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LEGAL NOTICE NO.

THE PUBLIC FINANCE MANAGEMENT ACT

(No. 18 of 2012)

THE PUBLIC FINANCE MANAGEMENT (NAROK COUNTY CLIMATE CHANGE
FUND) REGULATIONS, 2021

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THE PUBLIC FINANCE MANAGEMENT ACT

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THE PUBLIC FINANCE MANAGEMENT (NAROK COUNTY CLIMATE CHANGE
FUND) REGULATIONS, 2021

IN EXERCISE of the powers conferred by section 116 of the Public Finance Management Act, 2012, the Narok County Executive Committee Member for Finance makes the following Regulations —

PART I—PRELIMINARY

Citation

1. These regulations may be cited as the Public Finance Management (Narok County Climate Change) Fund Regulations, 2021.

Interpretation

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

“county treasury” has the meaning assigned to it by section 2 of the Public Finance Management Act, 2012

“executive committee member” means the County Executive Committee Member for the time being responsible for climate change matters

“fund” means the Narok County Climate Change Fund established under regulation 5 of these Regulations;

‘fund participating institutions’ means national, regional and international institutions that have contributed to the Fund or are implementing climate change related activities in the county

“steering committee” means the County Climate Change Steering

Committee established under Regulation 8 of these regulations

“ward planning committee” means the Ward Climate Change Planning Committee established under Regulation 12.

Objects

3. The object of these Regulations is to define the procedures for management, operations and winding up of the Fund, and for planning of climate change response interventions to be funded by the Fund

Principles

4. (1) The implementation of these Regulations and the management of the Fund shall be guided by the values and principles set out under article 201 of the Constitution of Kenya.

(2) Without prejudice to the provisions of sub regulation (1), the Fund shall be managed and disbursements made with due regard to the following principles—

(a) giving effect to priorities set by communities following a community driven participatory planning process;

- (b) strengthening the role of communities, community structures and indigenous knowledge systems in the planning of climate change response interventions; and
- (c) investing in public goods and structures to strengthen adaptation to climate change.

PART II—COMPOSITION OF THE FUND

Establishment of the Fund

5. There is established a fund to be known as the Narok County Climate Change Fund which shall be used to fund climate change projects, programs and activities provided for in the Climate Finance Framework and in these regulations.

Sources of the Fund

6. The Fund shall consist of—
- (a) monies appropriated by the County Assembly annually, not being less than three per cent of the county development budget
 - (b) monies received by the county from the national government specifically for climate change activities
 - (c) climate finance received by the county from the national Climate Change Fund
 - (d) international climate finance received by the county directly from the National Designated Authority, National Implementing Authority or any other agency
 - (e) donations, endowments, bequests, grants and gifts from local or foreign individuals, public and private entities
 - (f) charges, fees, levies or fines accruing to the county government in connection with activities that adversely impact on climate change in the county
 - (g) interest and any other monies that may lawfully accrue to the Fund in any form

Object and Purpose of the Fund

7. (1) The object and purpose of the Fund is to provide funding for climate change activities identified in the County Climate Change Action Plan and County Climate Finance Framework and for connected purposes.

- (2) Specifically, the fund shall be used to finance—
- (a) climate resilience assessments
 - (b) implementation of climate change response projects proposed by communities
 - (c) priority county level climate change response projects
 - (d) climate change research and knowledge management in the county (In exception of academic research)
 - (e) public education, sensitization and awareness creation on climate change and its impacts
 - (f) capacity building for staff of the county and other stakeholders to effectively respond to climate change
 - (g) monitoring, evaluation, reporting on climate change response in the county

- (h) any other projects, activities and interventions recommended by Committees established and that are relevant to climate change.

Mobilization of resources for the Fund

8. (1) Without prejudice to the provisions of regulation 6, the Steering Committee may mobilize resources for the Fund from—

- (a) communities, development partners, and the private sector;
- (b) international climate finance frameworks, including but not limited to the Green Climate Fund, Adaptation Fund and the Global Environment Facility;

(2) The Steering Committee shall coordinate capacity development for key actors in the county in development of bankable proposals on climate change adaptation and mitigation for accessing resources from international climate finance frameworks

(3) Without prejudice to sub-regulation (2), the Steering Committee shall coordinate the development of financial management systems for the Fund that conform to the standards and requirements of the Public Finance Management Act, 2012 and international climate finance frameworks

Expenditure of the Fund

9. (1) There shall be paid out of the Fund payments in respect of expenses incurred pursuant to the objects and purposes of the Fund.

(2) Expenditure in respect of administrative costs shall not exceed three percent of the total payments out of the Fund in any financial year.

(3) All monies received, savings and accruals to the Fund and any balances not spent at the end of the financial year shall be retained in the Fund to be used in subsequent years for the purposes for which the Fund is established.

Reallocation of funds

10. (1) The Fund Administrator may, in consultation with the Steering Committee, and the relevant Ward Planning Committee, reallocate funds allocated to a project which for reasons communicated to the Steering Committee cannot be absorbed or utilized and will not subsequently be needed for the particular project.

(2) Such reallocation of funds shall only be done across projects within the same ward, save in situations where the reallocation is done to address a disaster declared by the Governor.

(3) A report of all budget reallocations in a ward shall be filed in the Project Fund Reallocation Form in the Schedule giving details of the project, its location, funds reallocated, amount originally allocated, amount unutilized and proposed reallocations, with reasons.

Winding up of the Fund

11. (1) The Fund may be wound up at the recommendation of the Executive Committee Member for the time being in charge of the finance in consultation with the Steering Committee, and subject to the approval of the County Assembly.

(2) Winding up of the Fund shall be done in accordance with the provisions of the Public Finance Management Act, 2012.

PART IV— MANAGEMENT OF THE FUND

Administration of the Fund

12. The Steering Committee shall provide oversight over the Fund and specifically—

- (a) mobilize funds and resources for climate change response projects;
- (b) approve estimates of revenue and expenditure of the Fund for each financial year;
- (c) approve annual budget, work plan, procurement plans and cash plans for the Fund;
- (d) allocate funding for cross-ward and cross-county climate change response projects
- (e) approve the financial statements of the Fund prepared by the Fund Administrator before they are presented for audit;
- (f) approve the County Climate Finance Framework and the strategic plan of the Fund;
- (g) set out procedures for application, disbursement, recovery and repayments of loans
- (h) approve disbursement of loans and grants;
- (i) deliberate, approve and provide directions to the secretariat as appropriate on periodic financial and operational reports;
- (j) approve performance reports of the Fund and submit to the Governor with a copy to the Executive Council Member
- (k) design procedures and mechanisms for effective and transparent administration of the Fund, including tracking and accounting of climate change finance and monitoring, evaluation, reporting and learning

Fund Administrator

13. the Chief Officer of the County department for the time being responsible for matters relating to climate change shall be the administrator of the Fund as designated by the County Executive Committee Member in charge of County Treasury

Functions of the Fund Administrator

14. The Fund Administrator shall supervise administration and day-to-day operations of the Fund, and specifically—

- (a) consult with the Steering Committee and the Executive Committee Member on all matters related to the administration of the Fund;
- (b) ensure that disbursement of monies out of the Fund is done in a timely and efficient manner and in accordance with the provisions of the Act, these Regulations and the Public Finance Management Act, 2012;
- (c) cause to be kept proper books of account and records on the operations of the Fund;

- (d) prepare, sign and submit a statement of account in respect of each financial year and within three months after the end thereof to the Steering Committee for consideration and approval;
- (e) prepare periodic reports on the financial and non-financial performance of the Fund and present the same to the Steering Committee for consideration and approval;
- (f) ensure compliance with decisions and recommendations of the Steering Committee and submit periodic reports on such compliance;
- (g) be the custodian of all assets, equipment and properties of the Fund;
- (h) perform such other functions as may be assigned by the Steering Committee from time to time.

Bank account of the Fund

15. (1) The Executive Committee Member for the time being in charge of the County Treasury shall issue guidelines on banking arrangements of the Fund under the provisions of the Public Finance Management Act, 2012.

(2) The bank account for the Fund shall be managed by the Fund Administrator in consultation with the Executive Member for the time being in charge of the County Treasury

(3) Signatories to the account shall be—

- (i) County Chief Officer in charge of County Treasury;
- (ii) Fund Administrator- Mandatory Signatory ;
- (iii) Vice-Chairperson .

(3) Cheques for administrative expenses shall be signed by any two of the signatories, but cheques to service providers for projects shall be signed by all three signatories; provided that the Fund Administrator shall sign all cheques issued by the Fund.

(4) The bank account for the Fund shall be subject to auditing under the provisions of the Public Finance Management Act, 2012 .

Responsibilities of Fund Administrator

16. The Fund Administrator shall, in consultation with the Executive Committee Member for the time being in charge of the County Treasury, put in place financial controls to ensure fiduciary standards are maintained in all Fund operations and to achieve the desired transparency and accountability with a view to—

- (a) promoting regular accurate reporting of all financial transactions on climate change adaptation and mitigation;
- (b) ensuring that funds are disbursed efficiently to facilitate timely and effective implementation of projects funded by the Fund to maximize on outputs and outcomes;
- (c) ensuring that project implementers and oversight providers have the necessary capacity;
- (d) ensuring that procurement in all Fund projects is competitive, transparent and delivers value for money;

- (e) putting in place effective monitoring and evaluation system for both inputs and outputs;
- (f) ensuring that Fund financial management is subject to timely accounting, reporting and auditing by a qualified and independent auditor; and
- (g) Preparing of budget for approval by the steering committee.

Allowances

17. (1) Members of the Steering Committee shall be paid allowances in accordance with Guidelines from the Salaries and Remuneration Commission.

(2) Members of Ward Planning Committees shall serve on a voluntary basis, but may be reimbursed transport costs at rates to be determined by the County Treasury in consultation with the Executive Committee Member for the time being in charge of climate change matters and in accordance to guidelines of the Salaries and Remuneration Commission.

PART IV—DISBURSEMENT OF MONIES FROM THE FUND

Planning and budgeting

18. (1) The Fund Administrator shall, prior to the commencement of each financial year—

- (a) prepare and circulate to the Steering the Committee, and the Ward Planning Committees a list of funds available for climate adaptation and mitigation in the county to guide planning of projects;
- (b) submit a consolidated list of ongoing climate change response projects in the county to the Steering Committee, and the Executive Committee Member for the time being in charge of the County Treasury;

(2) The information provided under sub-regulation (1) shall specify the funds approved by the Steering Committee for each ward ;

(3) The Fund Administrator shall ensure the widest possible circulation through the media and public *Baraza* of the information under sub-regulation (1).

Allocation of funds to Wards

19. In determining the allocation of funds to wards, the Steering Committee shall be guided by the following factors—

- (a) equitable distribution of the Fund across the county having regard to eligibility criteria;
- (b) giving priority to wards that are more prone to climate change related disasters;
- (c) population distribution across the wards .

Funds distribution

20. Monies available for disbursement from the Fund in any financial year shall be distributed as follows—

- (a) three percent for administrative costs, further allocated in the following manner—
 - (i) thirty percent for Steering Committee; and

- (ii) seventy percent for Ward Planning Committees.
- (b) Twenty seven percent for county wide projects, further allocated in the following manner—:
 - (i) ten percent to Climate Change Awareness Creation activities;
 - (ii) twenty percent to county specific research and development; and
 - (iii) seventy percent to county wide development projects
- (c) seventy percent for projects proposed by Ward Planning Committees and approved by the steering Planning Committee.

Community consultations to identify priority projects

21. (1) Prior to the commencement of the financial year, the Steering Planning Committee in consultation with Ward Planning Committees shall convene at least one community consultation in each location in every ward for the purposes of—

- (a) creating public awareness about climate change;
- (b) providing information about the nature of project eligible for funding through the Fund; and
- (c) enabling communities to identify priority climate change response projects.

(2) Every Ward Planning Committee shall prepare and submit to the Steering Planning Committee a report on community consultations held under sub-regulation (1).

Development of project proposals

22. (1) The Ward Planning Committee for each ward shall, on the basis of priorities identified in the communities consultations under regulation 16, develop project proposals with procurement plans for each project.

(2) The Ward Planning Committee shall rank the projects in terms of priority, and present the list and the proposals to the Steering Planning Committee using Form A in the Schedule.

Criteria for approval of projects

23. (1) In reviewing project proposals for funding, Steering, shall have regard to the following factors, among others—

- (a) proper situation analysis, with clear problem statement and clarity on the level and urgency of vulnerability and risk arising from delayed intervention;
- (b) relevance;
- (c) magnitude and possibility of risk occurrence;
- (d) promotion of gender and community cohesion, with due regard to vulnerable groups;
- (e) support to strengthening of livelihoods, including through income generation ;
- (f) promotion of resilience in the locality through adaptation and mitigation;
- (g) evidence of properly conducted environmental impact assessment ;
- (h) complementarity, value-addition and synergy with existing projects;
- (i) clearly defined monitoring and evaluation plan;

- (j) sustainability;
- (k) innovativeness;
- (l) clearly defined stakeholder engagement plan ;
- (m) efficiency and effectiveness of implementation arrangements;
- (n) cost-effectiveness and value for money;
- (o) Projects that will benefit many people including the most vulnerable groups;
- (p) Projects that are in line with the already approved County Plans.

(2) Provided that it shall be the responsibility of, and the Ward Planning Committees to support communities to be able to comply with the criteria for assessing project proposals .

(3) Provided further that the criteria shall not be used to prejudice or disadvantage any communities in accessing project funding from the Fund.

Disbursement of funds for approved projects

24. (1) Upon the Steering Committee approving projects, the Fund Administrator shall publish a list of approved and ranked projects, together with the procurement plans for each project.

(2) The Fund Administrator shall then proceed to release monies to approved projects on quarterly or need basis according to cash flow projections submitted by implementers.

Bank accounts for project funds

25 (1) Each Ward Planning Committee shall open two bank accounts, one for operating expenses and the other for project funds.

(2) The Fund Administrator shall only disburse funds to Ward Planning Committees through approved commercial banks.

(3) Disbursed funds shall only be withdrawn by duly authorized signatories for use in meeting expenses of approved projects.

(4) The accounts shall be opened in line with the Public Finance Management Act.

(5) The ward planning committees accounts shall have 3 signatories with the Fund Administrator as a Mandatory signatory.

Procurement

26. (1) The Fund Administrator shall in consultation with the Executive Committee Member for the time being in charge of the County Treasury facilitate establishment of appropriate procurement systems for each Ward Planning Committee consistent with the requirements of the Public Procurement and Asset Disposal Act, 2015.

(2) The Fund Administrator shall liaise with the County Director of Procurement to facilitate capacity development on procurement procedures and systems for all Ward Planning Committees.

(3) Hiring of professionals and other service providers for approved and funded projects shall be done in accordance with the Public Procurement and Assets Disposal Act, 2015 and the Public Finance Management Act, 2012.

Payment of Suppliers and Service Providers

27. (1) Each Ward Planning Committee shall monitor implementation of projects under its supervision and ensure that service providers meet the necessary terms of the contract in accordance with the approved implementation monitoring plan and disbursement program for each project.

(2) Payments to suppliers and service providers shall be supported by approved documentation from each based on contract terms, project progress report, and approval of payment signed by at least two of the approved signatories.

(3) Payment shall be in accordance with the Implementation Monitoring Plan and the Investment Schedule.

(4) The Ward Planning Committee shall submit quarterly reports to, and the Steering Committee reflecting payments made.

Projects implementation progress reports

28. (1) The Ward Planning Committees shall submit to the Steering Committee regular reports on projects under their supervision.

(2) Ward Planning Committees shall prepare and submit to the Fund Administrator monthly financial reports with details of physical progress and financial expenditure on projects under their supervision, providing comparison between the project implementation schedule and the current status.

(3) The reports shall be submitted in Form C.

Maintenance of records

29. (1) The steering Committee and Ward Planning Committees shall maintain full and accurate records of expenditures of the Fund, including—

- (a) all receipts in respect of every project and the sum total thereof;
- (b) all approved documents relating to every expenditure; and
- (c) relevant bank statements of project accounts.

(2) The Ward Planning Committees, , and the Steering Committee shall ensure that all Fund documents are secured and preserved for audit and reference purposes.

PART V—MISCELLANEOUS PROVISIONS

Declaration of interest

30. (1) A member of the Steering Committee, or the Ward Planning Committee who has an interest in any business before the Committee and is present at the meeting shall as soon as it is reasonably practicable, declare his/her interest and shall thereupon be excused from the meeting and not take part in the consideration or discussion of, or vote on the matter

(2) A disclosure of interest made under sub regulation (1) shall be recorded in the minutes of the meeting at which it is made.

(3) A member of Steering Committee, , or the Ward Planning Committee who contravenes sub -regulation (1) shall have his/her membership of the Committee terminated forthwith upon direction of the Executive Member for the time being in charge of the County Treasury.

(4) Where a member is removed from a Committee under sub-regulation (3), the Executive Member for the time being in charge of the County Treasury shall make arrangements replacement as soon as practicable.

Guidelines

31. (1) The Executive Committee Member for the time being in charge of the County Treasury shall in consultation with the Executive Committee Member for the time being in charge of environment and the Steering Committee develop guidelines for the proper implementation of these Regulations and management of the Fund.

FIRST SCHEDULE



Form A R. 15(2)

COMMUNITY PRIORITY PROJECTS NOTIFICATION FORM

Financial Year.....

Ward Name.....

	Project title and location	
1	Project priority rank	
1.1	Short description and target beneficiaries	
1.2	Justification	
1.3	Description of proposed measures	
2	Project costs	
2.1	Pre-construction costs	
2.2	Construction costs	
2.3	Additional infrastructure	
2.4	Design and supervision	
2.5	Contingencies	
2.6	Total project cost	
2.7	Estimated annual operating costs	
2.8	Annual maintenance costs	
3	Total estimated costs for the year	
4	Sources of finance	
4.1	Development costs	
4.2	Operations and maintenance costs	
5	Staffing and maintenance arrangements	
6	Relationship with other projects	
7	Project timeframe (period of implementation)	

SECOND SCHEDULE



Form B R. 10(3)

PROJECT FUNDS REALLOCATION FORM

Ward Name.....

Financial Year.....

<i>Project No.</i>	<i>Project Location</i>	<i>Amount Allocated (Kshs.)</i>	<i>Amount Disbursed (Kshs.)</i>	<i>Balance (Kshs.)</i>	<i>Unspent to be Reallocated</i>

Reasons for reallocation

Signature

Date

Name

Position

THIRD SCHEDULE



FORM C

R. 24(3)

PROJECT IMPLEMENTATION STATUS REPORT

Summary Sheet for COUNTY CLIMATE CHANGE FUND Project Implementation
(Ongoing projects)

Financial Year.....

Ward Name.....

	Type of Project	Location	Estimated total cost	Amount allocated	Expenditure to date	Variance				
						Q1	Q2	Q3	Q4	Total
1										
2										
3										

Reasons for variances

.....

.....

Date

.....

Signature and designations of signatories

Dated the of January 2021

Julius M. Sasai
County Executive Committee Member, Finance and Economic Planning.