

PUBLIC FINANCE MANAGEMENT ACT, 2012
(NYERI COUNTY CLIMATE CHANGE FUND) REGULATIONS, 2021

DRAFT

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THE PUBLIC FINANCE MANAGEMENT ACT, 2012

(No. 18 of 2012)

IN EXERCISE of the powers conferred by Section 116 of the Public Finance Management Act, 2012, the Nyeri County Executive Committee Member for the time being responsible for Finance makes the following Regulations: -

The Public Finance Management Act (Nyeri County Climate Change Fund) Regulations, 2021

Part I-Preliminary

- Citation and commencement
1. These Regulations may be cited as the Public Finance Management Act (Nyeri County Climate Change Fund) Regulations, 2021 and shall come into force upon publication in the Kenya Gazette.
- Interpretation
2. In these Regulations, unless the context otherwise requires
- “Authority” means the power or right to give orders, make decisions, and enforce obedience;
- “Climate Change” has the same meaning assigned to it in section 2 of the Nyeri County Climate Change Act, 2021;
- “Climate Change resilience” has the same meaning assigned to it in section 2 of the Nyeri County Climate Change Act, 2021;
- “Steering Committee” has the same meaning assigned to it in section 2 of the Nyeri County Climate Change Act, 2021;
- “Climate Change Planning Committee” has the same meaning assigned to it in section 2 of the Nyeri County Climate Change Act, 2021;
- “Ward Climate change planning Committee” has the same meaning assigned to it in section 2 of the Nyeri County Climate Change Act, 2021;
- “Financial year” means the period of twelve months ending on the 30th June each year;

“Fund” means the Nyeri County Climate Change Fund established under Regulation 4;

“Fund Administrator” means a person designated by the County Executive Committee member for finance under Regulation 9 to administer the County Climate Change Fund;

“Fund Management Committee” means the County Climate Change Fund Management Committee established under Regulation 14;

“Ward” has the meaning assigned to it in section 2 of the County Government Act, 2012;

Object and purpose of the Regulations 3. The object of these Regulations is to establish the Nyeri County Climate Change Fund, provide for its management, operation procedures and its winding up procedure and to promote climate change programs.

Part II- Establishment of The Nyeri County Climate Change Fund

Establishment of the fund 4. There is established a fund to be known as the Nyeri County Climate Change Fund.

Purpose of the Fund 5. The purpose of the Fund shall be:

- (a) to finance climate change resilience and its assessment;
- (b) to finance implementation of approved climate change projects;
- (c) to finance monitoring and evaluation exercises including documentation, photography and video recording of climate change projects;
- (d) for administrative costs which shall not exceed three percent of the total Fund per financial year;
- (e) for capacity building activities at county level, national level and international level as approved by the Steering Committee; and
- (f) to provide funding for integration and mainstreaming of climate change programs, actions, interventions and duties as identified in the Nyeri County Integrated Development Plan, the Nyeri County Climate Change Act, 2021, the National Climate Change Action Plan and for connected purposes.

Lifespan of the fund 6. The fund shall exist for a period of ten years.

Extension of lifespan of the fund 7. 1) Notwithstanding the provisions of Regulation 6, the Executive Committee member for the time being responsible for Finance may extend the Fund’s lifespan.
2) Provided that the County Executive Committee and the County Assembly approve the request for extension of the lifespan

Winding up 8. (1) The County Executive Committee Member for the time being responsible for Finance shall seek the approval of the County Assembly before winding up.
(2) Winding up shall be done in accordance to the provisions of the Public Finance Management (County Governments) Regulations, 2015 and the Public Finance Management Act, 2012.
(3) On the winding up of the fund, the fund administrator shall pay any amount remaining in the fund into the County Exchequer Account.
(4) The County Executive Committee member for finance shall, with the approval of the county assembly, pay any deficit in the fund from the County Exchequer Account.
(5) The final report after winding up the Fund shall be submitted to the Auditor-General for audit and the County Assembly.

Appointment of Fund Administrator 9. There shall be a Fund Administrator who shall be designated in writing by the County Executive Committee Member for the time being responsible for Finance

Functions of the Fund Administrator 10. The Fund Administrator shall:
(a) supervise and administer of the Fund;
(b) ensure that the accruals to the Fund are retained in the Fund unless the County Executive Committee Member for the time being responsible for Finance directs otherwise;
(c) ensure that money held in the Fund is spent only for the purposes for which the Fund is established;
(d) ensure disbursement of monies out of the Fund is done in accordance to

these Regulations;

- (e) cause to be kept proper books of accounts and other books and records in relation to the Fund;
- (f) prepare and submit financial statements for the Fund each financial year as prescribed by the Accounting Standards Board;
- (g) ensure that the accounts for the Fund and the annual financial statements relating to those accounts comply with the accounting standards prescribed and published by the Accounting Standards Board from time to time;
- (h) prepare quarterly financial statements for the Fund including its financial and non-financial performance in a form prescribed by the Accounting Standards Board;
- (i) not later than three months after the end of each financial year, submit financial statements relating to the accounts to the Auditor-General;
- (j) not later than fifteen days after the end of each quarter, submit quarterly reports to the County Treasury and the Controller of Budget;
- (k) furnish such additional information as he or she may deem fit to be proper and sufficient for the purpose of examination and audit by the Controller of Budget and the Auditor-General;
- (l) ensure compliance with decisions of the Climate Change Committees and submit quarterly reports on such compliance;
- (m) ensure timely and efficient disbursement of funds to the Ward Climate change planning Committees for project implementation;
- (n) exercise oversight over capacity building for the Planning Committee and the Ward Climate change planning Committees to ensure greater efficiency in their roles with regard to community projects identification and implementation processes; and
- (o) perform such other functions as assigned from time to time by the Fund Management Committee.

Capital of the fund 11. The initial capital for the fund shall be at least one percent of the County audited revenue account in a financial year as appropriated by the County Assembly

- Sources of the Fund
12. The sources of the fund shall include:
- a) monies appropriated by the Nyeri County Assembly;
 - b) Grants and loans from the National Climate Fund;
 - c) Climate finance from National and International entities;
 - d) Monies received from Public Benefit Organizations;
 - e) Fees and charges from climate change activities;
 - f) Grants and donations from donors;
 - g) Any monies that accrue to the fund in any form, such as in the form of interest or any other form; and
 - h) Any other such donations from a lawful source

- Expenditure of the Fund
13. 1) The Fund shall be administered in accordance with Section 116 of the Public Finance Management Act 2012.
- 2) There shall be paid out of the Fund expenses incurred in pursuance of the objects and purposes of the Fund.

Part III- The Nyeri County Climate Change Fund Management Committee

- Establishment of the Fund Management Committee
14. There is established the Nyeri County Climate Change Fund Management Committee.

- Composition of the Fund Management Committee
15. (1) The Fund Management Committee shall comprise of:
- a) Chief Officer for the time being responsible for Climate change or a representative, who shall be the Chair;
 - b) The Director responsible for Climate change who shall be a member;
 - c) The Chief Officer responsible for Economic Planning or their representative, who shall be a member;
 - d) The Fund Administrator who shall be the Secretary; and
 - e) The Chief Officer responsible for Agriculture or their representative, who shall be a member.

(2) The members under Regulation 15 (1) (a), (b), (c), and (e) shall be appointed by the Governor.

Functions of the Fund 16. The functions of the Fund Management Committee shall be to:

Management
Committee

- (a) provide oversight of the administration of the monies drawn from the Fund;
- (b) mobilize resources for the Fund;
- (c) provide guidance to the committees established under the Act on-
 - i) proposals on climate change related charges or adjustments to the existing charging structure;
 - ii) approval of expenditure plans
- (d) Receive reports from the Climate Change Planning Committee for its consideration and adoption.
- (e) approve all payments of climate change funded projects and programs;
- (f) analyze the progress report from the Climate Change Planning Committee;
- (g) plan for capacity building activities for the Steering Committee, Climate Change Planning Committee and the Ward Climate change planning Committee;
- (h) may appoint ad hoc sub committees to support its operations; and
- (i) perform any other climate change related duties that may arise from time to time.

Meetings of the Fund 17. (1) The Fund Management Committee shall meet at least four times in a Management year.

Committee

(2) The quorum shall be not less than two-thirds of the members.

Allowances of the 18. The Fund Management Committee shall be paid such to allowances as Fund Management approved by the Salaries and Remuneration Commission.

Committee

Part IV- Operation Of The Fund

Fund Bank Account 19. The Nyeri County Climate Change Fund shall open and maintain one current bank account as approved by the Committee Executive Committee Member for the time being responsible for in Finance.

- Bank account signatories 20. 1) The signatories of the bank account opened under Regulation 19 shall be the Fund Administrator and two other persons authorized by the Fund Management Committee.
- 2) The signing instructions shall be such that the signature of the Fund Administrator shall be mandatory on all payments or other instrument intended for actual release of money from the fund.
- Withdrawals from the Fund 21. All expenditures from the fund shall be recommended by the Fund Administrator and authorized by the Fund Management Committee as reflected in the Fund's approved annual estimates of expenditure for that financial year.
- Planning and budgetary Process 22. (1) The Fund Administrator shall, before the beginning of each financial year-
- (a) prepare and circulate a list of funds available for climate adaptation and mitigation activities in the county to the Fund Management Committee in order to guide in projects planning.
 - (b) give details, if any, of conditional funds to target recipients.
 - (c) submit the consolidated projects on climate change to the Steering Committee and the County Executive Committee Member for the time being responsible for Finance.
- Procurement of goods and services 23. Sourcing of Consultants and other service providers for approved and funded projects shall be done in accordance with the Public Procurement and Assets Disposal Act, 2015, the Public Finance Management Act 2012 and subsequent any regulations made thereto.
- Fund Allocation Criteria 24. Funding shall be allocated in the following manner:
- (a) Not more than three percent shall be used for administrative costs.
 - (b) Seventy-five percent shall be allocated to ward climate change projects.
 - (c) Twenty two percent shall be allocated to county-specific climate change projects.
- Eligibility criteria for allocation of funds 25. 1) The allocation of funds to various projects in the Ward and County levels shall be guided by the following criteria:
- (a) The Community Based Organization seeking funding must be a registered Community Based Organization (CBO) proof of which shall be by providing requisite registration documents.

- (b) The Community Based Organization (CBO) must be willing to provide proof of ownership by contributing 10 percent of the total project cost either in cash or in kind.
- (c) Intervention must benefit many people including the most vulnerable groups with clear evidence of gender considerations;
- (d) Intervention must support the economy, livelihoods or important services on which many people depend, and has been identified, prioritized and included in ward, sub-county, county and cross-county plan or strategy for public good projects and promotes climate resilient growth and adaptive livelihoods;
- (e) Proof must be provided to show that the target intervention is relevant to building resilience to climate change and has been identified and prioritized through community participation, based on identifiable vulnerabilities, as captured in risk assessment and vulnerability mapping reports available for the county;
- (f) Must contain detailed situation analysis with clear problem statement to facilitate clarity on level and urgency of vulnerability and risks arising from delayed intervention;
- (g) Demonstrates evidence of expected improvement on the socio-economic status and resilience to the most vulnerable groups and incorporates gender considerations;
- (h) Must encourage harmony and build relations and understanding among the beneficiaries;
- (i) Contributes to adaptation or mitigation and improving community resilience and other community benefits including poverty reduction;
- (j) Supports livelihoods through income generation, and improved livelihoods;
- (k) Avoids duplication of projects;
- (l) Where similar projects have been undertaken, it should provide complementarity and value addition to existing projects;
- (m) Must provide platforms for effective stakeholder engagement and demonstrate sensitivity to diverse cultures and religions;

- (n) Must provide opportunity for capacity building through training, awareness creation and sensitization, and capture, document and disseminate information and lessons learnt on climate change and its impacts;
- (o) Provide proof that the project is sustainable beyond implementation with adequate arrangements to protect assets created after project completion and contributes to long term beneficial impacts to the community;
- (p) Provide proof that the project has innovativeness and demonstrates use of indigenous knowledge, innovations and technology;
- (q) Must be cost-effective and give value for money.

2) Application for funds allocation by the community shall be made as prescribed in Form C.

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| Fund reallocation | <p>26. (1) The Fund Administrator may in consultation with the Fund Management Committee reallocate funds which cannot be absorbed or utilized in a particular project.</p> <p>(2) Projects receiving reallocated funds shall be within the same ward as the project from which funds are reallocated.</p> <p>(3) A project may receive reallocated funds from a project situated in a different ward only if a disaster is declared.</p> <p>(4) A report of all budget reallocations, in a ward, must be filed giving full details of the project, its location, funds reallocated, amount originally allocated, amount unutilized and proposed reallocations with reasons, as prescribed in Form A.</p> |
| Disbursement of funds | <p>27. Disbursement of conditional grants to community prioritized projects shall be done as per the donor imposed conditions.</p> |
| Adjustment of Fund instalments | <p>28. The Fund Management Committee may at its own discretion adjust the amount of instalments to various community prioritized projects while taking into account the inflow of funds.</p> |
| Payment of suppliers and service providers | <p>29. (1) Payments to suppliers and service providers shall be supported by approved documentation from each of the suppliers based on the contract terms, a project progress report and an approval of payment signed by at least two of the approved signatories.</p> |

2) Payment shall be in accordance with the implementation monitoring plan and investment schedule.

Financial Governance 30. The Climate Change Planning Committee shall submit to the Fund Management Committee regular reports on programs and projects under their supervision as detailed hereunder:

(a) The Climate Change Planning Committee shall consolidate and submit to the Fund Administrator monthly financial reports with details of physical progress and financial expenditure on programs and projects under their supervision.

(b) The reports shall provide comparison between the project implementation schedule, the current implementation status as per Form B.

Maintenance of Records 31. (1) The Fund Management Committee shall maintain full and accurate records of the Fund expenditures including:

(a) All receipts in respect of every project, program and their total;

(b) All expenditures supported by approved documentation; and

(c) Relevant bank statements of the project accounts.

(2) The Fund Management Committee shall ensure all Fund documents together with supporting documents are protected and preserved for future audit and reference.

Financial Reporting 32. The Fund Administrator shall prepare and submit quarterly reports to the Fund Management Committee for approval and onward submission to the County Executive Committee Member for the time being responsible for Finance detailing the following:

(a) Programs and projects funded by or in partnership with Fund;

(b) Disbursements by each of the supporting financing partners as well as total amounts received;

(c) Funding status showing monies disbursed for each of the projects per ward and sub county; and

(d) A summary of climate change activities in the county.

Audit 33. The accounts of the Fund shall be audited in accordance with the provisions of the Public Finance Management Act, 2012 and the Public Audit Act, 2015.

Part V- Miscellaneous Provisions

- Guidelines 34. The County Executive Committee Member for the time being responsible for Finance shall, in consultation with the County Executive Committee Member for the time being responsible for Climate Change, develop guidelines for the proper management of Fund.
- Amendment to these regulations 35. The Fund Management Committee or any other interested party may from time to time recommend to the County Executive Committee Member for the time being responsible for Finance any amendments to these regulations for consideration

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Form B

NYERI COUNTY CLIMATE CHANGE FUND

PROJECT IMPLEMENTATION STATUS FORM.

Summary sheet for COUNTY CLIMATE CHANGE FUND Project implementation (On-going 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.....

Made on the ... of 2021.

County Executive Committee Member
 for Climate Change
 County Government of Nyeri

.....
 County Executive Committee Member for Finance
 County Government of Nyeri

Form C**NYERI COUNTY CLIMATE CHANGE FUND****COMMUNITY PROJECT APPLICATION FORM**

Financial Year (Cost in Kenya Shillings unless otherwise advised).

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 Cost	
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 time frame: (period of implementation)	