k) share project analytical reports with the National Treasury during the Intergovernmental Budget and Economic Council for coordination; and

(l) organize annual public investment forums for knowledge sharing.

Responsibility of the department of planning.

11. The department responsible for planning at the national government shall have the following responsibilities in respect of public investment process—

(a) convene public participation and stakeholder consultation forums in order to identify strategic national and sectoral priorities to be included in national development plans;

(b) co-ordinate development of national and sectoral development plans;

(c) build the capacity of national and county governments and their entities on Public Investment Management processes, tools and techniques;

(d) issue guidelines to guide the development of National Development Plan, County Integrated Development Plans, Sectoral and Strategic Plans;

(e) develop and maintain a framework for monitoring, evaluation and reporting on non-financial performance of projects which will be automated through the Public Investment Management Information System;

(f) carry out independent mid-term and end-term evaluations for medium, large and mega projects on a sample basis in accordance with the format provided for under the First Schedule to these Regulations;

(g) provide adequate and skilled staff for units responsible for Project Planning and Monitoring in Ministries and State Departments;

(h) undertake independent ex-post evaluation of projects on sample basis in accordance with the format provided for under the First Schedule to these Regulations;

(i) provide quality assurance on monitoring and evaluation data uploaded in the Public Investment Management Information System;

(j) prepare quarterly and annual consolidated project monitoring reports and submit to the Cabinet Secretary responsible for finance to inform policy and decision making; and

(k) prepare project analytic report for informing the public expenditure reviews and annual progress report for decision making.

Responsibility of the department of planning at county level.

12. The Department responsible for planning at the county government shall have the following responsibilities in respect of public investment process—

(a) convene public participation and stakeholder consultation forums in order to identify county, sectoral and strategic priorities to be included in county integrated development plans;

(b) coordinate development of county, sectoral and strategic plans;

(c) build and strengthen the capacity of the county government and its entities on the use of Public Investment Management processes, tools and techniques;

(d) provide adequate and skilled staff for units responsible for Project Planning and Monitoring in county governments;

(e) carry out independent mid-term and end-term evaluations for medium, large and mega projects on a sample basis in accordance with the format provided for under the First Schedule to these Regulations;

(f) undertake independent ex-post evaluation of projects on a sample basis in accordance with the format provided for under the First Schedule to these Regulations;

(g) provide quality assurance on monitoring and evaluation data uploaded in the Public Investment Management Information System; and

(h) prepare quarterly and annual consolidated project monitoring reports and submit to the County Executive Committee Member responsible for finance to inform policy and decision making.

Role of accounting officers.

13. Notwithstanding the responsibilities of the accounting officers provided for under these Regulations, the accounting officers shall further have the following responsibilities in respect of public investment process—

(a) approve and facilitate resources necessary for project pre-investment activities and effective implementation of projects;

(b) be accountable for successful implementation of projects based on key performance indicators;

(c) build and strengthen the capacity of their respective entities on the use of Public Investment Management processes tools and techniques;

(d) be responsible for efficient and effective utilization of resources that will be expended in project execution;

(e) monitor, track and report on the financial and non-financial status of projects and programmes;

(f) be responsible for all procurements to ensure the success of the project on time, on schedule and within budget;

(g) ensure that project agreements or contracts are consistent with the financing agreements for effective and efficient implementation of the project;

(h) declare all projects within their jurisdiction which are funded by development partners to the National Treasury or county treasury, as the case may be;

(i) provide the primary link and enhance collaboration between the relevant stakeholders, including Government, development partners, project financiers and coordinate implementation to ensure efficient and effective delivery of the project objectives;

(j) ensure emerging issues are addressed to attain effective implementation of the project;

(k) be responsible for monitoring, evaluation and reporting of the project including uploading and updating project monitoring and evaluation data in the system;

(l) be responsible for successful project closure and transfer of assets and liabilities in accordance with the provisions of the project contract, project document or financing agreement and any other relevant laws;

(m) update their respective websites with details of approved projects from the pipeline module of the **Public Investment Management Information System**;

(n) be responsible for carrying out end-term project evaluation upon completion of the project;

(o) ensure that projects emanating from the State or county corporation, or autonomous or semi-autonomous government agency are cleared by the Project Committees, himself or herself, and the Board of the respective corporation or agency and the relevant Cabinet Secretary or County Executive Committee Member before submission to the National Treasury or a county treasury;

(p) may appoint public officers who are immediately in charge of implementation of a project or program to be the holders of authority to incur expenditure on his or her behalf;

(q) in order to promote information sharing and coordination in public investment projects in accordance with the Inter-governmental Relations Act, 2012—

(i) participate in Sector Working Groups in both National and county levels;

(ii) submit a status report to the Intergovernmental Budget and Economic Council for coordination on all ongoing and project pipelines;

(iii) constitute joint committees in accordance with Section 23 of the Intergovernmental Relations Act, 2012; and

(r) receive recommendations from the Project Committee and make appropriate decision.

Establishment of Project Committee.

14. (1) An accounting officer in the National Government or its Entity shall establish a Project Committee comprising of appropriate officers as follows—

(a) Head of a Directorate or a Department, who shall be the chairperson;

(b) an officer from finance department;

(c) a maximum of four members appointed on ad hoc basis based on their technical knowledge and depending on the project to be implemented;

(d) one officer from any department of the National Government Ministries Departments and Agencies; and

(e) head of planning or his or her representative, who shall be the secretariat.

(2) The members shall be appointed from departments within the Ministries, departments or agencies or other relevant government agencies

Establishment of county project committee(s).

15. (1) An accounting officer in a county government or its entity shall establish a project committee comprising of the appropriate officers as follows—

(a) Head of a Directorate or a Department, who shall be the chairperson;

(b) one officer from finance department;

(c) a maximum of four members appointed on ad hoc basis based on their technical knowledge.

and depending on the project to be implemented;

(d) one member from any department of a county government Ministries, departments and agencies; and

(e) head of planning or his or her representative, who shall be the secretariat.

(2) The members shall be appointed from departments within the Ministries, departments and agencies or other relevant county government agencies;

Functions of the project committees.

16. The functions of the project committees established under Regulations 13 and 14 shall be—

(a) to review project concept notes and make recommendations to the accounting officer for decision making within twenty one days;

(b) to review project pre-feasibility and feasibility studies and make recommendations to accounting officer for decision making;

(c) to identify the potential project risks and mitigating measures not covered in the project concept note, pre-feasibility or feasibility studies;

(d) to prioritize projects based on the National Government Ministries, Departments and Agencies or county government Ministries, Departments and agencies Strategic Plan, Medium Term Plan, and national and county development plans;

(e) to recommend the mode of project financing; and

(f) to provide guidance on any changes in the project design.

PART III—PUBLIC INVESTMENT MANAGEMENT PROCESS

Investment management stages.

17. The Public Investment Management Process shall comprise of the following six distinct and sequential stages—

(a) Project Identification and Planning;

(b) Project Pre-feasibility and pre-appraisal;

(c) Project Feasibility and Appraisal;

(d) Project Selection for Budgeting;

(e) Implementation, Monitoring, Evaluation and Reporting; and

(f) Project Closure, Sustainability and Ex-post Evaluation.

Project Identification and Planning

Project Identification and Planning.

18. (1) An accounting officer shall ensure all projects are identified through stakeholders consultation process using a top-down or bottom-up process and that no project concept note is initiated for a project that is being implemented by any other national or county government agency.

(2) Any project identified shall be aligned to the national and or county development plans, sector plans and strategic plans.

(3) All projects, irrespective of the mode of financing, shall require a Project Concept Note prepared in accordance with the format specified in the Second Schedule of these Regulations using internal capacity within government.

(4) Small projects shall require only Project Concept Notes without a pre-feasibility or feasibility study and shall be approved by the accounting officer for uploading in the project pipeline.

(5) Small projects that require specialised technical solutions may proceed to pre-feasibility and feasibility studies and where such studies are required, clearance shall be sought by the accounting officer from the National Treasury or county treasury, as the case may be.

(6) Medium, large and mega projects shall require a pre-feasibility and feasibility study in accordance with the format specified under the Third Schedule and the Fourth Schedule of these Regulations.

(7) An accounting officer shall—

(a) ensure that project conceptual designs are done using the logical framework analysis and develop the logical framework matrix in accordance with the Second Schedule of these Regulations;

(b) prohibit the splitting of medium, large or mega projects into small projects with the intention of circumventing any part of the Public Investment Management process;

(c) ensure that project concept note for all projects are prepared by the relevant departments in accordance with the Second Schedule of these Regulations and submitted to the Project Committee for review and make recommendations to him or her;

(d) consider the recommendations of the Project Committee on the project concept note and make a decision;

(e) ensure that upon approval for medium, large and mega projects, the Concept Notes are submitted to National Treasury or a County Treasury for independent review and concurrence within twenty one days before conducting a pre-feasibility study;

(f) in case of a Project Concept Note emanating from a State or county corporation, or autonomous or semi-autonomous government agency, such a Project Concept Note is cleared by the Project Committee, himself and the Board of the respective corporation or agency and the relevant Cabinet Secretary or County Executive Committee Member before submission to the National Treasury or county treasury;

(g) upon approval of the Project concept note for a small project, is submitted in the project pipeline of the Public Investment Management Information System.

Project pre-feasibility and pre-appraisal

Project pre-feasibility and pre-appraisal.

19. (1) All medium, large and mega projects shall require a pre-feasibility study to identify and appraise the available alternative interventions that can be undertaken to solve an identified problem within the context of the country's strategic objectives and existing Government policy, legal and institutional framework.

(2) The pre-feasibility study shall identify projects that can potentially be delivered effectively under Public-Private-Partnership arrangement in line with the PPP Act, 2013.

(3) The pre-feasibility study shall be undertaken with internal capacity or sourced from other government institutions:

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Provided that where the accounting officer is using capacity from other government institutions, he or she shall facilitate them to undertake the pre-feasibility study.

(4) An accounting officer shall approve the use of external consultants only when such capacity does not exist within government.

(5) The pre-feasibility study shall be undertaken in accordance with the format specified under the Third Schedule of these Regulations.

(6) Pre-feasibility study report shall be reviewed by the Project Committee and recommendations submitted to the accounting officer for decision making within twenty one days.

(7) Upon approval, the accounting officer shall submit the pre-feasibility study to the National Treasury or county treasury, as the case may be, for independent review and concurrence within twenty one days.

(8) Upon clearance by the National Treasury or county treasury, the relevant accounting officer shall proceed to undertake feasibility study for the project.

(9) Projects identified under 18 (2) above shall be forwarded to the Public Private Partnership Unit for processing as per the Public Private Partnership Act, 2013.

(10) Projects found not suitable for implementation under the Public Private Partnership arrangement by the PPP Unit as per 18 (8) shall proceed to feasibility study as per these regulations.

Project feasibility and appraisal

Project feasibility and appraisal.

20. (1) To enhance prudent use of public resources on feasibility studies the accounting officer shall ensure that—

(a) the total cost of a feasibility study of a project shall not exceed 0.5% of the total project cost estimated in the pre-feasibility study;

(b) the total budget on feasibility studies shall not exceed 0.5% of the total development budget of the Vote or national or county government entity;

(c) where the threshold is exceeded, he or she seeks the approval of the National Treasury or county treasury;

(d) the criteria provided under regulation 8(1)(i) by the National Treasury is complied with, where applicable; and

(e) the person or his or her associates who conducts a pre-feasibility and or feasibility study shall not be part of the implementation of the project.

(2) The feasibility study shall be undertaken with internal capacity or sourced from other government institutions and where the accounting officer is using capacity from other government institutions, he or she shall facilitate them to undertake the feasibility study.

(3) The accounting officer shall approve outsourcing of consultants only when such capacity does not exist within government.

(4) A feasibility study for medium, large and mega projects shall be prepared detailing as a minimum, the technical feasibility, financial and economic viability, environmental and social impacts, fiscal and risk analysis together with its long-term sustainability in accordance with the format provided for under the Fourth Schedule of these Regulations.

(5) The accounting officer shall ensure that the results of the feasibility study are presented to the relevant stakeholders.

(6) The feasibility study shall be submitted to the Project Committee for review and recommendations.

(7) The Project Committee shall submit the recommendations of the feasibility study within twenty one days to the accounting officer for decision making.

(8) Upon approval by the accounting officer, the feasibility study and other project documents, including background documentation shall be submitted to the National Treasury or county treasury, as the case may be, for independent review and concurrence within thirty days.

(9) Project Concept Note for the feasibility study for a State or county corporation, or autonomous or semi-autonomous government agency shall be cleared by the Project Committee, and the Board of the respective corporation or agency and the relevant Cabinet Secretary or County Executive Committee Member before submission to the National or county treasury, Committee member for finance for independent review and concurrence within thirty days.

(10) Upon clearance by the National Treasury or county treasury the project details shall be uploaded in the Project

Pipeline of the Public Investment Management System by the accounting officer.

(11) Re-appraisal of projects may be required in either one or a combination of the following cases—

(a) where a project in the Project pipeline has taken more than three years without a budget provision;

(b) change of project scope;

(c) force majeure; or

(d) any other case justified by the accounting officer with the approval of the National Treasury or county treasury.

(12) Where the project is re-appraised the project approval process outlined in these Regulations shall apply.

Project selection for budgeting

Project selection for budgeting.

21. (1) The National Treasury or county treasury shall ensure that new projects are only considered where there is sufficient fiscal space after allocations for the implementation of ongoing projects have been made within the budget sector ceilings.

(2) The accounting officer shall ensure budgeting for public investments is in accordance with the budget guidelines issued by the National Treasury and county treasury from time to time.

(3) The accounting officer shall ensure any new project presented for funding has received the necessary approvals from the National Treasury or county treasury, as the case may be, at Project Concept Note or feasibility study stage.

(4) Before a project is included in the budget, the relevant accounting officer shall—

(a) ensure that all conditions precedent are fulfilled, including land acquisition, compensation, stakeholder management and other development partners' requirements;

(b) ensure that detailed designs are completed and relevant approvals obtained where applicable;

(c) ensure that the Project has received necessary regulatory approvals;

(d) ensure that detailed resource requirements including funding sources and personnel to operationalize the project are planned for; and

(e) ensure that the project details are captured in the project pipeline within the Public Investment Management Information System.

(5) Where the above preliminaries have not been met, the accounting officer shall only request for budget resources to meet these prerequisites in that financial year.

(6) Financing agreements with development partners shall be executed for projects that have been approved and uploaded in the Project Pipeline.

(7) An accounting officer shall ensure that projects that have fully met the conditions under paragraph 4 are allocated adequate funding in that financial year.

(8) Accounting officers shall disclose any ongoing projects that do not receive funding for the financial year to the National Treasury or county treasury, as the case may be, when submitting their budgets for the succeeding year.

(9) An accounting officer shall ensure that all ongoing multi-year projects are allocated adequate funds in accordance with the contract signed between government and third parties within the projected ceilings before a new project is allocated budgetary resources.

(10) The accounting officer in every national or county government entity, while requesting for funding, shall prioritize the projects which have already received approval based on the Project Concept Note, feasibility study, as the case may be, taking into consideration the Government's strategic initiatives, and national development priorities.

(11) The National Treasury or county treasury shall consider the pipelined projects including ongoing projects and counterpart resource requirements to inform the National Budget Review and Outlook Paper or the County Budget Review and Outlook Paper budget sector ceilings, as the case may be.

(12) Accounting officers shall only consider projects to be included in the budget which have been pipelined by the 30th June of the preceding financial year.

(13) The Sector Working Groups shall consider projects in the project pipeline based on the set criteria such as sector ceilings and fiscal strategy, in resource bidding and budget allocation.

(14) The National Treasury or county treasury shall work with the Sector Working Groups during the resource bidding and budget allocation process.

(15) Accounting officers shall ensure that project data is extracted from the Project Pipeline and budgeted for in the budgeting system.

(16) The National Treasury or county treasury shall ensure that no budget allocations are made outside the approved budget cycle and the list of projects in the project pipeline except where a Cabinet or County Executive Committee decision has been made to include the project.

Implementation, monitoring, evaluation and reporting

Implementation, monitoring, evaluation and reporting

22. (1) The relevant accounting officer shall establish a Public Finance Management Standing Committee in accordance with regulation 18 of the Public Finance Management Regulations, 2015 with the designated responsibility for monitoring budget implementation to ensure delivery of the project on time, to budget and in accordance with the design specification.

(2) The Head of the department or unit responsible for planning shall be a member of the Public Finance Management Standing Committee.

(3) In the process of discharging his or her duties under this regulation, an accounting officers shall—

(a) ensure that all contracts signed by the procuring entities are uploaded in the Public Investment Management Information system;

(b) ensure that project procurement principles are strictly adhered to as enshrined in the Constitution, the Public Finance Management Act, 2012, Public Procurement and Asset Disposal Act, 2015 and the Regulations made thereunder and any other related legal instruments;

(c) ensure that any certificate raised for purposes of paying a contract shall be uploaded in the Public Investment Management Information system;

(d) integrate project requirements in the annual work-plan, annual procurement plan and cash flow plan, which will form the basis for budget execution and performance contracting;

(e) appoint a contract implementation team as provided for in section 151 of the Public Procurement and Asset Disposal Act, 2015:

Provided that where an accounting officer has not appointed a contract implementation team, he or she shall designate a project manager or a project coordinator with relevant technical expertise to implement the project as per the project implementation plan.

(f) ensure that no certificate shall be paid by the procuring entity unless that certificate has been uploaded in the Public Investment Management Information system;

(g) ensure that project schedules in these Regulations are strictly adhered to and funds requested in accordance with Annual Work-plans, Annual Procurement Plan and Annual Cash Flow Plans and any implementation delays and challenges are captured in the Public Investment Management Information System;

(h) ensure that all public investment projects are procured and delivered on time, to budget and in accordance with the design specification;

(i) ensure that all project related tax exemptions shall be processed through the project exemptions module in the Public Investment Management Information System before submission to the Cabinet Secretary or County Executive Committee for approval;

(j) ensure that projects are monitored against plans, targets, and milestones set out in the Project Implementation plan and the signed project contract or project implementation document;

(k) ensure that project data is updated on the Public Investment Management Information System at least on a monthly basis and relevant reports are generated from this system;

(l) submit consolidated project performance report to the National Treasury or county treasury on a quarterly and annual basis within the deadlines provided in the Public Finance Management Act;

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(m) disclose reasons for any stalled projects and propose recommendations to the National or County Treasury;

(n) assess its internal capacity to manage a project and where such capacity is inadequate, seek assistance from other government entities before hiring external expertise;

(o) ensure that every project work-plan includes a monitoring plan for financial and non-financial data clearly providing for the following—

(i) monthly progress implementation reporting;

(ii) cumulative quarterly progress implementation reporting;

(iii) cumulative annual progress implementation reporting; and

(iv) risk monitoring and assessment of emerging risks and mitigation measures;

(p) enforce the continuous update of project implementation in accordance with the monitoring plan in the Public Investment Management Information System;

(q) evaluate projects during implementation in accordance with these Regulations as provided for in the First Schedule of these Regulations;

(r) ensure evaluation reports are uploaded in the Public Investment Management Information System.

(4) The accounting officer shall assess the internal capacity to manage a project and where such capacity is inadequate seek assistance from other government entities before hiring external expertise.

(5) For project implementation through multiple agencies, a project implementation team shall be established with representation from the agencies charged with the responsibility of monitoring and evaluation and ensuring that all project outputs are efficiently and effectively met.

SECRET

(6) Projects implemented through multiple agencies shall require the establishment of a Project Steering Committee comprising of accounting officers from relevant national or county government entities and each accounting officer shall ensure that project data is captured in the Public Investment Management Information System for the components they are responsible for and the Project Steering Committee shall provide strategic guidance for project implementation.

(7) The Project Steering Committee may appoint one of the procuring entities to procure the project on their behalf, in accordance with the Public Procurement and Asset Disposal Act, 2015.

(8) In cases where a project is contracted to foreign contractors and technical assistance, accounting officers shall ensure capacity and skills transfer to local staff during the entire project implementation period is in accordance with the Public Procurement and Asset Disposal Act, 2015 and the Regulations made thereunder.

(9) The cumulative quarterly project implementation report shall be submitted to National Treasury or county treasury by the accounting officers in the Public Investment Management Information System every quarter on or before the 15th day of the succeeding month.

(10) The National Treasury or county treasury shall analyse cumulative quarterly project implementation report submitted by accounting officers in the Public Investment Management Information System every quarter and prepare a consolidated project implementation status report on or before the 30th day of the succeeding month to inform the budget execution process and public investment decisions.

(11) The accounting officer shall, where necessary, approve any proposed project adjustments or variations in accordance with the provisions in the Public Procurement and Asset Disposal Act, 2015andthe resultant expenditure shall be contained within the appropriation under the respective Vote.

Project Reporting

Project reporting.

23. (1) An accounting officer shall ensure that the project progress report and status is updated regularly but at least on a monthly basis and in line with the monitoring plan.

(2) An accounting officer shall prepare and submit project completion reports and submit them to the National Treasury or county treasury, as the case may be, in standard templates provided in the Fifth Schedule of these Regulations through the Public Investment Management Information System.

SECRET

(3) The National Treasury or county treasury shall prepare a consolidated quarterly cumulative and annual project reports incorporating the comments from the department responsible for planning with key recommendations and submit it to Cabinet to inform planning, policy and budgeting of public investments.

(4) An accounting officer shall prepare and submit a report on quarterly and annual basis on the performance of the projects and any interventions and submit to National Treasury or County Treasury in standard templates provided in the Sixth Schedule of these Regulations through the Public Investment Management Information System.

(5) Ad-hoc or any other reports necessitated by unforeseen circumstances shall be prepared and attached in the Public Investment Management Information System by the responsible accounting officer.

(6) An accounting officer shall prepare all project related exemptions and the technical assistance report and submit through the Public Investment Management Information System and any request for project related tax exemptions shall be approved by the accounting officer in the Public Investment Management Information System in accordance with the format provided for under the Seventh Schedule a and b of these Regulations.

(7) All reports in the Public Investment Management Information System shall be published and publicized by the accounting officer in accordance with the provisions of the Act.

Project closure, sustainability and ex-post evaluation

Project closure.

24. (1) An accounting officer shall receive a project completion certificate for all projects and a project completion report from the relevant departments confirming that the project has met all laid down standards and specifications set out in the contract signed between the accounting officer and third parties and the completion certificate shall be prepared in the format provided for under the Eighth Scheduleof these Regulations.

(2) An accounting officer shall upload the project completion certificate and the project completion report in the Public Investment Management Information System.

(3) Where a project implementation unit exists, and the project either comes to an end or is terminated, the accounting officer shall ensure that project technical and financial closure are done in accordance with the financing agreement, the Act, the Public Procurement and Asset Disposal Act, 2015, and the Public Audit Act, 2015.

(4) The relevant accounting officer shall ensure project accountability closure reports including final financial report and audit report are uploaded in the system.

(5) The project is deemed to be successfully completed when the project cycle comes to an end or when the contractor has fully discharged his or her responsibility and handed over the project to the relevant accounting officer.

(6) The relevant accounting officer shall record the asset in the asset register and indicate the actual value of the asset and he or she shall ensure that this asset is also recorded in the relevant asset management information system.

(7) All project contract implementation, closure and termination procedures shall be guided by the Public Procurement and Asset Disposal Act, 2015.

(8) All project financing agreements shall have an exit provision clearly providing for conditions under which each party may terminate or exit the financing agreement and its implications on the specific project agreement(s).

(9) Any contract signed pursuant to a financing agreement shall be aligned to the terms and conditions of the agreement and an accounting officer who intends to terminate the contract shall be guided by the provisions of the financing agreement, the project contract and other relevant laws while making recommendations to the Cabinet Secretary before terminating the project contract.

(10) Where a contractor has failed to meet his or her obligations as per the contract or project documents, the accounting officer shall ensure the contractor is sanctioned.

(11) An accounting officer shall, under either of the circumstances listed in paragraphs (8), (9) and (10), endeavour as a first step to negotiate with third parties to terminate the contract in accordance with the provisions in the contract or loan agreement,

(12) Where a contractor or a development partner initiates a termination of a project contract or a project, as the case may be, the accounting officer shall proceed in accordance with the exit provisions provided in the contract or the financing agreement.

(13) Plant and equipment or any other asset purchased using public funds shall be handed over to the government upon completion of the project and recorded in the asset management information system.

(14) Upon completion of the project, plant and equipment or any other asset purchased by a contractor and exempted from

tax, such a contractor shall pay the taxes due to the asset promptly in accordance with the relevant law.

(15) Upon exit or termination of a contract or a project before completion, the accounting officer shall ensure the following—

(a) a certificate of works in progress and a termination report is issued by the relevant department;

(b) where applicable, the project manager submits an exit report;

(c) a final evaluation is undertaken and a report is submitted;

(d) the statutory obligations are settled in accordance with the relevant laws;

(e) the residual obligations are settled in accordance with the contractual agreement and the relevant laws;

(f) the accomplished and the unaccomplished works are recorded in the Public Investment Management Information System and the asset management information system for assets; and

(g) where termination was due to lack of budgetary provisions, once finances are available, the projects are prioritized and procured in accordance with the relevant laws.

Project sustainability.

25. (1) An accounting officer shall ensure that completed projects continue providing the intended services and benefits by ensuring that—

(a) the intended stakeholders are engaged throughout the life of the project;

(b) regular and periodic maintenance of assets is done post completion;

(c) there is availability of adequate resource capacity;

(d) reports for regular and periodic maintenance are compiled and uploaded in the financial management information system for assets including any key recommendations made thereof.

(2) An accounting officer shall ensure scheduled routine maintenance is carried out and for such scheduled routine maintenance the public investment management process shall apply.

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Project ex-post evaluation.

26. (1) An accounting officer shall, within five years after project completion, undertake a project ex-post evaluation on a sample basis and submit a report to the National Treasury or county treasury, as the case may be, and copy to the department responsible for planning in a standard template provided in the First Schedule of these Regulations through the Public Investment Management Information System.

(2) An accounting officer shall allocate adequate resources for undertaking project ex-post evaluation within the ceilings of the vote.

Establishment of the Resource Allocation Panel.

27. (1) The National Treasury or county treasury, as the case may be, shall establish a Resource Allocation Panel to review resource allocations by Sector Working Groups and make recommendations.

(2) The Resource Allocation Panel referred to under paragraph (1) shall be situated at the National Treasury or county treasury, as the case may be, and shall consists of the following members—

(a) Director of Budget or his or her equivalent in case of county government, who shall be the Chairperson;

(b) Public Investment Management Unit;

(c) Macro and Fiscal Affairs Department or its equivalent in county government;

(d) Resource Mobilization Department or its equivalent in county government;

(e) Intergovernmental Fiscal Relations Department or its equivalent in county government;

(f) Budget Department, being the Secretariat; and

(g) any other officer of the National Treasury appointed by the accounting officer of the National Treasury.

Functions of the Resource Allocation Panel.

28. The Resource Allocation Panel shall, among other functions—

(a) review the prioritized projects in the pipeline;

(b) review budget and project implementation documents for ongoing projects;

(c) review absorption capacity for financed projects;

(d) review performance of ongoing projects based on reports from Public Investment Management Unit and any other reports;

(e) review proposed budget allocations for compliance with budget circulars;

(f) ensure overall ceilings as provided in the fiscal framework are maintained including medium term ceilings;

(g) review resource allocations by the Sector Working Groups based on government priority programmes and make recommendations to Principal Secretary of the National Treasury or the chief officer of a county treasury; and

(h) ensure that all conditions for project readiness such as land acquisition and project detailed designs are addressed, where applicable, before allocation of resources or signing of financing agreements.

PART IV—PUBLIC INVESTMENT MANAGEMENT INFORMATION SYSTEM

Investment Management Information System.

29. (1) The National Treasury shall be responsible for designing and maintaining an efficient, effective and reliable Public Investment Management Information System.

(2) The Public Investment Management Information System shall automate the public investment management processes and shall be used for managing the whole project cycle.

(3) The National Treasury shall be responsible for overall Public Investment Management Information System administration and shall assign role based user and access rights to accounting officers of national government and county governments and their entities.

(4) The National Treasury shall ensure that projects uploaded in the project pipeline of the Public Investment Management Information System are issued with unique

identifier codes which shall be mapped to the Standard Chart of Accounts.

(5) Only projects processed, appraised and pipelined through the system shall receive public funding including Appropriation in Aid.

(6) All project information, including approvals shall be reported through the Public Investment Management Information System.

(7) The Public Investment Management Information System shall provide for a public interface where the public will be able to access project information in accordance with the Access to Information Act, 2016.

PART V—MISCELLANEOUS PROVISIONS

Exemption and amendment.

30. (1) A project may, under exceptional circumstances and in accordance with section 21 of the Act, be exempted from the requirements of these Regulations by an accounting officer with the approval from the National Treasury or County Treasury, as the case may be.

(2) An accounting officer may amend project details in the project pipeline in the Public Investment Management Information System subject to approval from the National Treasury or County Treasury, as the case may be.

Handling of disputes.

No. 2 of 2012.

31. Any disputes between the two levels of Government arising from the implementation of these Regulations shall be handled in accordance with section 35 of the Intergovernmental Relations Act, 2012.

Non-compliance with these Regulations.

32. A person commits an offence where that person fails to comply with the provisions of these Regulations and shall be liable on conviction to a term of imprisonment not exceeding five years or to a fine not exceeding ten million shillings, or to both.

Transition and savings

33. The savings and transitional provisions in these Regulations shall be as specified in the Ninth Schedule of these Regulations.

SECRET

FIRST SCHEDULE

[Regulations11(f)&(h), 12(e)&(f), 22(4)(p) & 26(1)]

PROJECT EVALUATION REPORT TEMPLATE

Executive Summary
Section 1: Introduction
a) Background
Describe the background of the project briefly
b) Scope of evaluation
c) Evaluation methodology
d) Limitations of the evaluation
Section 2: Summarize the Findings and Analysis related to the following:
a) Project performance assessment
b) Relevance of the project design: Did the project address/respond to the identified objective/s. Show how if it did?
c) Effectiveness in the achievement of outcomes and outputs: Did the project achieve the objective it was meant to achieve? Explain how?
d) Efficiency in terms of timelines and resource use: Were the desired results achieved in time, budget and the right quality? Explain.
e) Impact and progress towards the achievement of the developmental objective: What are the effects occurring during implementation, completion, and during utilization of the project outputs (this could be intended or un-intended effects)? Did the project cause the effects (contributory or attributable)? Explain.
f) Sustainability in terms of financial, institutional and technical capacities, partnerships with stakeholders, environmental and social sustainability: what measures are put in place to ensure that the project implementation is completed and how would the project allow continued flow of benefits up to its full economic life? How were emerging issues addressed?
g) Any other findings in terms of unanticipated or additional outcomes.
Section 3: Summarize the lessons learnt and recommendations related to the following areas:
a) Relevance of the project design.
b) Effectiveness in the achievement of outcomes and outputs
c) Efficiency in terms of timelines and resource use

d) Impact and progress towards the achievement of the developmental objective
e) Sustainability in terms of financial, institutional capacities, partnerships with stakeholders, environmental and social sustainability.
f) Other findings in terms of unanticipated or additional outcomes

SECOND SCHEDULE

[Regulation 18(3), (7) (a) & (c)]

PROJECT CONCEPT NOTE TEMPLATE

SECTION 1: PROJECT PROFILE			
Project Name:			
Project Reference Number:			
Ministry / County Department:			
Implementing Agency (MDA/CDA):			
Initiating Department / Division / Section / Unit:			
Budget Vote (where applicable):			
Estimated Project Cost:			
MTEF Sector:			
Accounting Officer:			
Official Contact Details (Provide email, telephone number, postal and physical address):			
Project Threshold:			
Project Geographic Location (Provide GPS Coordinates here) :			
County:	Sub-County:	Ward:	Village:
Planned Start Date:			
Planned End Date:			
Date of Submission:			

SECTION 2: PROJECT BACKGROUND
1. Situation Analysis
Provide a background to the project idea: a) Briefly describe the current situation that rationalizes the project b) Briefly describe past and on-going interventions to address the situation; quote official statistics including past trends to support your narrative, where applicable.
2. Problem Statement
Provide details of the problem to be addressed in terms of challenges, constraints and gaps: 1. Nature of the problem 2. Scope of the problem (How widespread or the magnitude of the problem) 3. State the likely causes and effects of the problem both direct and indirect. 4. Provide any alternative options that may be available to address the problem.
3. Relevance of the Project Idea
Justify the need for the proposed project by: a) Linking the project to the National / County Development Plan strategic goals and objectives that the proposed project is expected to contribute to; b) Linking the proposed project to Sector strategic objectives and strategies by describing the sector outcomes that the project is expected to contribute to;

c) Show the need for the project by analysing and describing the quantitative indicators of demand for the services or goods to be delivered by project using readily available information.

SECTION 3: SCOPE OF THE PROJECT

Describe the scope of the project by defining the boundaries of the project in terms of the deliverables of the project or the work that needs to be accomplished to deliver the product, service or result required.

SECTION 4: LOGICAL FRAMEWORK

This section show the result chain in a logical manner with a detailed description of the project goal, objectives, outcomes, outputs and inputs

a) Goal

State the goal in the MTP/CIDP the project intends to achieve. Also define the indicator that will be used to measure success of the project against the goal and briefly explain how information on this indicator shall be obtained.

b) Project Objectives/Outcomes

Define the project objectives and the corresponding outcomes. These include the effects that will follow from the utilization of products or services (outputs) delivered by the project. These could be the eventual benefits to society that the project interventions are intended to achieve and are reflected in terms of what people will be able to do better, faster, or more efficiently, or what they could never do before.

For each project outcome identified, define at least one indicator that will be used to measure performance of the project against the relevant outcome and briefly explain how information on this indicator (s) shall be obtained

c) Proposed Project Outputs

Describe the direct outputs that the project is expected to deliver. Outputs are the immediate and concrete consequences of the implemented activities and resources used. For each project output identified, define at least one indicator that will used to track progress and the means of verification.

d) Project Activities and Inputs

For each output identified describe the major activities that should be implemented together with the inputs or resources required to deliver the planned results. To obtain the results of a project a number of activities have to be implemented using various resources or inputs.

e) Project Logical Framework Matrix

Narrative	Indicators	Sources/Means ofverification	Assumptions
Goal (MTP/CIDP)			
Objectives / Outcomes			
Output			
Key Activities			
NB: Add additional rows for outcomes, outputs and activities as necessary			

SECTION 5: INSTITUTIONAL ARRANGEMENTS

1. Institutional Mandate

Describe how the project is linked to the mandate of the institution.

2. Management of the Project

Demonstrate the technical, managerial and financial capacity of the implementing agency to deliver the project. This can also be better expressed by showing previous experience in handling projects of the same magnitude.

3. Project Implementation Plan

Describe the sequence of activities overtime which should set clear benchmarks and timelines that can be used to track the overall project.
4. Monitoring and Evaluation
Describe how the project will be monitored and evaluated in order to ascertain the progress towards achieving its intended objectives. Indicate the institutional framework for tracking project progress.
5. Risk and Mitigation Measures
Describe the potential risks that can derail the project, the likelihood of occurrence, the impact of such risks and strategies for mitigating them.
6. Project Sustainability
Describe how the project will continue providing the intended services and benefits to the beneficiaries after the project is completed. Describe how ownership will be fostered among stakeholders. Include anticipated annual operations and maintenance costs and the source of financing.
7. Project Stakeholders and Collaborators
Describe the stakeholders that the project has to constantly engage and their level of influence and interest among others.
8. Project Readiness
1. Describe how prepared the implementing agency to deliver the project by providing the following information: a) Has the project preliminary designs been prepared? b) Has land been acquired (site readiness)? c) Has necessary regulatory approvals been obtained? d) What government agencies and stakeholders will be involved in the preparation of the Project and what roles they will play in project development and approval? e) Have you undertaken consultations with other Government agencies in order to improve synergy and avoid duplication of effort? 2. If the answer is no to any of the above questions, then confirm whether this is part of the project implementation plan
9. FINANCIAL ANALYSIS
A. Estimated Total Project Cost KShs:

FY 1	FY 2	FY 3	FY 4	FY 5
Total (KShs.)	Total (KShs.)	Total (KShs.)	Total (KShs.)	Total (KShs.)

B. Indicate the proposed financing options for the project;
a) Government of Kenya only b) Development partner only c) GoK and Development Partner d) Public-Private Partnership
C. Provide a breakdown of estimated total cost of the project
D. Provide estimated average annual personnel cost, annual maintenance cost, operation cost and revenues where applicable; (This should be attached as an annex to this PCN)

SECRET

THIRD SCHEDULE

[Regulations 18(6) and 19(4)]

PRE-FEASIBILITY STUDY TEMPLATE

SECTION 1: PROJECT PROFILE			
Project Name:			
Project Reference Number:			
Date of Approval of the Concept Note:			
Ministry / County Department:			
Implementing Agency(ies) (MDA/CDA):			
Initiating Department / Division / Section / Unit:			
Budget Vote (where applicable):			
Estimated Project Cost:			
MTEF Sector:			
Accounting Officer:			
Official Contact Details (Provide email, telephone number, postal and physical address):			
Project Threshold:			
Project Geographic Location (Provide GPS Coordinates here):			
County:	Sub-County:	Ward:	Village:
Planned Start Date:			
Planned End Date:			

Section 1: Project Background

1. Situation Analysis

Provide a background to the project idea:

a) Briefly describe the current situation that rationalizes the project
b) Briefly describe past and on-going interventions to address the situation; quote official statistics including past trends to support your narrative where applicable.

2. Problem Statement

Provide details of the problem to be addressed in terms of challenges, constraints and gaps:

a) Nature of the problem
b) Scope of the problem (How widespread or the magnitude of the problem)
c) State the likely causes and effects of the problem both direct and indirect.

3. Relevance of the Project Idea

Justify the need for the proposed project by:

a) Linking the project to the National / County Development Plan strategic goals and objectives that the proposed project is expected to contribute to;
b) Linking the proposed project to Sector strategic objectives and strategies by describing the sector outcomes that the project is expected to contribute to;
c) Show the need for the project by analyzing and describing the quantitative indicators of demand for the services or goods to be delivered by project using readily available information.

Section 2: Strategic Option Analysis

a) Description

Assess a range of alternative options available for addressing the identified problem by:

(i) Exploring alternative options by narrowing the analysis to at least 3 alternative strategies to achieve the intended objectives.
(ii) Comparing the identified alternatives using qualitative and quantitative listing of advantages and disadvantages using a multi-criteria analysis including technical, environmental, social, legal and administrative analysis.
(iii) Undertaking a cost benefit analysis or cost effectiveness analysis for the identified alternatives using the economic, financial, risk and distributional analysis.
(iv) Assess the option of undertaking the project as PPP as per PPP act 2013 if PPP method

has is likely to offer better value for money compared to implementing the project under the traditional public procurement method.
b) Potential Options List all potential options for solving the problem identified. Then complete the following sections for each option:
i) Option 1 <Name-of-Option>
a) Description Provide a detailed description of the option and list its core components. Describe the purpose of the option and explain how it can address the problem identified.
b) Assessment Describe the methods used to determine the likelihood that the option will meet all the requirements listed above. For each method, describe how it was or will be undertaken and the quality of the result.
c) Results Use the following table to score the results of the assessment and describe the methods used:

Option	Pre-feasibility Score	Assessment Method

d) Risks

Describe any risks associated with implementing this option by completing the following table:

Risk Description	Risk Likelihood	Risk Impact	Actions Required to Mitigate Risk

e) Issues

Describe any issues associated with implementing this Option by completing the following table:

Issue Description	Issue effect on the project	Actions Required to Resolve Issue

f) Assumptions List any assumptions made when assessing the pre-feasibility of this Option. **Repeat the above process for each option**
ii) Option 2 <Name-of-Option> Repeat as appropriate
iii) Option 3<Name-of-Option>Repeat as appropriate
Section 3: Pre-feasibility Ranking

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a) Pre-Feasibility Ranking

Rank the overall results of the pre-feasibility Assessment by completing the following sections.

b) Ranking Criteria

List the criteria used to rank the identified options and describe the scoring/weighting mechanism used to produce an overall result.

c) Ranking Scores

List the criteria, scores, weights, and total scores for each solution in the following table

	Option 1			Option 2			Option 3		
Criteria	Score	Weight	Total	Score	Weight	Total	Score	Weight	Total
Total Score									

d) Pre-Feasibility Result

Based on the table above, identify the option with the highest Overall Score, as this is the option most likely to solve the problem identified.

Section 4: Costs

a) Updated Project Costs

Update estimates to the project's total capital costs.
The estimates of the project's total capital cost should be as updated to reflect the realities of the pre-feasibility study. Please provide the source of information and justification for the amount stated

Section 5: TORs on Feasibility Study

From the findings of the pre-feasibility study develop terms of reference to guide the feasibility study

Appendix

Supporting Documentation

Attach any documentation you believe is relevant to the Pre-Feasibility Study, including:

a) Market research documents and statistics
b) Detailed problem analysis and documentation of requirements
c) Risk assessment reports
d) Other relevant information or correspondence

SECRET

SECRET

FOURTH SCHEDULE

[Regulations 18(6) and 20(4)]

SECRET

FEASIBILITY STUDY TEMPLATE

SECTION 1: PROJECT PROFILE			
Project Name:			
Project reference number:			
Date of Approval of the Pre-Feasibility:			
Ministry / County Department:			
Implementing Agency (MDA/CDA):			
Initiating Department / Division / Section / Unit:			
Budget Vote (where applicable):			
Estimated Project Cost:			
MTEF Sector:			
Accounting Officer:			
Official Contact Details (Provide email, telephone number, postal and physical address):			
Project Threshold:			
Project Geographic Location (Provide GPS Coordinates here):			
County:	Sub-County:	Ward:	Village:
Planned Start Date:			
Planned End Date:			

Executive Summary
In this section of the template, describe any key headline information from the components of the feasibility assessment the options evaluated, key results and recommendations.
Section 1: Introduction
Describe the following : a) Project Background: Rationale and genesis, b) Objectives of the feasibility study c) Approach and methodology of the feasibility study d) Organization of the feasibility study
Section 2: Market/ Demand Analysis
This section assesses the need for public investment which will involve the elements listed below: a) **Problem Statement.** Describe the problem to be addressed in terms of challenges, constraints and gaps giving the (a) Nature of the problem;(b) Scope of the problem (How widespread or the magnitude of the problem) and (c) State the likely causes and effects of the problem both direct and indirect. b) **Relevance of the Project Idea**. Justify the need for the proposed project by:(a) Linking the project to the National / County Development Plan strategic goals and objectives that the proposed project is expected to contribute to;(b) Linking the proposed project to Sector strategic objectives and strategies by describing the sector outcomes that the project is expected to contribute to;(c)Show the need for the project by analyzing and describing the quantitative indicators of demand for the services or goods to be delivered by the project using empirical data. c) **Proposed Project Interventions.** Describe the project investments / outputs that need to be undertaken to address the problem as per recommendations of the pre-feasibility study d) **Stakeholders.** Identify the key stakeholders that are likely to be affected by the interventions. e) **Demand analysis.** Identify the need for public investment by assessing: 1. Current demand (based on statistics provided by service suppliers/ regulators/ ministries / national and county statistical offices for the various types of users); 2. Future demand (based on reliable demand forecasting models) in both the scenarios with and without the project; and

SECRET

3. The factors that constrain demand including government regulations, technological developments etc.
Section 3: Technical or Engineering Analysis
A summary of the proposed project solution shall be presented with the following headings a) **Location:** provide the geographical coordinates of the location of the project including a graphical illustration (map). Availability of land is a key aspect: evidence should be provided that the land is owned (or can be accessed) by the beneficiary, who has the full title to use it, or has to be purchased (or rented) through an acquisition process. In the latter case, the conditions of acquisition should be described. The administrative process and the availability of the relevant permits to carry out the works should also be explained. b) **Technical design:** description of the main works components, technology adopted, design standards and specifications. Key output indicators, defined as the main physical quantities produced (example kilometres of pipeline, number of overpasses, number of trees planted, etc.), should be provided. c) **Production plan:** description of the infrastructure capacity and the expected utilization rate. These elements describe the service provision from the supply side. Project scope and size should be justified in the context of the forecasted demand. d) **Costs estimates:** estimation of the financial needs for project realization and operations. Provide the basis for cost estimates. What financial contingencies are expected? e) **Implementation timing:** a realistic project timetable together with the implementation schedule should be provided including, for example, a Gantt chart (or equivalent) with the works planned. A reasonable degree of detail is needed in order to enable an assessment of the proposed schedule.
Section 4: Environmental and Social Impact Analysis
Describe and specify the economic effects of environmental norms and possible compensations for ecological damages. Key questions to address: a) What are the likely environmental impacts from undertaking project? b) What is the cost of reducing or mitigating the negative impacts? c) Evaluation of the environmental impacts and risks with and without the project. d) Technical measures are taken to reduce these impacts? e) Are there alternative ways of delivering the required service or the good without incurring these environmental costs? f) What are the costs of these alternatives? g) What is the cost of an environmental impact assessment? h) What are the costs of permits and approvals required from environmental protection agencies? i) What contractual provisions are needed to reset the project in cases of environmental effects escalating beyond control? j) What is the cost of resettlement? k) What are the non-market costs and benefits that need to be taken into account in the viability analysis? l) How will the project impact Small and Micro Enterprises, local community income, health, land value and social welfare including job creation prospects?
Section 5: Human Resources and Administrative Support Analysis
Point out the human resource requirements for implementation and operation, in terms of quantities and specialties; identify the sources of the work force. Determine the management capacity and the functional structure of the operating entity. Key issues to be addressed: a) What are the managerial and labour needs of the project? b) Does organization have the ability to get the managerial skills needed? c) What are wage rates for labour skills required? d) Are manpower requirements by category reconciled with availabilities and project timing?
Section 6: Institutional and Legal Analysis
This studies the legal restrictions that may obstruct or impede project implementation or operation. Factors to consider include; a) What are the legal or regulatory issues that could be detrimental or assist the project? b) Is the entity that is supposed to manage the project properly organized and its management adequately equipped to handle the Project? c) Are the capabilities and facilities being properly utilized? d) Is there a need for changes in the policy and institutional set up?

e) Outside this entity, what changes may be needed in policies of the National and County Governments?
f) What are the legal and regulatory requirements expected before the project is implemented?
g) What are the risks, legal and regulatory obligations that could increase costs or decrease the benefits?
h) Does the institution have requisite skills and capacity in line with the project requirements?
i) Are there suitable incentives or penalties in place to ensure project delivery is on time and within the budget?
j) Are there critical governance issues that may affect implementation?

Section 7: Financial Analysis

Describe the financial costs and benefits at market prices and state alternative financial leverage methods;
a) Integration of financial and technical variables from demand, technical, and management analysis
b) Construct cash flow profile of project

Key questions:

For Commercial Case
a) What is relative certainty of financial variables?
b) What are sources and costs of financing?
c) What are minimum cash flow requirements for each of the stakeholders?
d) What can be adjusted to satisfy each of the stakeholders
e) What is the internal rate of return and net present value?
f) What is the minimum net cash flow requirements over the life of the project?
g) What are the balance sheet projections?
h) What is the projected profit or loss?
i)

Section 8: Economic and Social Evaluation Analysis

Economic adjustments from financial data using conversion factors; after that costs and benefits are appraised from the point of view of the entire economy.
a) Examines the project using the whole country as the accounting entity
b) Evaluation of externalities including environmental
c) What is the expected value of economic net benefits?
d) What are the primary economic costs and benefits of the project?
e) Describe the sources of costs and benefits?
f) What are the macro-economic growth effects, spills-over effects, or distributional impacts of the project?
g) What is the net present value of economic benefits? (KShs.)
h) What is the Economic Rate of return?
i) What is the Economic Internal Rate of return?
j) What is the cost-effectiveness analysis? (How do the cost of outcomes (effects) of two or more causes of action compare? How do the net costs of a project or service compare to the outcomes (benefits) generated).

Section 9: Distributional Analysis

The project is appraised from the point of view of stakeholders receiving economic benefits or costs. Economic externalities have to be calculated and distributed among different actors (stakeholders)

What is done:
a) Identification and quantification of extra-economic impacts of project
b) Distributive Appraisal
c) Income, Cost, and Fiscal Impacts on various stakeholders
d) Poverty Alleviation and Political Necessities
e) Basic Needs: Evaluate the impact of project on achieving basic needs objectives.

Key Questions
a) In what ways does project generate beneficial and cost impacts on stakeholders?
b) What stakeholders could the project impact?
c) Who benefits and who pays the costs?
d) What are the basic needs of the society that are relevant in the country?
e) What impact will the project have on basic needs?
f) What alternative ways are there to generate desirable social impacts?

g) Is project relatively cost effective in generation of desirable social impacts?
Section 10: Risk (Uncertainty) and Sensitivity Analysis
The flow of costs and benefits throughout the project life is uncertain. Given that uncertainty, consideration has to be given to the costs that those risks imply. The objective of this module is to simulate various scenarios and generate guidance on how to reduce the risk exposure through relevant contractual clauses: The questions that need to be answered are: a) What are the major risks that may affect project? b) How will the project be affected if the risk event materialize? c) What are the possible mitigation measures needed? d) How sensitive are the assumptions used in the financial and economic models in an environment that differs significantly? e) What are the political risks involved?
Section 11: Updated Project Costs:
Update the projects costs to reflect the realities of the feasibility study and provide the detailed cost estimates in this section. Provide a detailed cash flow plan per year for the entire life of the project.
Section 12: Annexes
Attach detailed technical and engineering designs, plant prototypes designs etc, financial and economic models and any supporting documents.

SECRET

FIFTH SCHEDULE

[Regulation 23(2)]

PROJECT COMPLETION REPORT TEMPLATE

Section 1: General Project Information
a) Background
b) Post-implementation review objectives and scope
c) Post-implementation review team members
Section 2: Findings
a) Management effectiveness
b) Quality of outputs
c) Cost efficiency
d) Schedule
e) Unplanned side-effects
f) Residual risks
Section 3: Administrative Closure and Accomplishments
a) Performance metrics
b) Completion criteria
Section 4: Outstanding Issues/Open Issues
Actions required to address them.
Section 5: Lessons Learned
Recommendations going forward.
Section 6: Actions required to close the project.
Describe the actions needed to close the project including but not limited to the following: a) Close all open contracts in accordance with their terms and conditions. b) Hand over project deliverables. c) Hand over project documentations including copyrights, intellectual property, manuals, administrative rights and source codes among others. d) Handover technical designs where applicable. e) Payment of contractor and suppliers f) Handover or surrender of remaining financial and non-financial resources. g) Communications required to be done to project stakeholders on project closure.

SIXTH SCHEDULE

[Regulation 24 (4)]

QUARTERLY/ANNUAL PROJECT PROGRESS REPORT TEMPLATE

Project Code & Title	Project Timelines		Total Project Cost	Actual cumulative Expenditure	Expenditure Current FY	Outstanding Project Cost	Total Allocations to Date	Financing Current FY	Projections			Project Expected outputs	Target	Achievement to Date (% Completion)	Challenges /Issues Raised	Project Status	Recommendations
	Start Date	End Date	(a)	(b)		(a-b)			FY1	FY2	FY3						

SEVENTH SCHEDULE (a)

[Regulation 23 (6)]

PROJECT TAX EXEMPTION SCHEDULE (LETTER BASED)
(As per guidelines/Framework circular No. 9 of 2018)

Fields	Description
Project under implementation:	Project Title...................... Financing Agreement/Memorandum of Understanding....... Date signed by The National Treasury.......... Project start Date...... Project End Date......
Project Implementing Agency/MDA Contacts:	Project Implementing Agency........ Implementing agency KRA PIN......... Postal address........ Email address...... Telephone number......
Project Contractor/Agent Contact:	Contractor name.... Contractor KRA PIN.... Postal address... Email address... Telephone number...... Office location........
Ministry Responsible:	Responsible Ministry name.... Accounting Officer recommendation............... Designation of recommending officer if not Accounting Officer .... Reference of Authority letter............. Postal Address..... Email Address... Telephone Number.... Date of recommendation ....
Funding	Funding Source Name.......... Funding type.....................(Loan/Grant) Funding Mode.................(Revenue/AIA)

Fields	Description
	Repaying Agency…………………
Project Master list (The National Treasury):	Master list number………………… Approval date……………… Approving authority……………… Commencement date…………………… Expiry date……………………………………….. List of goods/Services……………
Consignment:	Name of the consignee…… Consignment number… Port of origin of the goods…… Country of origin of the service providers…. Description of the goods…….. Bill of lading/invoice/airway bill….. Value of consignment…….. Port of entry……… Supplier's Name…….. Confirmation that goods/services in the master list……… (Yes or No) Explanation if consignee is different from contractor/Agent………..
Tax exemptions for imported goods/services:	Import duty……….. Exercise duty……… IDF fees ……….. VAT………. Warehouse rent penalties…………… Railway Development Levy (RDL)………….. Others?(specify)………
Tax exemptions for domestic goods/services:	VAT……… Income tax ……. Stamp duty……
Approval by The National Treasury:	Approved……………………………………(Yes or No) Not Approved comments……………………………..

Fields	Description
	Approving officer........................... Designation of approving officer............... Date of approval................................... Project duration (years)...................... Project end date.........................
Execution:	Date forwarded for implementation to KRA............. KRA Feedback ....

SEVENTH SCHEDULE (b)

[Regulation 23(6)]
DOMESTIC

TAX EXEMPTION SCHEDULE (CASE BY CASE)

APPLICATION TO PURCHASE EQUIPMENT/ MATERIALS/MOTOR VEHICLES/GOODS/SERVICES FOR PROJECTS OR PROJECT PERSONNEL ON A DUTY AND VALUE ADDED TAX-CUSTOMS WAREHOUSE RENT AND IDF FREE BASIS

S/No	ITEM DESCRIPTION
1.	DA1(Donor Assistant Form 1) Form Application Number........... Name of the Development Partner Agency........... i. Address........... ii. Date............
2.	Title of the Project/Agreement/Exchange of notes........... i. Quote the article and session giving exemption.......... ii. Date of agreement/Exchange of notes............
3.	Project Identification Number........
4.	Project Name.......
5.	Name of Consignee.........
6.	Description of the items being locally purchased...........
7.	Invoice No./Logbook No...........
8.	Name of local Supplier..............
9.	Local Supplier PIN No............
10.	Full name of the Applicant and Designation.............
11.	Signature...........
12.	Official stamp..............
13.	**Implementing Ministry/ Agency............** i. Recommendation.............. ii. Full Name.............. iii. Designation.............. iv. Signature of authorized officer and official stamp.............. v. Date.............

S/No	ITEM DESCRIPTION
The National Treasury	
14.	**Resource Mobilization Department** i. Recommendation............ ii. Full Name.............. iii. Signature of authorized officer and official stamp......... iv. Date...............
15.	**Macro and Fiscal Affairs (Authorization)** i. Approved/not Approved............ ii. Full Name........... iii. Designation........... iv. Signature of authorized officer and official stamp............ v. Date............
Kenya Revenue Authority	
16.	**Value Added Tax Department** i. VAT free purchase approved............ ii. Full Name............... iii. Designation.............. iv. Signature of Authorized Officer............ v. VAT Free Entry No............ vi. Date...........
17.	**Customs and Excise Department (Head Office)** i. Remarks............ ii. Approved/Not Approved........... iii. Signature of Authorized Officer............ iv. Full Name.............. v. Designation.............. vi. Date.............
18.	**Customs and Excise Department (Port of Entry)** i. Signature of the officer releasing goods......... ii. Duty Free Entry No........... iii. Full name........... iv. Designation............ v. Date...........

SECRET

EIGHTH SCHEDULE

{INSERT IMPLEMENTING AGENCY}

FINAL COMPLETION CERTIFICATE (END OF DEFECTS LIABILITY)

CONTRACT NAME:

……………………………………………………………………………………………

CONTRACT NO:

……………………………………………………………………………………………

EMPLOYER {Insert Employer}	ENGINEER {Insert Engineer}	CONTRACTOR{Insert Contractor}

Works Complete:	
Contract Sum:	
Revised Contract Amount:	
Revised Construction Period:	
Commencement Date:	
Completion Date:	
End of Defects Liability Period:	
Date of Final Completion:	

Pursuant to Clause …….of the Conditions of Contract it is hereby certified that the Contractor has completed the Works detailed above to the satisfaction of the Engineer/Architect. Final Inspection of these works was carried out on ………………………………….(dd/mm/yyyy) by representatives of the Employer, the Engineers/Architect Representative and the Contractors Representatives.

CONTRACTOR	ENGINEER/ARCHITECT*	EMPLOYER
Signed:	Signed:	Signed:
Date:	Date:	Date:
{Insert Name and Address}	{Insert Name and Address}	{Insert Name and Address}

SECRET

*Note that for Buildings the responsible person is the Architect while for civil works the responsible person is the Engineer.

NINTH SCHEDULE

[Regulation 33]

1. On the commencement of these Regulations —

(a) all new projects to be selected for purposes of funding in the financial year 2021/2022 shall use Public Investment Management Regulations;

(b) all accounting officers for national government and county governments shall commence the process of ensuring all new projects meet the requirements of these Regulations for purposes of uploading them into the Project Information Management Information System with effect from the December, 2019;

(c) all accounting officers for the national government and county governments shall ensure any proposed new project earmarked for funding in the financial year 2021/2022 shall be pipelined in the system by the 30th June, 2020;

(d) The current electronic Project Monitoring Information Systems (e-ProMIS) and the electronic National Integrated Monitoring and Evaluation System (e-NIMES) shall be collapsed into Public Investment Management Information System.

(e) pending the operationalization of the Public Investment Management Information System, the functions of the system as provided for under these Regulations shall continue to be performed by the electronic Project Management Information System (e-ProMIS) under the National Treasury;

(f) all accounting officers for the national government and county governments shall be required to prepare a status report of all projects under their mandate which had been started on or before the gazettement of this regulations based on the following categorization—

(i) project size: small, medium, large and mega;

(ii) sector basis (example Infrastructure sector, Public Administration Sector, Health Sector among others);

(iii) classify the projects within the following categories: new, ongoing, complete and stalled. (for each project indicate the percentage of completion level);

(iv) among them, indicate projects financed by development partners, that require counter-part funding;

(v) among them, indicate projects, where financing agreements have been signed and implementation of the project has not commenced.

2. Accounting officers shall in line with their budgetary allocations prioritize the projects identified under paragraph (1) (f) in line with Government current development agenda.

3. On the commencement of these Regulations, the National Treasury, county treasuries and the accounting officers shall carry out initial capacity building to all public officers involved in the implementation of these Regulations and this process should be completed on or before the 30th December, 2019.

4. The timelines for implementation of these Regulations shall be as follows-

(a) the national government shall be required to have attained full implementation of these Regulations on or before the financial year 2020/2021; and

(b) the county governments shall be required to attained full implementation of these Regulations on or before the financial year 2021/2022.

Made on the ...., 2021.

Hon. (Amb) Ukur Yatani, EGH
Cabinet Secretary for
the National Treasury and Planning.