

(Bungoma County Legislative Supplement No. 1)

LEGAL NOTICE NO. 1

THE PUBLIC FINANCE MANAGEMENT ACT, 2012

(No. 18 of 2012)

THE PUBLIC FINANCE MANAGEMENT (BUNGOMA COUNTY DISASTER
MANAGEMENT EMERGENCY FUND) REGULATIONS, 2020

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THE PUBLIC FINANCE MANAGEMENT ACT, 2012

(No. 18 of 2012)

IN EXERCISE of the powers conferred by section 48 (1) of the Act, the County Executive Member for Finance makes the following Regulations—

THE PUBLIC FINANCE MANAGEMENT (BUNGOMA COUNTY DISASTER MANAGEMENT EMERGENCY FUND) REGULATIONS, 2020

PART I—PRELIMINARY

Citation

1. These Regulations may be cited as the Public Finance (Bungoma County Disaster Management Fund) Regulations, 2020.

Interpretation

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

“Act” means the Bungoma County Disaster and Emergency Management Act, 2020;

“Accounting Officer” has the meaning as assigned to it under Section 2 of the Public Finance Management Act, 2012;

“County Executive Committee member” means the executive committee member responsible for matters relating to Finance.

“Committee” means the Disaster and Emergency Management Committee established under section 3(1) of the Act;

“Financial year” means the period of twelve months ending on the thirtieth day of June in each year;

“Fund” means the Bungoma County Disaster Management Emergency fund established Section 8(1) of the Act;

“Fund administrator” means an officer administering the Fund under regulation 10(1);

“Emergency Funds” means funds for dealing with all aspect of emergencies;

“Disaster” means an unpredictable and quick-onset disruption of the functioning of a community or society causing widespread human, material, economic or environmental losses which exceed the ability of the affected community or society to cope using its own resources;

“Contingency Planning” means forward planning process, in a state of uncertainty, in which scenarios and objectives are agreed, managerial and technical actions defined, and potential response systems put in place in order to prevent, or better respond to, an emergency or critical situation.;

“Counter Measures” means all measures taken to counter and reduce disaster risk. They most commonly refer to engineering (structural) measures but can also include non-structural measures and tools designed and employed to avoid or limit the adverse impact of natural hazards and related environmental and technological disasters;

“Disaster Impact” means the immediate consequences of the actual hazardous event that require extraordinary response;

“Disaster Mitigation” means an act of preventing or minimizing the adverse effects of disaster-causing phenomena through the introduction of measures designed to prepare and protect life and property of the members of the community before the occurrence of a phenomenon. Mitigation includes activities that prevent a disaster, reduce the chance of a disaster from happening, or reduce the damaging effects of unavoidable natural or human-made phenomena;

“Disaster Preparedness” means a state in which individuals and groups of a community or the entire community have developed plans, allocated resources, and established procedures for an efficient and effective implementation of the plans for the purpose of saving lives and preventing further damage to property in the event of a disaster. Preparedness includes plans or preparations made to save lives and to help response-and rescue operations. Evacuation plans, installing lightning arrestors, keeping battery for spotlighting in case of a black out, and stocking food and water are all examples of preparedness;

“Disaster Risk Management” means the systematic process of using administrative decisions, organization, operational skills and capacities to implement policies, strategies and coping capacities of the society and communities to lessen the impacts of natural hazards and related environmental and technological disasters. It comprises all forms of activities, including structural and non-structural measures to avoid (prevention) or to limit (mitigation and preparedness) adverse effects of hazards;

“Early Warning” means the process of information gathering and policy analysis to allow the prediction of developing crises and action either to prevent them or contain their effects;

“Emergency” means any situation in which the life or well-being of a community will be threatened unless immediate and appropriate action is taken, and which demands an extraordinary response and exceptional measures;

“Preparedness” means activities and measures taken in advance to ensure effective response to the impact of hazards, including the issuance of timely and effective early warnings and the temporary evacuation of people and property from threatened locations;

“Prevention” means activities to provide outright avoidance of the adverse impact of hazards and means to minimize related environmental, technological and biological disasters;

“Reconstruction” means an activity to bring about higher quality of life and security against disaster;

“Recovery” means decisions and actions taken after a disaster with a view to restoring or improving the pre-disaster living conditions of the stricken community, while encouraging and facilitating necessary adjustments to reduce disaster risks;

“Relief” means an act of helping or alleviating the conditions of persons who are suffering from the effects of disaster;

“Response” means the act of implementing or translating into actions what are called for by the preparedness plans. Response includes actions taken to save lives and prevent further damage in a disaster or emergency situation. Seeking shelter from strong winds accompanying a typhoon and evacuating to higher grounds due to an impending flood are examples of response;

“Risk” means the expected number of lives lost, persons injured, damage to property and disruption of economic activity due to natural phenomenon, and

consequently the product of specific risk and elements at risk. Specific risk means the expected degree of loss due to a particular phenomenon. Elements at risk means the population, buildings and civil engineering works, economic activities, public services, utilities and infrastructure, etc., at risk in a given area;

“Risk Assessment/Analysis” means a methodology to determine the nature and extent of risk by analyzing potential hazards and evaluating existing conditions of vulnerability that could pose a potential threat or harm to people, property, livelihood and the environment on which they depend;

“Vulnerability” means factors of the community that allow a hazard to cause a disaster. Or the result of a number of factors that increase the chances of a community being unable to cope with an emergency.

PART II—ESTABLISHMENT AND ADMINISTRATION OF THE FUND

Establishment of Fund

3. Pursuant to Part V of the Act, there is established a Fund to be known as Bungoma County Disaster and Emergency Management Fund which shall be administered by the officer designated under regulation 10 with the overall guidance and supervision of the Committee.

Capital of the Fund

4. (1) In reference to Section 28 and 29 of the Act—

(2) The initial capital of the Fund shall consist of at least two percent of total county budget for every Financial Year upon coming into effect of these Regulations.

(3) The Fund shall be financed through the annual appropriations by the County Assembly, private sector, donor support and global climate change and disaster risks financing facilities. In addition, the County Assembly may appropriate additional monies to the Fund.

(4) All receipts, savings and accruals to the Fund and the balances thereof at the end of each Financial Year shall be retained by the Fund.

Sources of the Fund

5. Pursuant to Section 28 (1) of the Act, the sources of the Fund shall consist of—

- (a) such monies as may be appropriated by the County Assembly
- (b) grants and donations
- (c) income generated from the proceeds of the fund; and
- (d) any monies accruing to or received by the Fund from any other lawful source.

Object and purpose of the Fund.

6. Subject to Section 3 of the Act, the object and purpose for which the Fund is established is to—

- (a) establish an efficient structure for the management of the disaster and emergency by promoting awareness and cooperation amongst the agencies with a role of the disaster management and enhancing their capacities to maintain the provision of essential services during period of disaster and emergencies;

- (b) improve the effectiveness and efficiency of the disaster risk management system in the county, including measures for disaster preparedness, prevention, mitigation, response, reconstruction, recovery and relief;
- (c) facilitate resilience building, preparedness, early warning, contingency planning and timely response to disasters during its different stages in order to reduce and minimise the negative effects of disasters and addressing disaster impacts sustainably;
- (d) provide counter measures for conducting risk assessment/analysis to inform decision making;
- (e) prepare and implement a disaster risk management plan that contains measures to address complex emergencies and risks in consultation with the response agency in cooperation with other agencies in accordance with this Act;
- (f) vest authority in persons and agencies to act during time of disaster and emergency in accordance with plans approved under this Act and to require the observance and implementation and the directive given and initiatives taken by person authorised under this Act;
- (g) enhance the capacity of the county government, relevant agencies and communities to effectively manage the impact of disaster and emergencies that threaten human life, property and environment;
- (h) implement the mechanism to reduce risks and hazards that may cause, contribute to exacerbate disaster or emergency situation in the County, especially for vulnerable persons or groups;
- (i) facilitate procedures aimed at implementing activities in the aftermath of disaster and emergencies;
- (j) to receive financial resources from development partners who support government on disaster risk management interventions;
- (k) provide for—
 - (i) a common basket emergency fund in order to facilitate faster, transparent, predictable, and accountable release of Funds for disaster risk management;
 - (ii) funds for capacity and technical expertise development to improve on disaster risk management systems and contingency planning; and
 - (iii) the establishment, management and coordination of programmes, projects or activities to further the foregoing objects and purposes.

Expenditure of the Fund

7. (1) Subject to Section 30 (3) of the Act—
 - (2) There shall be paid out of the Fund payments in respect of any expenses incurred pursuant to the object and purpose for which the Fund is established.
 - (3) The expenditure on the Fund shall be on the basis of and limited to annual work programmes and cost estimates which shall be prepared by the administrator of the Fund and approved by the committee at the beginning of the financial year to which they relate.
 - (4) Any revision of the approved annual work programme and of any cost estimates shall be referred to the committee for approval.

(5) The expenditure of this Fund shall be based on projects and programmes approved by the committee.

(6) Funds provided under these Regulations shall not be used for the purpose of supporting political parties or entities.

Oversight role of the committee

8. Pursuant to Part III, Section 10 of the Act, the County Disaster Management Emergency Fund Committee shall oversee the administration and management of the Fund.

Functions of the committee

9. (1) The functions of the committee relating to the oversight role shall be to—

- (a) set policies on disaster and emergency management;
- (b) approve the Disaster and Emergency Management plan;
- (c) review, approve and endorse recommendations of the administrator in relation to disaster and emergency management;
- (d) oversee the application of the county disaster management plan during any period of disaster emergency and give direction of the plan to be implemented;
- (e) oversee the implementation of risk reduction, preparedness, response, mitigation and recovery activities by all County government agencies and other cooperative agencies performing the roles related to disaster management,
- (f) implement county and national government policies on disaster and emergency response;
- (g) approve estimates of revenue and expenditure of the Fund for each financial year;
- (h) receive, review and approve statutory and management reports of the Fund before submission to third parties;
- (i) discharge any other responsibility or exercise any other powers provided by this Act or the County disaster management plan;
- (j) perform such other duties as may be considered necessary by the County Executive Committee Member responsible for matters relating to Finance from time to time for the proper administration and management of the Fund and such a duty shall be assigned in writing.

(2) The conduct and regulation of the business and affairs of the Committee shall be as provided under of the Act.

Administrator of the Fund

10. (1) Section 111 of the Public Finance Management Act 2012 mandates the County Executive Committee Member for Finance as the Administrator of the Fund.

(2) Without prejudice to sub-section 1 and Subject to the provisions of Sections 12 and 30 of the Act, the Director of Disaster and Emergency Management Fund may be designated as the administrator of the Fund or any other person designated as such by the County Executive Committee Member in consultation with the Committee.

- (3) The administrator of the Fund shall—
- (a) supervise and control the administration of the Fund;
 - (b) consult with the Committee and the County Executive Committee responsible for matters relating to Finance on matters relating to the administration of the Fund;
 - (c) cause to be kept proper books of accounts and other books and records in relation to the Fund, of all activities and undertakings financed from the Fund;
 - (d) prepare, sign and submit to the Committee in respect of each financial year and within three months after the end thereof, a statement of accounts relating to the Fund for approval;
 - (e) transmit to the County Audit Committee the statement of accounts under paragraph (d), with a copy to the County Treasury and such a statement shall be prepared in the manner prescribed by the Public Sector Accounting Standards Board and audited in accordance with the Public Audit;
 - (f) furnish additional information which is proper and sufficient for the purpose of examination and audit by the Auditor General in accordance with the provisions of the Public Audit Act, 2015; and
 - (g) prepare a quarterly report on the receipts into and issues out of the Fund and submit it to the County Executive Committee Member by the 21st of every fourth month.
- (4) Every statement of account shall include details of the balance between the assets and liabilities of the Fund, and shall indicate the financial status of the Fund as at the end of the financial year concerned.
- (5) Each year, five (5%) per centum of the annual budget of the Fund shall be set aside for the Fund Administration

Designation of Administrator of the Fund

11. (1) With respect to Section 13 of the Act, where the County Executive Committee Member designates any other person as the administrator of the Fund under regulation 10, that person shall be designated as provided under this regulation.
- (2) A person shall be designated as the administrator of the Fund under this regulation if that person—
- (a) holds a degree from a university recognized in Kenya;
 - (b) has at least ten years' post-qualification experience;
 - (c) has at least five years' experience in the relevant field; and
 - (d) satisfies the requirements of Chapter Six of the Constitution.
- (3) A person designated as the administrator of the Fund under this regulation, shall serve for one term of three years, renewable once.
- (4) The administrator of the Fund shall only be subject to the directions of the Committee and shall be responsible for the day to day administration of the affairs of the Fund including the staff of the secretariat of the Fund.

Vacancy in the office of the administrator of the Fund

12. Pursuant to Section 10 of the Act, the office of the administrator of the Fund shall become vacant if the holder—

- (a) dies;
- (b) by notice in writing addressed to the Committee resigns from office;
- (c) is convicted of an offence and sentenced to imprisonment for a term of more than six months without the option of a fine;
- (d) is absent from three consecutive meetings of the Committee without good cause; or
- (e) is removed in accordance with the provisions of the Constitution.

Removal of the administrator of the Fund

13. (1) Pursuant to Section 10 of the Act, the Administrator of the Fund may be removed from office by the Committee only on grounds of—

- (a) inability to perform the functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct;
- (c) bankruptcy; or
- (d) Incompetence.

(2) Prior to removal under paragraph (1), the administrator of the Fund shall be—

- (a) informed, in writing, of the reasons for the intended removal; and
- (b) given an opportunity to put in a defence against any such allegations either in person or through an advocate.

(3) Where the County Executive Committee Member does not intend to designate the administrator of the Fund after the first term, the member shall notify the administrator of the Fund of such a decision at least three months before the expiry of the incumbent's term.

Secretariat of the Fund

14. Subject to Section 13 of the act, the secretariat of the Fund is established under section 4 of the Act shall be the secretariat of the Fund.

Staff of the Secretariat of the Fund

15. (1) Subject to Section 13 of the act, there shall be a secretariat of the Fund which shall comprise of the administrator of the Fund and staff of the Fund and such staff shall not surpass five.

(2) The Committee may designate the staff of the County Government to be the secretariat of the Fund.

(3) The Committee shall decentralise its services to the county level in so far as possible or as practicable to do so.

(4) The Committee shall ensure that in the secretariat—

- (a) not more than two-thirds of the staff shall be of the same gender;
- (b) the regional and other diversity of the county is taken into account; and
- (c) Staff shall not be below the level of clerical staff.

- (5) The staff of the Secretariat of the Fund shall—
- (a) receive investment and contingency plans for review and recommendation to the Committee for approval;
 - (b) receive and synthesis disaster and emergency early warning information for early action;
 - (c) propose the triggers for the funds flow to the various disasters stages to be financed from the Fund;
 - (d) propose the triggers for response plans for the activation of the response plans;
 - (e) oversee projects and programmes implemented through financing of the Fund;
 - (f) establish sound and prudent public financial management systems for the administration of the Fund;
 - (g) coordinate monitoring and evaluation of projects and activities financed from the Fund;
 - (h) prepare regular communication messages regarding disaster risk management with regard to the Fund; and
 - (i) maintain proper records of the Fund .

Functions of the Secretariat

16. (1) Subject to Section 13 of the act the secretariat shall—
- (a) be responsible for the day to day administration and management of the Fund;
 - (b) develop a predictable, transparent and accountable financial internal control systems for the Fund;
 - (c) prepare and submit for approval by the Committee estimates of revenue and expenditure, annual work programmes and costs estimates, annual procurement plans and annual cash flow plans;
 - (d) implement projects, programmes, activities and initiatives and coordinate the realization of the objectives and purpose of the Fund;
 - (e) prepare statutory and management reports and submit them to the Committee for approval;
 - (f) monitor and provide reports to the Committee, on a quarterly basis, on efficiency and effectiveness of disaster risk management supported by the Fund; and
 - (g) implement the decisions of the Committee.

(2) Despite paragraph (1), the Committee may assign any other duty to the Secretariat for the proper administration and management of the Fund through a Committee resolution.

Co-ordination mechanism

17. With respect to part III and Section 14 (2) of the Act, the co-ordination mechanism for the Fund shall be—

- (a) County Disaster and Emergency Steering Committee established under regulation 18;

- (b) the Inter-Governmental Technical Committee on Disaster Emergency established under regulation 19;
- (c) the Sub-County County Disaster and Emergency Management Committee established under the Act; and
- (d) development partner engagement forums as may be specified by the County Executive Committee Member from time to time.

Establishment of the Ad-Hoc Ward Steering Committee.

18. (1) Subject to Section 14 (2), there is established an *Ad-Hoc* Ward Disaster and Emergency Steering Committee comprised of—

- (a) Ward Administrator;
- (b) Ward Projects Officer;
- (c) Representative of the Area MCA;
- (d) Community representative;
- (e) FBO representative.

(2) The *Ad-Hoc* Ward Steering Committee shall be chaired by Sub-County Administrator under whose jurisdiction the affected ward falls, or in his/her absence, the substantive representative.

(3) In the absence of the chair or his/her substantive representative, the members referred to in 18(1) can elect a chair from amongst themselves.

(4) The ward administrator shall be the secretary of the *Ad-Hoc* Ward Steering Committee.

(5) The functions of the Ad-Hoc Ward Steering Committee Steering Committee shall be to—

- (a) provide information on disaster and emergency response interventions;
- (b) provide leadership on disaster and emergency response interventions;
- (c) receive, consider and make decisions based on reports from the field; and
- (d) mobilize resources for disaster response interventions during alarm and emergency stages.

Establishment of the Intergovernmental liaison Unit

19. Subject to Section 14 (2), there is established the Inter-Governmental Liaison Unit on Disaster and Emergencies comprised of—

- (a) the Directors responsible for—
 - (i) Public Administration;
 - (ii) Finance;
- (b) Representative of County Commissioner.

(2) The functions of the Inter-governmental liaison Unit shall be to—

- (a) provide information to both levels of government on the nature and intensity of the emergency or disaster event;

- (b) provide information on the optimal disaster and emergency response interventions;
- (c) update the committee on the resources available in various National/county ministries, departments and agencies for disaster and emergency interventions;
- (d) update the committee on intervention measures already being undertaken by various national/county government agencies, development partners, faith based organizations and other non-governmental organizations.

Resource mobilization

20. (1) Subject to Section 40 of the Act, the Coordination structures established under regulations 18 and 19 and the Committee shall mobilize resources through—

- (a) engagement with the communities, development partners and private sector;
- (b) engagement with the global disaster risk and climate change funds or entities that finance disaster and emergency risk management programmes;
- (c) development of bankable proposals for disaster early warning, preparedness and resilience.

(2) Any engagement with the development partners, private sector or global funds shall be done within the framework specified by the County Executive Committee Member and in line with the Kenya External Resources Mobilization Policy.

Standard setting and norms

21. (1) Pursuant to Section 11 of the Act, the National Government shall be responsible for policy formulation, norms and standard setting for disaster risk management.

(2) The secretariat of the Fund shall consolidate various policies, norms and standards and disseminate them to sub-counties, government agencies and development partners to facilitate their implementation.

(3) The Committee shall prepare the disaster risk management plans and reports based on national and county policies, norms and standards set by the National Government including Guidelines which may be issued from time to time.

(4) The national and county norms and standards shall set sector specific quantifiable indicators for the outputs for each strategic objective, which shall form the basis of reporting on disaster and emergency management.

PART III—PROJECTS

Intervention areas

22. (1) Pursuant to Section 15 of the Act, the Fund may finance urgent and unforeseen events which threaten human life and welfare or the environment in the following areas to complement existing Government programmes—

(a) Natural hazards including but not limited to floods, epidemics, wild fires, thunderstorms and lightning, landslides, earthquakes;

(b) Man-made hazards including but not limited to:

Technological Hazards- Structural collapse, Industrial accidents, infrastructural failures, dangerous procedures; Environmental Hazards- Fires, Accidents, Chemical spills, Electrical failures, Food Poisoning, Water Poisoning,

poisonous substances; Socio-Economic, Political Security Hazards, Terrorism, Bomb attacks and Threats.

Additional Interventions

23. The Fund shall finance additional interventions aimed at developing the capacity of the Committee, coordination structures and the secretariat with a view of promoting Disaster Risk Reduction initiatives.

Disaster recovery

24. (1) The Secretariat of the Fund may, from time to time, request the Committee to approve disaster recovery interventions.

(2) Where the Committee has approved disaster recovery interventions to be undertaken by the Secretariat, the Secretariat shall prepare monthly reports and submit progress reports to the Committee.

Criteria for accessing disaster and emergency funds

25. (1) According to Section 31 of the Act, the criteria for prioritising access to the fund shall be as follows—

- (a) the projects shall be either aligned to national development priorities or be included in the county integrated development plan or disaster plan;
- (b) projects contributing significantly to sustainable development to enhance resilience of communities against disaster and climate change risks;
- (c) evidence of community participation in disaster risk reduction project identification;
- (d) projects sustainability framework after completion;
- (e) satisfy all statutory requirements relating to design and implementation of such projects; and
- (f) recommendation by the Committee or the Secretariat of the Fund.

(2) The Secretariat shall submit to the Committee for approval the scores of the projects evaluated against the criteria set out under paragraph (1).

Project planning

26. (1) Subject to Section 15 of the Act; the secretariat of the Fund shall—

- (a) coordinate and develop the community disaster risk reduction plans;
- (b) receive, review and prioritise project proposals from the communities which are aligned to national development goals or county integrated development plan;
- (c) initiate project proposals to address disaster and emergency risk and forward them to the Committee for approval;
- (d) prioritise community disaster risk reduction interventions;
- (e) prepare and submit plans to the Sub-County Disaster Committees for review and make recommendations to the Committee.

(2) Any project proposals to be implemented by the Fund shall be approved by the Committee prior to implementation.

(3) The project proposals under this regulation shall relate to resilience and preparedness stages of disaster risk management.

Partnership Financing

27. (1) The secretariat of the Fund may design a program/project/initiative relating to a disaster/emergency and submit it to the county government or its development partners for consideration and financing.

(2) Despite paragraph (1), the secretariat may also design a program/project/initiative relating to a development partner's function and engage the partner for co-financing.

(3) Where a program/project/initiative has been designed under paragraph (2), the development partner shall contribute a per centum to be agreed in form of a matching grant, from time to time.

(4) Where a development partner has accepted to co-finance a program/project/initiative under paragraph (3), that partner shall signify in writing to the administrator of the Fund.

(5) Where a program/project/initiative is financed under this regulation, the Secretariat of the Fund shall use that program/project/initiative to build the capacity of that county on disaster risk management.

Programs/project/initiative financed jointly with national government or Faith Based Organization or nongovernmental organization or community based organization

28. (1) The secretariat of the Fund may design a project relating to disaster/emergencies and submit it to national government for consideration and financing.

(2) The secretariat of the Fund may design a project relating to disaster/emergencies and submit it a faith based organization or nongovernmental organization or community based organization for consideration and co-financing.

(3) Where a program/project/initiative is co-financed by a faith based organization or non-governmental organization or community based organization, such an institution shall contribute a per centum to be agreed between the organization and the Committee, from time to time.

(4) Despite paragraph (1), the Fund shall secure an intergovernmental agreement pursuant to Article 187 of the Constitution and the Intergovernmental Relations Act, 2012 with the respective county government.

Joint infrastructure projects by counties.

29. (1) Pursuant to section 146 of the Public Finance Management Act, 2012, the Secretariat of the Fund may prepare project designs for a devolved function as a joint infrastructure project to be financed by more than one County.

(2) Any projects designed under paragraph (1) shall be submitted to the respective county executive committee member responsible for matters relating to Finance management, with a copy to the County Governor.

(3) The Secretariat of the Fund shall coordinate meetings among the counties undertaking the joint infrastructure project.

Disaster and Emergency response

30. (1) With respect to Section 18 of the Act, the Secretariat of the Fund shall receive the multi-agency rapid assessment report during alert stage or alarm stage as informed by disaster early warning information for—

- (a) determining the resource requirements for alert or alarm stage of the disaster and emergency;
- (b) proposing the agencies to be involved in responding to the disaster interventions to be financed by the Fund;
- (c) recommending the funds flow mechanism to the national/ county government, development partners or various agencies and the accountability framework by each agency to the Fund for approval by the committee;
- (d) liaising with the national/county government or other agencies approved by the committee to undertake various response interventions in a timely manner.

(2) The Secretariat of the Fund shall prepare monthly reports during alert and alarm stage of the disaster and Emergency and submit it to the Inter-Governmental Technical Committee after thirty days on receipt of the early warning information.

(3) Where disaster and Emergency response interventions require financial resources beyond the capital of this Fund, the committee shall submit a proposal to the county Steering Committee on the financing gap and a request to mobilise more resources to respond to disaster and Emergency.

Rules to access Disaster and Emergency response.

31. To access disaster and emergency response funds the committee shall consider the —

- (a) alert stage of disaster and emergency cycle as per the Authority's disaster and emergency phase classifications guided by the social economic indicators;
- (b) request received from sub-County Disaster and Emergency Committees or the Secretariat of the Fund on disaster response plans;
- (c) evidence of disaster and emergency rapid assessment by the affected sectors based on early warning trigger indicators;
- (d) response plan based on disaster and emergency rapid assessment reports and other disaster risk secondary data;
- (e) recommendation by the county or national coordination structure;
- (f) procurement plans based on disaster and emergency response intervention measures;
- (g) cash flow plans supporting the procurement plans on disaster and emergency response intervention measures.

Submission of program/project/initiative proposals

32. (1) A community may at any time submit program/project/initiative proposals through the national government, county government, sub county offices, government agency, community based organization or faith based organization, to the Secretariat of the Fund.

(2) Program/project/initiative proposals received by the Secretariat of the Fund shall be reviewed and appropriate recommendations made to the committee for financing from the Fund.

(3) Any program/project/initiative approved for financing by the committee, which has a co-financing arrangement shall be communicated to the relevant agency co-financing that project for incorporation in their respective budgets.

(4) Any program/project/initiative submitted for approval under this regulation shall be identified through a disaster risk management participatory process.

PART IV—FINANCIAL PROVISIONS

Allocation of resources among disaster and emergency risk management components

33. (1) Pursuant to Section 28 of the Act, the resources of the Fund shall be expended on the various disaster and emergency risk management components approved by the committee including but limited to—

- (a) resilience and preparedness;
- (b) response interventions;
- (c) recovery interventions.

Procedures of disbursement and accountability.

34. (1) According to Section 30, the County Executive Member responsible for Finance shall, from time to time, formulate guidelines for disbursements of funds.

(2) Where the committee intends to use Faith Based Organizations or nongovernmental organizations or Community Based Organizations it shall ensure that the guidelines for disbursement of funds to these institutions has clear roles and responsibilities for reporting and accounting of the resources disbursed to the institutions.

Operational framework

35. (1) Subject to Section 31 of the Act, the Disaster Management Committee shall declare the level of disaster basing on magnitude/impact it has on the community/environment as guided by the policy rating.

- (2) The assessment of the impact shall be done by the appointed agency/ies.
- (3) The agency report will quantify the amount of resources required.
- (4) The report shall be submitted to the Disaster Management Committee for approval and submission to the treasury for financing.
- (5) Extraordinary emergency requiring rapid response shall be declared by the governor on behalf of recommended structures in the policy.

Conditions for disbursement of funds

36. (1) Emergency funds approved under regulation 35 shall be released from the County Disaster Management Emergency Fund in such manner, taking into account that the occurrence is an emergency; while ensuring the security of the funds, as may be prescribed by the treasury.

(2) The documented assessment report shall be availed to the committee for approval as by the procedure.

(3) The Administrator of the Emergency Fund shall release authorised amount to the identified agency.

(4) Funds to address situations contemplated in regulation 35 (5) to be processed within eight hours of request for efficient and effective execution. The limit applies to extraordinary emergencies requiring rapid responses in 7(5).

(5) The assigned agency shall file returns to the committee immediately after the exercise.

Quarterly reports on projects and disbursements.

37. (1) Pursuant to Section 34 of the Act, the committee shall, on a quarterly basis, submit a report to the County Executive Committee Member responsible for matters relating to Finance affairs with a copy to the Governor, detailing—

- (a) a summary of the program/project/initiative proposals approved by the committee in the preceding quarter as recommended by the sub county disaster and emergency Committee or the Secretariat of the Fund and indicating the funding status of such projects, if any;
- (b) a summary of the status of disbursements of funds to the various interventions, programs/projects/initiatives and implementation progress;
- (c) a summary of the status of disbursements from the Fund to the respective agencies involved in implementation of any interventions and programs/projects/initiatives financed from the Fund; and
- (d) any restriction imposed on the agencies involved in the implementation of the programs/projects/initiatives of the Fund.

(2) The Ward steering committee shall prepare monthly and quarterly reports and forward them to the committee. The reports shall contain all or some of the information detailed in section 34 of the Act.

Fund bank account

38. (1) The bank account of the Fund shall be opened in accordance with the provisions of section 119 of the Public Finance Management Act, 2012 and the Regulations thereof.

(2) Any bank account of the Fund shall be opened upon approval of the County Executive Committee member responsible for Finance and shall be in the name of the Fund.

(3) The signatories to the Fund account shall be the administrator of the Fund and two other persons authorized by the Committee from amongst the staff of the Secretariat of the Fund.

(4) The signing instructions shall be such that the signature of the administrator of the Fund shall be mandatory on all payment cheques or electronic instructions intended for actual release of money from the Fund account, plus any one of the other two Fund account signatories.

(5) Every payment or instruction for payment out of the respective bank account shall be fully supported in line with the provisions of the Public Finance Management Act, 2012 and the Regulations thereof.

Record of disbursements to be kept

39. (1) Pursuant to Section 34 of the Act, an accurate record of all disbursements from the Fund Account for financing approved interventions or projects shall be kept and updated every month by the Secretariat of the Fund.

(2) The administrator of the Fund shall submit to the committee, quarterly and annual reports on all interventions or projects approved and financed from the Fund.

Financial reporting

40. (1) Pursuant to Section 34 of the Act, The committee shall prepare financial and non-financial reports in accordance with the provisions of the Public Finance Management Act, 2012 and as may be prescribed from time to time by the public sector accounting standards board.

(2) The committee shall prepare an annual general performance report of the Fund to be submitted together with the report under paragraph (1).

(3) The annual financial and non-financial statements prepared under paragraph (1) shall be submitted to the Auditor-General for audit in accordance with the Public Audit Act, 2015.

Management reports

41. (1) The committee shall prepare monthly management reports which shall contain details on—

- (a) disaster and emergency profiling in the county
- (b) the severity of the disaster and emergency prevailing in the county and by sub county;
- (c) the status report on disaster and emergency interventions measures undertaken during that financial year;
- (d) status report on county disaster and emergency intervention measures undertaken during that financial year;
- (e) monitoring and evaluation report;
- (f) the resources required to mitigate against the disaster and emergency impact under each of the following stages—
 - (i) resilience and preparedness stage;
 - (ii) response stage;
 - (iii) recovery stage.

(2) The report prepared under paragraph (1) shall be submitted to the County Executive Committee Member in charge of Finance with clear recommendations from the Committee by the tenth day of the succeeding month.

(3) A sub county experiencing disaster and emergency shall submit a report to the Fund secretariat with the following details—

- (a) status report of the sub county interventions to mitigate against disaster and emergency;
- (b) Frequency of occurrence of such disasters or emergencies;

- (a) status report of the sub county interventions to mitigate against disaster and emergency;
- (b) Frequency of occurrence of such disasters or emergencies;
- (c) the sub county disaster response plan; and
- (d) resources available by the sub county to finance the response plan.

PART V—MISCELLANEOUS PROVISIONS

Application of County Government Financial Regulations and procedures

41. Subject to the provisions of Part VII of the Act and the Public Finance Management Act, 2012, existing county Government Financial Regulations and Procedures shall apply in the administration of the Fund.

Meetings of the Committee

42. The Committee shall schedule quarterly meetings with additional meetings being held with authorization of the County Executive Committee member responsible for Disaster/Emergencies. The quorum for meetings of the committee shall be half of the members present.

Costs of running the Fund

43. The administration costs for running the Fund, including the secretariat and the committees shall not be more than three per centum (3%) of the total budgetary provision for the Fund.

Offences and penalties

44. Any person who misappropriates any funds or assets from the Fund, or assists or causes any person to misappropriate or apply the funds otherwise than in the manner provided in the Act and these Regulations, commits an offence and shall, upon conviction, be liable to imprisonment for a term not exceeding two years or to a fine not exceeding one million shillings or to both or as provided by part VI of the Act.

Guidelines on the Fund

45. The committee shall, in consultation with the County Executive Committee Member in charge of Finance, develop guidelines for the proper management of the Fund.

Made on the 5th August , 2020.

ESTHER N. WAMALWA,
*County Executive Committee Member for
Finance and Economic Planning.*