COMMISSION ON REVENUE ALLOCATION
Promoting an Equitable Society

RECOMMENDATION ON THE BASIS FOR EQUITABLE SHARING OF REVENUE BETWEEN THE NATIONAL AND COUNTY GOVERNMENTS FOR FINANCIAL YEAR 2021/2022

JANUARY 2021

TRANSMITTAL LETTER

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COMMISSION ON REVENUE ALLOCATION

OUR REF: CRA/14/Vol.6(19) **DATE:** 15th January 2021

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Parliamentary Service Commission

Mr. Michael Sialai,EBS
Clerk of the National Assembly

Hon. Amb. Ukur Yatani, EGH
Cabinet Secretary, National Treasury

All Governors
County Governments

Clerks of County Assemblies

Dear All

RE: RECOMMENDATION ON SHARING OF REVENUE FOR FINANCIAL YEAR 2021/22

Pursuant to Article 216 (1)(a) of the Constitution, the Commission on Revenue Allocation (CRA) is mandated to make recommendations concerning the basis for equitable sharing of revenue raised by the national government between the national and county governments. The PFMA (2012) Section 190 requires that the recommendation be submitted at least six months before the beginning of the financial year or at a later date agreed between the Cabinet Secretary and the Commission on Revenue Allocation.

The Commission recommends that for the financial year 2021/22, out of a projected shareable revenue of Kshs. 1,813.7 billion, and the Road Maintenance Levy Fund revenue projection of Kshs. 65.13 billion, national government be allocated Kshs. 1,443.7 billion and County governments Kshs.370 billion. The allocation of Kshs. 370 billion to the county governments constitutes the following:

i. A baseline equitable share allocation of Kshs. 316.5 billion,
ii. Unconditional allocation of Kshs. 17.02 billion to be shared by all counties. These allocations were previously allocated as conditional grants for health, roads and education, and
iii. Transfer of Kshs. 36.48 billion to counties from ministries departments and agencies in the national governments for performance of concurrent functions in the areas of health, crop development and agriculture, livestock, fisheries, water, irrigation and sanitation.

Further, in accordance with the provision of the PFMA 2012 Section 190(d), the Commission presents the determination of each county's equitable share based on the Third Basis for revenue sharing approved by Parliament in September 2020.

Yours Sincerely

Dr. Jane Kiringai, EGH
CHAIRPERSON

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ACRONYMS

A-i-A	Appropriation-in-Aid
BROP	Budget Review and Outlook Paper
CAJ	Commission on Administrative of Justice
CBK	Central Bank of Kenya
CoB	Controller of Budget
CRA	Commission on Revenue Allocation
EAC	East Africa Community
EACC	Ethics and Anti-Corruption Commission
FY	Financial Year
GDP	Gross Domestic Product
ICT	Information, Communication and Technology
IEBC	Independent Electoral and Boundaries Commission
IGTRC	Intergovernmental Relations Technical Committee
IPOA	Independent Oversight Authority
JSC	Judicial Service Commission
KNBS	Kenya National Bureau of Statistics
KNCHR	Kenya National Commission on Human Rights
KRA	Kenya Revenue Authority
MDAs	Ministries, Departments and Agencies
NGEC	National Gender and Equality Commission
NLC	National Land Commission
NPSC	National Police Service Commission
OAG	Office of Auditor General
OSR	Own Source Revenue
PFMA	Public Finance Management Act
PSC	Public Service Commission
SRC	Salaries and Remuneration Commission
SSA	Sub-Saharan Africa
TSC	Teachers Service Commission
UACA	Urban Areas and Cities Act
UK	United Kingdom
USA	United States of America
VAT	Value Added Tax

EXECUTIVE SUMMARY

The Commission is mandated by Article 216 (1)(a) of the Constitution to make annual recommendations on the basis for the equitable sharing of revenue raised by the national government between the national and county governments.

In preparing the recommendation for FY 2021/22, the Commission has considered the functional assignments of the national and county governments as provided for in the Fourth Schedule and the criteria to be taken into account in determining the equitable share as provided for in Article 203. Consideration has also been given to the fiscal performance and the need for fiscal consolidation to ensure a sustainable fiscal framework for the FY 2021/2022 and the medium term.

The shareable revenue for the FY 2021/2022 is projected at Kshs. 1,813.7 billion based on an economic growth projection of 6.3 percent, which has been revised to between 4.6 percent to 5.1 percent due to the prevailing global, regional and domestic economic and political challenges. Effectively, the realization of the projected revenue of Kshs. 1,813.7 still remains uncertain.

The Commission, in accordance with the provisions of Article 216(1)(a) and Article 203(1), and taking into account the prevailing and expected revenue performance recommends that out of a shareable revenue of Kshs. 1,813.7 billion, and the Road Maintenance Levy Fund revenue projection of Kshs. 65.13 billion, national government be allocated Kshs. 1,443.7 billion and county governments Kshs. 370 billion. The allocation of Kshs. 370 billion to the county governments constitutes the following:

i. A baseline equitable share allocation of Kshs. 316.5 billion,
ii. Unconditional allocation of Kshs. 17.02 billion to be shared by all counties. These allocations were previously allocated as conditional grants for health, roads and education, and
iii. Transfer of Kshs. 36.48 billion to counties from ministries, departments and agencies in the national government for performance of concurrent functions in the areas of health, crop development, livestock, fisheries, water, irrigation and sanitation.

Further, in accordance with the provision of the PFMA 2012 Section 190(b), the Commission presents the determination of each county's equitable share based on the Third Basis for revenue sharing approved by Parliament in September 2020.

1.0 INTRODUCTION

Article 216(1)(a) of the Constitution mandates the Commission on Revenue Allocation (CRA) to make annual recommendations concerning the basis for the equitable sharing of revenue raised nationally between the national and county governments. Further, section 190 of the Public Finance Management Act (PFMA) 2012 requires the Commission to submit its recommendation to the Senate, National Assembly, County Assembly, National Executive and County Executives six months before the beginning of the financial year (FY) or at a later date agreed between the National Treasury and the Commission.

This recommendation provides the basis for equitable sharing of revenue between the national and county governments for the FY 2021/2022. The recommendation has been made against a backdrop of uncertain global and domestic economic situation occassioned by the COVID 19 pandemic and a constrained fiscal framework due to continued underperformance of revenues. The COVID-19 pandemic, which started as a health crisis transitioned into an economic crisis leading to heightened fiscal risks and social vulnerabilities. Arguably the growth of the economy, which was already slowing down before the pandemic is expected to sharply decline, affecting the fiscal space and division of revenue between the two levels of government.

This recommendation is organized as follows: section one analyses the overall performance of the economy, section two reviews the national and county governments fiscal performance while section three provides the Commission's recommendations on equitable shares of revenue between national and county governments. Section four presents the functional assignments and financing of national and county governments, and section five details each county's equitable share from the county share of revenue.

1.1. Overview of Performance of the Economy

The world and the Kenyan economic performance prior to 2020 had been stable and robust. The emergence of the COVID-19 pandemic in China towards the end of 2019 led to a contraction of the global and local economies. In Kenya, a decline in the growth of the production sectors is expected to negatively impact government revenues both at national and county level.

1.1.1. Gross Domestic Product

The **world economy** recorded real Gross Domestic Product (GDP) growth of 2.9 percent in 2019 compared to 3.5 percent in 2018, the slowest growth since the 2007/2008 global financial crisis. The deceleration in growth was recorded in both advanced economies (particularly the Euro Area) and Emerging Market and Developing Economies (EMDEs) such as China and South Asia. The decline in the world economy was mainly attributed to continuous policy uncertainty, decline in global trade and investment, and a slowdown in labour productivity. The uncertainty in policy led to trade tensions between China and United States of America (USA), and between the European Union (EU) and United Kingdom (UK), with the manufacturing sector being the hardest hit. Advanced economies are estimated to have expanded by 1.7 percent in 2019 compared to a growth of 2.2 percent in 2018.

Global growth is projected to contract by 4.4 percent in 2020[1], due to the devastating effects of the COVID-19 pandemic that necessitated countries to resort to either partial or complete lockdown of economies to curb the spread of the disease. The contraction in the global economy reduces demand by Kenya's main trading partners particularly in Europe and the Middle East who constitute the largest exporters of main agricultural commodities such as tea, coffee and horticultural products.

Sub-Saharan Africa's (SSA) real GDP growth stood at 3.1 percent in 2019 compared to 3.3 percent in 2018 (Figure 1). The growth was supported by favourable weather conditions which boosted agricultural production and exports, cyclical recovery of most of the countries from recession and improved investors' confidence. The spread of the COVID-19 pandemic to SSA along with the continued deterioration in global oil prices is expected to significantly affect the 2020 growth in the region. Growth in SSA is projected to contract by 3 percent in 2020 but recover in 2021 to grow at 3.1 percent.

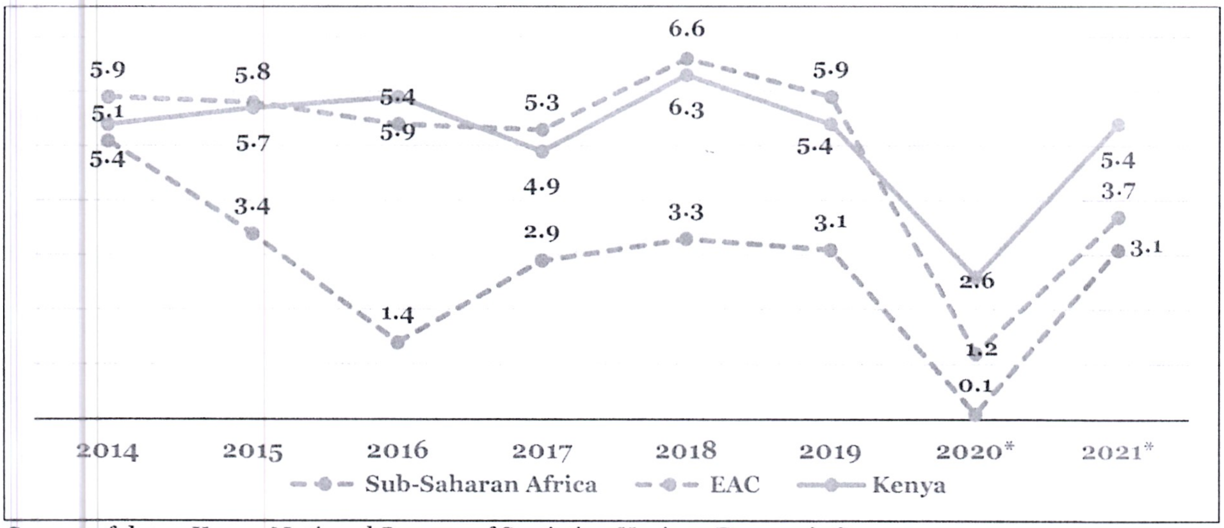
The real GDP in the **East African Community** (EAC) bloc grew by 5.9 percent in 2019 compared to 6.6 percent in 2018. The slowdown in growth was generally recorded in all the countries in the bloc. Despite the slowdown, the EAC continues to be the fastest growing region in Africa driven by; strong public spending in infrastructure, rising domestic demand, political stability, new investment opportunities and incentives for industrial development. Rwanda, the fastest growing country in the EAC bloc recorded the highest real GDP growth rate of 10.1 percent in 2019, supported by strong growth in the private

[1] 2020 IMF, World Economic Outlook

sector and infrastructure. Uganda's real GDP grew by 4.9 percent in 2019 compared to 6.1 percent in 2018. Tanzania recorded a slower growth of 6.3 percent in 2019 compared to 7.0 percent in 2018.

The EAC bloc growth in 2020 is projected at 1.2 percent in the baseline scenario and 0.2 percent[2] in the worst-case scenario owing to related disruptions of fiscal expenditure plans, revenue mobilization, supply chains and international market demands. The region's economy is expected to recover in 2021 to a growth of 3.7 percent in the baseline scenario and 2.8 percent in the worst-case scenario under the assumption that COVID-19 would be contained in the short-to-medium term (Figure 1).

Figure 1: Regional GDP Growth Rates % (2014-2021)

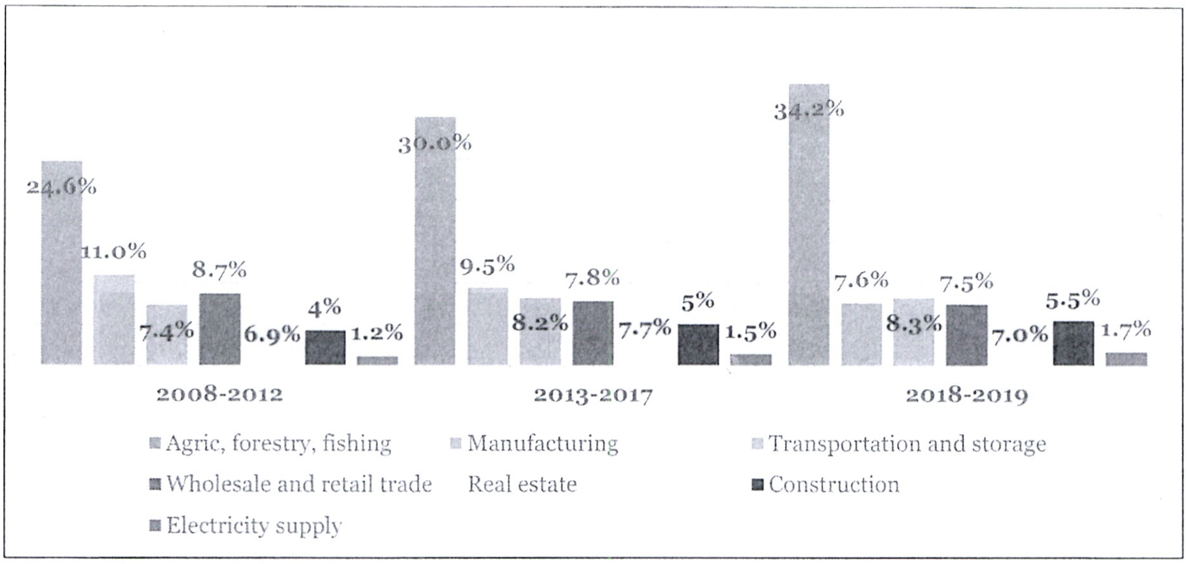


Source of data: Kenya National Bureau of Statistics, Various Economic Surveys
** Estimates*

Kenya's economy slowed down in 2019 to grow at 5.4 percent compared to a growth of 6.3 percent in 2018. Kenya's growth is largely driven by performance of the agriculture sector, which accounted for an average of 24.6 percent between 2008 and 2012 and 34.2 percent between 2018 and 2019 as shown in Figure 2. Although the contribution of the agricultural sector has grown over time, this has not translated to substantive increase in ordinary revenue collection due to the structural change in the economy.

[2] African Development Bank, East African Economic Outlook, 2020

Figure 2: Average Sectoral Contribution to GDP



Source of Data: KNBS, Various economic surveys

Economic growth in 2020 is expected to be significantly affected by the COVID-19 pandemic containment measures. Growth in 2020 was projected at 6.1 percent[3] supported by agriculture, services sector and targeted investments under the government's Big 4 Agenda[4]. The National Treasury has revised the projected growth for the year 2020 to 1.2 percent owing to reduced demand by the country's main trading partners and disruptions of supply chains and domestic production in addition to tax measures put in place to cushion the economy.

1.2 Macroeconomic Environment

1.2.1 Inflation

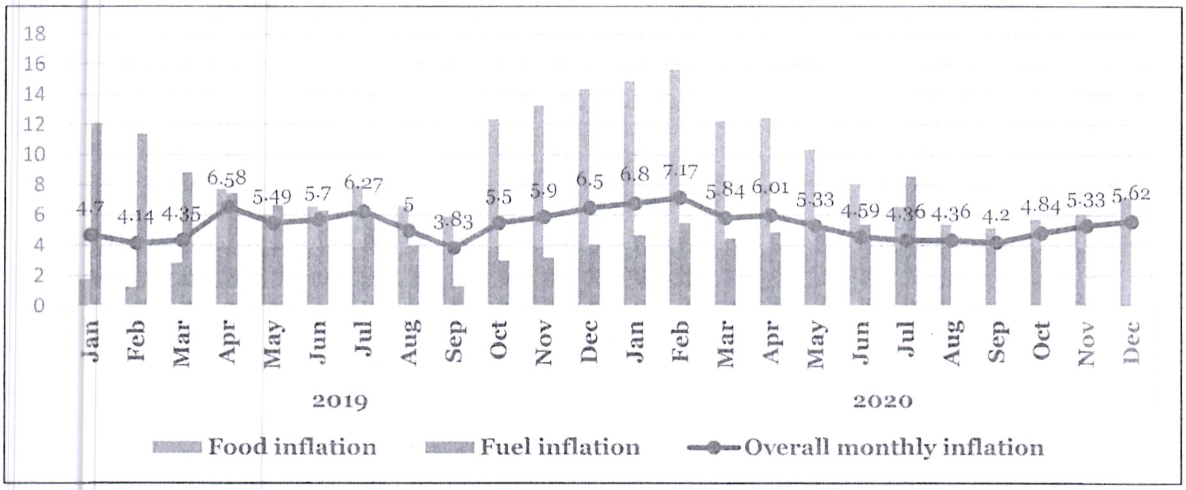
The rate of inflation is a key indicator of macroeconomic stability. Overall monthly inflation remained stable in 2019 and within the government's target range of 5+-2.5 percent. However, between September 2019 and February 2020 inflation rose driven mostly by food inflation as shown in Figure 3. Fuel inflation significantly dropped between January and September 2019, but the last quarter of 2019 saw a steady rise in fuel inflation. Overall average monthly inflation between March and December 2020 remained stable at 4.9 percent due to favourable weather conditions and lower international oil prices. With the revision of the tax measures instituted by the government during the

[3] 2020 Budget Policy Statement

[4] The government's Big 4 Agenda identified manufacturing, housing, universal health care and food security as key investment sectors to improve living standards and spur growth between 2018-2022.

COVID-19 period, inflation is likely to increase, but is expected to remain within the target range.

Figure 3: Monthly Inflation Rates



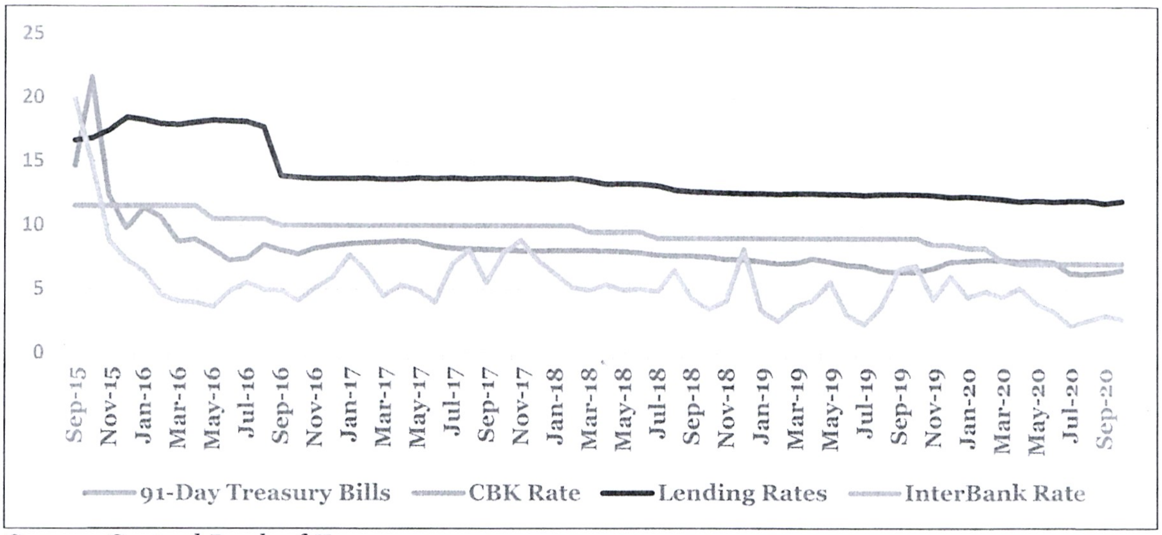
Source of data: KNBS and CBK

The rate of inflation affects the cost of providing goods and services for either level of government, with a high rate of inflation making it expensive to provide goods and services. High rates of inflation could also cause a weakening of the Kenya Shilling relative to other currencies, which will increase the cost of servicing foreign denominated loans.

1.2.2 Interest Rates

The Finance Act 2019 uncapped the interest rate which had been capped since 2016 at a maximum of no more than four percentage points above the CBK base rate to improve private sector credit growth and liquidity. The capping of the interest rates in 2016 led to low and stable rates (Figure 4), which was meant to improve liquidity in the market and particularly to the private sector. However, the interest rate capping resulted in commercial banks adjusting their business models and lending behavior resulting in declining financial intermediation.

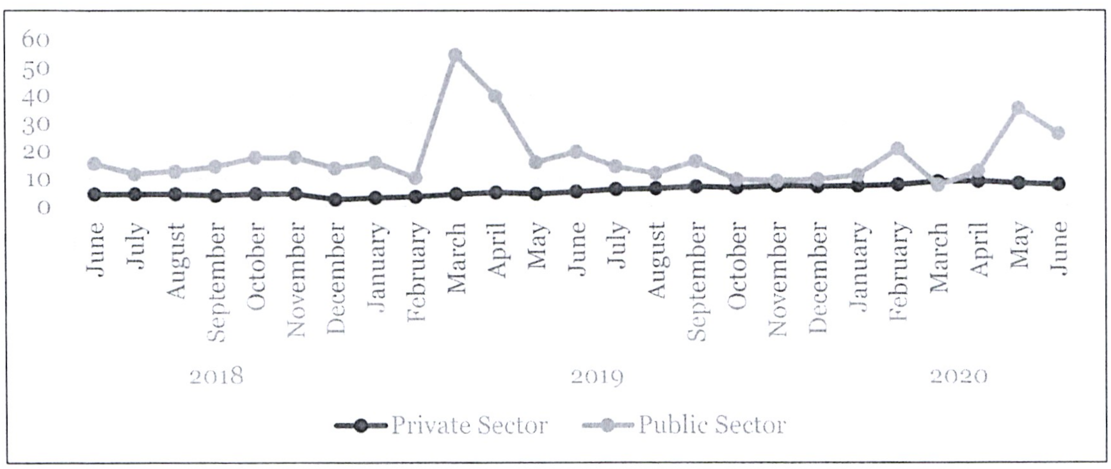
Figure 4: Short Term Interest Rates, Sep 2015 to Sep 2020



Source, Central Bank of Kenya

With the uncapping of the interest rates in 2019 it was expected that credit to the private sector will expand thereby stimulating business growth and overall performance of the economy. Figure 5 shows that there has been slight improvement in the growth of credit to the private sector in the months following the uncapping of the interest rates from November 2019. The growth in credit to the private sector, however, slowed down in 2020 due to measures undertaken by global and the national governments to contain the spread of COVID-19 pandemic.

Figure 5: Growth of Credit to the Private and Public Sectors (2018-2020)

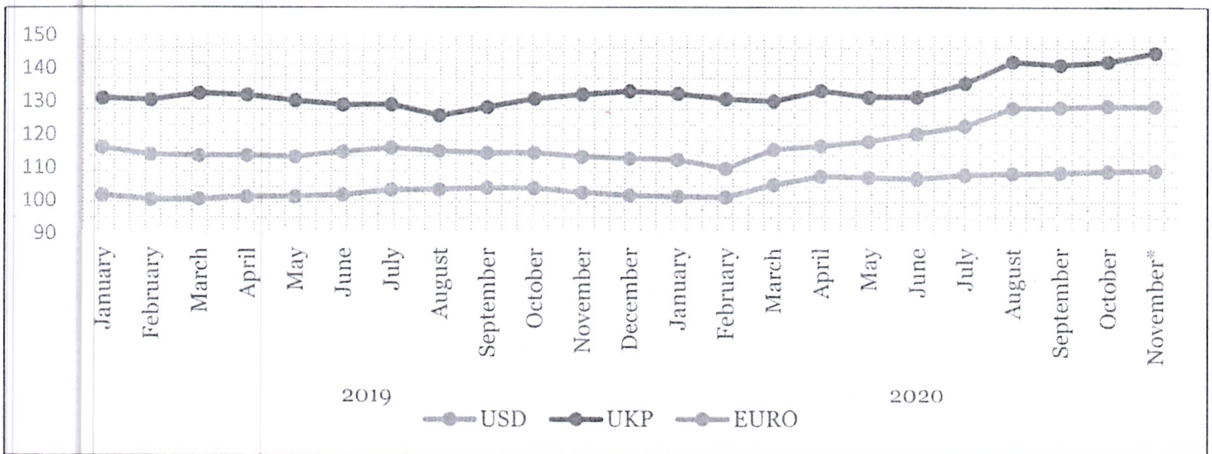


Source of data: Central Bank of Kenya

1.2.3 Exchange Rates

Exchange rate fluctuations have an effect on current account balance and the amount of debt service repayable on foreign denominated loans. The Kenya shilling weakened against major currencies in 2020 as shown in Figure 6. An increasing current account deficit occasioned by a reduction in exports and increased imports will lead to further depreciation of the Kenya Shilling. This is expected to lead to costly foreign debt repayment obligations in servicing of foreign denominated loans in the medium term.

Figure 6: Monthly Exchange Rates



Source of data: CBK

2.0. REVIEW OF THE FISCAL PERFORMANCE FOR FY 2019/2020

2.1. Performance of nationally generated revenue and grants

The FY 2019/2020 fiscal performance was drastically affected by revenue and expenditure measures undertaken by government to contain the spread and effects of the COVID-19 pandemic. Total revenue collected during the FY 2019/2020 amounted to Kshs. 1,733.6 billion (17 percent of GDP) against a target of Kshs. 1,864.8 billion. This was 1.9 percent higher than the FY 2018/2019 collection of Kshs. 1,701.6 billion. The shortfall in total revenue collected against the target in FY 2019/2020 was due to underperformance in other income tax, VAT (local) and the Ministerial Appropriations–in-Aid (A-I-A)[5]. Other income tax and VAT local had the largest underperformance at Kshs.13.1 billion and Kshs.14.3 billion respectively. Although import duty surpassed the target for the year, the revised target of Kshs. 95.9 billion was Kshs. 10.9 billion lower than the actual collection for the FY 2018/19. Total grants received during the FY 2019/2020 amounted to Kshs. 19.8 billion against a target of Kshs. 35 billion. Table 1 presents a summary of the performance of the revenues.

Table 1: Government Revenue and external grants for the FYs 2018/2019 and 2019/2020 (Kshs. Billion)

Revenue Head	2018/2019 Actual	2019/2020 Actual*	2019/2020 Target	Deviation	% growth
Total Revenue (a+b)	1,701.6	1,733.6	1,864.8	(131.2)	1.9
(a) Ordinary revenue	1,499.8	1,573.4	1,615.4	(41.9)	4.9
Import duty	106.9	98.0	95.9	2.1	(8.3)
Excise duty	194.3	195.3	201.2	(5.9)	0.5
PAYE	393.4	399.2	399.4	(0.2)	1.5
Other Income tax	291.9	307.7	320.9	(13.1)	5.4
VAT Local	230.8	213.9	228.2	(14.3)	(7.3)
VAT Imports	183.4	169.8	171.9	(2.1)	(7.4)
Investment Revenue	26.8	103.4	104.6	(1.2)	286.3
Traffic Revenue	4.0	3.6	4.6	(0.1)	(12.0)
Taxes on internal trade and Trans. (IDF Fees)	24.2	29.9	28.3	1.7	24.0
Others[6]	44.1	52.5	60.4	(7.9)	19.1
(b) A-I-A[7]	201.9	160.2	249.4	(89.2)	(20.7)
(c) External grants	19.7	19.8	35.0	(15.2)	0.6
Total Revenue and external grants	1,721.4	1,753.5	1,899.8	(146.4)	1.9
Total Revenue and external grants as a percentage of GDP	18.50	17.20	18.63		

Source of data: National Treasury, 2020 BROP
** Provisional*

[5] Quarterly Economic and Budget Review, 4th Quarter-2019/2020

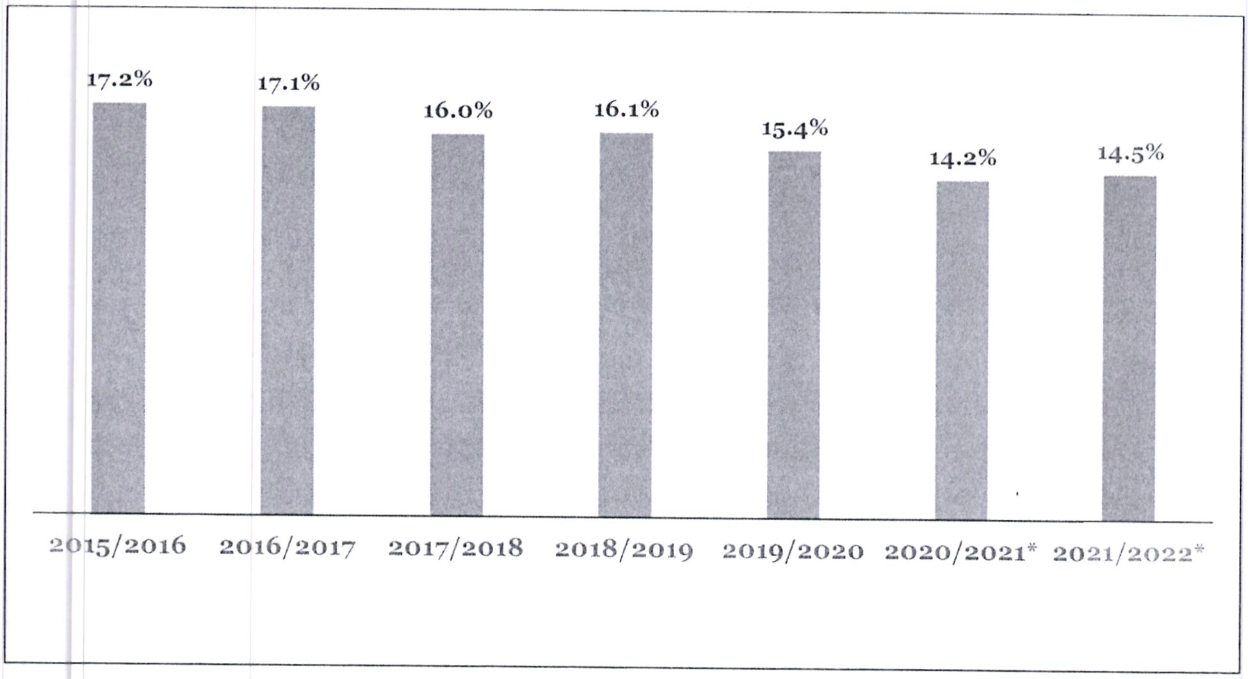
[6] includes rent on land/buildings, fines and forfeitures, other taxes, loan interest receipts reimbursements and other fund contributions, fees and miscellaneous revenue.

[7] includes receipts from Road Maintenance Levy Fund and A-I-A from Universities

Underperformance of ordinary revenue in the FY 2019/2020 was occasioned by a decrease in economic activities and new proposed discretionary changes to tax policy during the 4th quarter of the FY 2019/2020. The government enacted several tax measures, which included a reduction in turnover tax rate (from 3 percent to 1 percent); a reduction in the corporation and individual income tax rate (from 30 percent to 25 percent); a reduction in the VAT rate (from 16 percent to 14 percent). These measures were meant to cushion businesses and households from income shocks arising from the COVID-19 pandemic.

Ordinary revenues as a percentage of GDP has been declining over time as shown in Figure 7. This has largely been attributed to the structural change of the Kenyan economy. The structural decomposition of Kenya's economic growth shows an expansion in the agriculture sector over the years while the manufacturing and service sectors have contracted.

Figure 7: Ordinary revenue as a percentage of GDP for the FYs 2015/2016 to 2021/2022



Source of data: The National Treasury, BROP, Various Issues
**Estimated*

The agriculture sector contributes on average 34.4 percent to the GDP but only 2.4 percent to ordinary revenue. The manufacturing sector's contribution to ordinary revenue is on average 18.8 and only 7.9 percent to the GDP. A further contraction in the economic activities that will impact manufacturing and the services sector is likely to lead to lower than projected ordinary revenue for the FYs 2020/2021 and 2021/2022.

2.2. Performance of government expenditure

Total government expenditure increased by 5.4 percent from Kshs 2,433.7 billion in FY 2018/2019 to Kshs 2,565.4 billion in the FY 2019/2020 (Table 2). Actual national government recurrent spending in the FY 2019/2020 was Kshs 1,603.1 billion against a target of Kshs. 1,728.4 billion. This represented an underspending of Kshs 125.3 billion.

Table 2: Expenditure and net lending for the FYs 2018/2019 and 2019/2020 (Kshs. Billion)

	Expenditure Head	2018/2019 Actual	2019/2020		Deviation
			Actual	Target	
1.	**Recurrent**	**1,489.8**	**1,603.1**	**1,728.4**	**(125.3)**
	Domestic Interest	272.4	315.4	301.8	13.6
	Foreign Interest	103.4	121.8	131.9	(10.0)
	Pension & other CFS	70.8	89.6	90.9	(1.4)
	Wages & salaries	417.5	449.9	457.2	(7.2)
	Operations & maintenance	625.8	626.4	746.6	(120.2)
	O/W: Appropriation In Aid	147.8	106.9	176.1	(69.2)
2.	**Development**	**541.9**	**594.9**	**678.5**	**(83.5)**
	Development projects (Net)	289.0	389.6	434.3	(44.7)
	Payment of guaranteed loans	2.5	0.7	0.6	0.018
	Appropriation-In-Aid	243.4	204.7	243.5	(38.8)
3.	County governments	360.7	325.3	362.4	(37.1)
4.	Parliamentary Service	28.5	27.9	34.3	(6.3)
5.	Judicial Service	12.7	14.1	14.3	(0.2)
6.	Equalization Fund	6.9	-	-	-
7.	CF	-	-	-	-
Total expenditure and net lending		**2,433.7**	**2,565.4**	**2,817.8**	**(252.4)**

Source of data: The National Treasury, BROP 2020

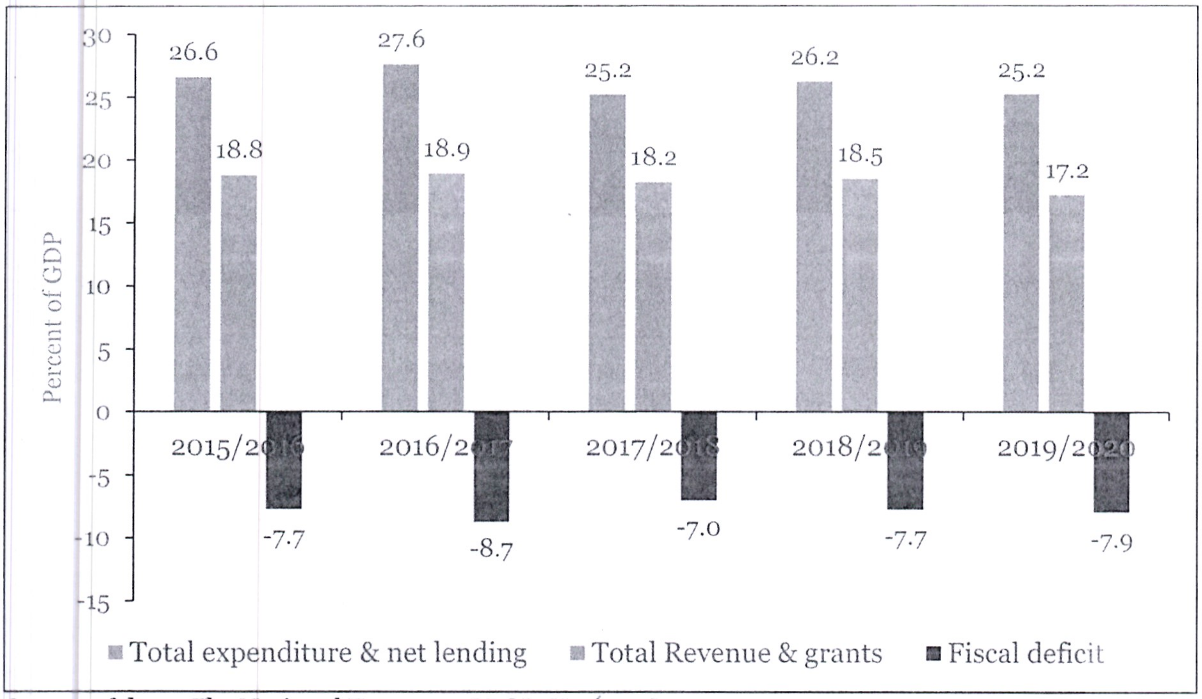
Total government development spending has been increasing in recent years due to public investments driven by large infrastructure projects. Actual national government development expenditure during the FY 2019/2020 was Kshs. 53 billion higher than the FY 2018/2019 expenditure of Kshs. 541.9 billion. However, the FY 2019/2020 actual development expenditure of Kshs. 594.9 billion was lower than the target of Kshs. 678.5 billion due to expenditure rationalization during the fourth quarter of the FY 2019/2020.

Underperformance of revenue in relation to the target coupled with high recurrent and development expenditure have led to continued increase in fiscal deficits. Since the FY 2015/2016 fiscal deficits have been above the five percent recommended threshold[8]. The fiscal deficit in the FY 2019/2020 increased to eight percent from 7.7 percent in the FY 2018/2019 due to underperformance

[8] Based on the Kenya Vision 2030

of revenues. Figure 8 presents the performance of revenues and expenditures relative to GDP.

Figure 8: Revenue and expenditure trends for the FYs 2015/2016 to 2019/2020

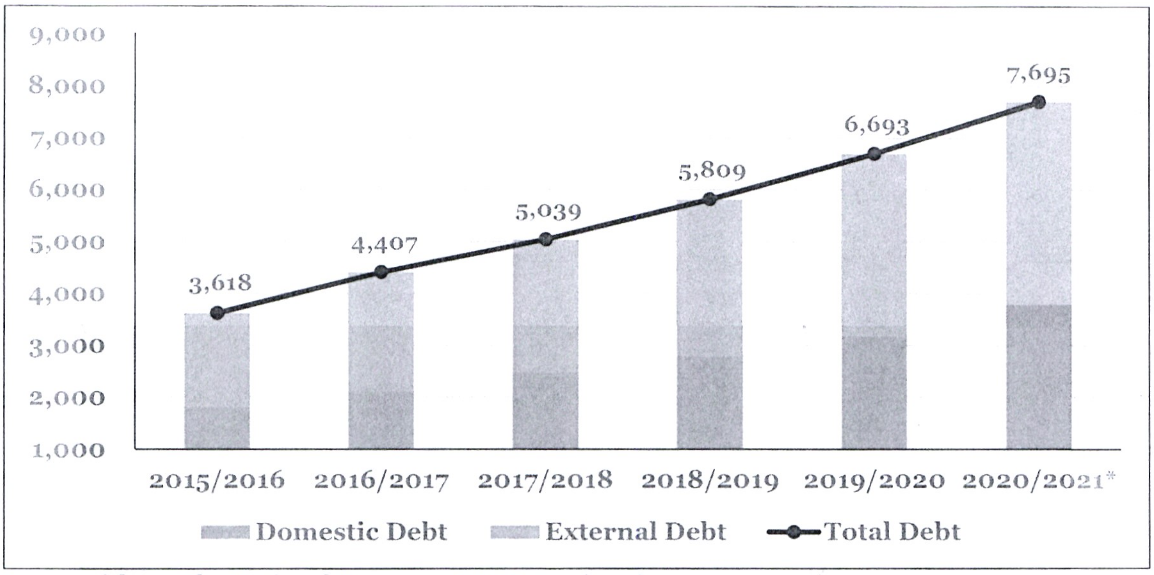


Source of data: The National Treasury, BROP, Various Issues

2.3. Public debt

The total stock of public debt has steadily increased over time, rising by 15.2 percent from Kshs. 5,808.8 billion in FY 2018/2019 to Kshs 6,693.3 billion in the FY 2019/2020 (Figure 9). External debt which accounted for 52.5 percent of the total debt in the FY 2019/2020 rose by 16.3 percent to Kshs. 3,515.8 billion at the close of the financial year in June 2020. Domestic debt grew by 14.1 percent to Kshs. 3,177.5 billion over the same period. The stock of public debt during the FY 2020/2021 is expected to rise to Kshs. 7,695 billion. The absolute debt threshold as approved by Parliament is Kshs. 9,000 billion by June 2024. There is therefore need for the government to continue undertaking fiscal consolidation programs to promote fiscal sustainability.

Figure 9: Public debt stock for the FYs 2015/2016 to 2020/2021 –Kshs. Billion

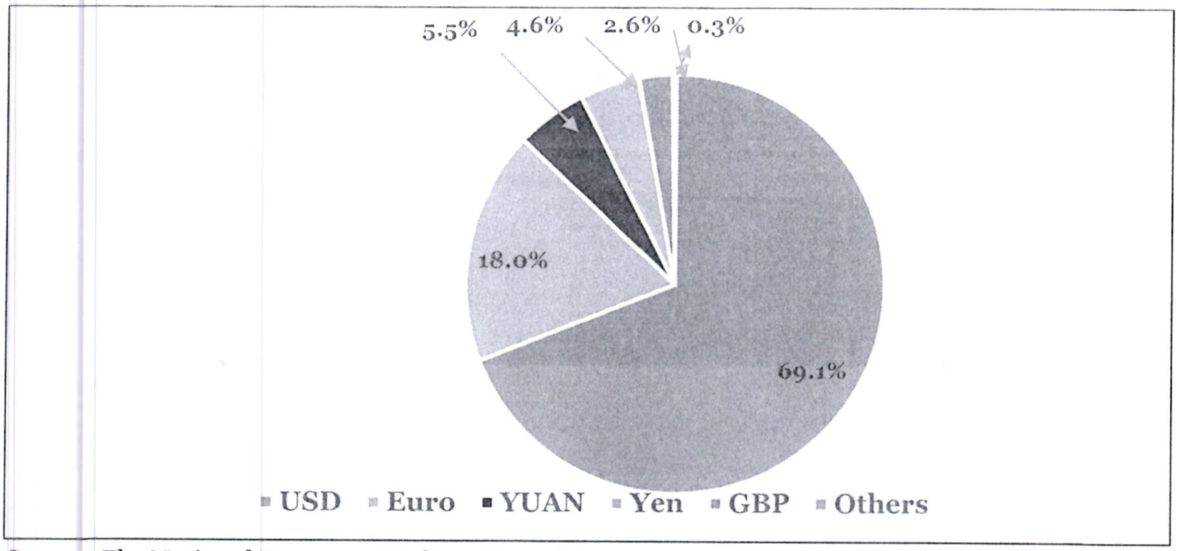


Source of data: The National Treasury, BROP, Various issues
**Estimated*

Domestic debt is mainly made up of Treasury bills and bonds. By end of December 2019, Treasury bills stock stood at 8.49 percent of the GDP, while Treasury bonds stock was 19.07 percent of the GDP. Sources of external debt stock include loans from multilateral, bilateral and commercial creditors. Multilateral debt which is the largest source of external debt accounted for 9.65 percent of GDP by the end of December 2019. Out of this, concessional loans from the International Development Association (IDA) accounted for 6.86 percent of GDP. External commercial debt and International Sovereign Bond accounted for 3.60 percent and 5.97 percent of GDP respectively by December, 2019.

The high levels of external debt and its currency composition puts the country at high risk of foreign currency exposure. Out of the total external debt, 69 percent is U.S. dollar denominated, 18.1 percent in Euro, 5.5 percent in Chinese Yuan, 4.5 percent in Japanese Yen, 2.6 percent in Great Britain Pound and other currencies account for 0.3 percent (Figure 10).

Figure 10: Currency composition of external debt, end of December 2019

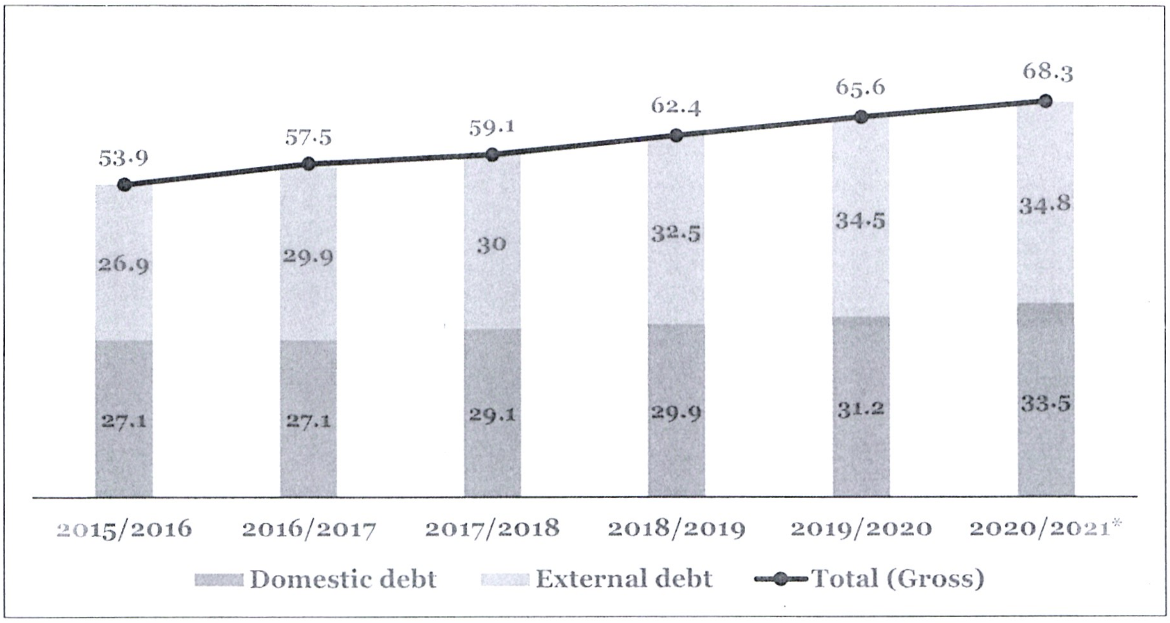


Source: The National Treasury, Medium Term debt management strategy, 2020

The uncertainties arising from the COVID-19 pandemic has led to the weakening of the Kenya shilling. This is expected to increase external debt repayment obligations and expose the country to more debt vulnerabilities. In addition to foreign currency exposure from external debt, the country faces a moderate risk of external debt distress due to breach of the debt repayment to export ratio. The debt repayment to export ratio was 29.3 percent in 2019 against the threshold of 21 percent for Kenya.

The debt to GDP ratio which measures the ability of the country's output to pay back debt has been consistently rising since the FY 2015/2016 (Figure 11). The increase in total debt to GDP ratio to 65.6 percent in FY 2019/2020 has been driven by a wider government deficit as well as a slowdown in economic activities. The total debt to GDP ratio is expected to rise further to 68.3 percent in the FY 2020/2021. Kenya's public debt sustainability threshold on present value of Debt/GDP based on the World Bank's Country Policy and Institutional Assessment (CPIA) index for a low middle-income country is 70 percent. Although the country has not yet reached this level, continuous accumulation of debt could make the debt unsustainable.

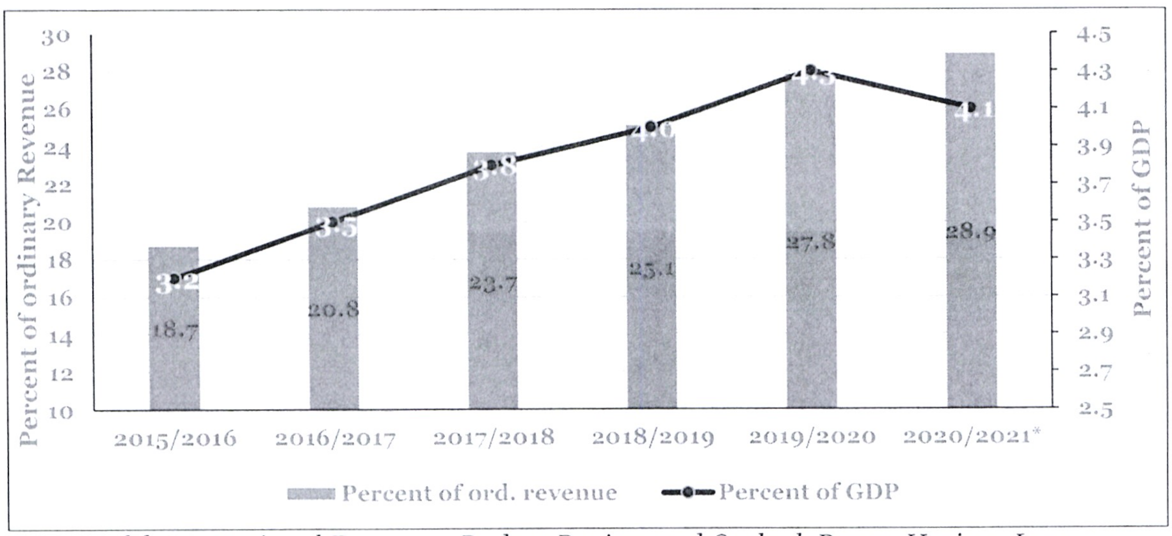
Figure 15: Public Debt as a percentage of GDP for FYs 2015/2016 to 2020/2021



Source of data: The National Treasury, BROP, Various issues
**Projections*

The country is under high debt vulnerability due to increasing debt repayments and low revenue performance. Interest payments in the FY 2019/2020 absorbed 27.8 percent of ordinary revenue up from 25.1 percent in the FY 2018/2019 as shown in Figure 12. Interest payments also took up 4.3 percent of the total economic output in the country in the FY 2019/2020.

Figure 12: Interest payment as a percentage of ordinary revenue and GDP for FYs 2015/2016 to 2020/2021



Source of data: National Treasury, Budget Review and Outlook Paper, Various Issues
** Projections*

Debt repayment is a first charge when determining the shareable revenue between the two levels of government. A high debt service therefore reduces the equitable share available to either level of government which in turn comprises service provision.

2.4. Fiscal Performance of County Governments

2.4.1 County Revenues Performance

County revenues are derived from various sources including equitable share, own source revenue (OSR), conditional grants and county borrowing. Article 202 of the Constitution requires that county governments may be given additional allocations from nationally raised revenues either conditionally or unconditionally. Further, Article 209 (3) authorises county governments to raise their own revenue by levying property rates, entertainment taxes, fees and charges on services. Counties may also borrow to undertake development projects as provided for in Article 212 of the Constitution. However, since the start of devolution in 2013, no county has borrowed for this purpose.

The main component of the unconditional revenue to the counties is equitable share. In the FYs 2019/2020 and 2020/2021 counties were allocated an equitable share of Kshs. 316.5 billion for each financial year due to continued underperformance of ordinary revenues. Since the start of devolution in the FY 2013/2014 counties have cumulatively received an allocation of Kshs. 2,206 billion as equitable share. Table 3 presents a summary of county revenue over a period of eight years.

Table 3: County Governments' Total Revenue for FY 2013/2014 – 2020/2021, Kshs. Billion

Source of Revenue	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	Total
Equitable Share	190	227	260	280	302	314	316.5	316.5	2,206
Own Source Revenue	26	34	35	33	32	40	35.8	53*	289
Conditional Grants	20	16	27	22	41	59	62	53.4	300.4
Total	236	277	322	335	375	413	414.3	422.9	2,795.4

Sources: County Budget Implementation Review Reports

* *Projected OSR for 2020/2021*

The county revenue collection and conditional grants over the eight-year period amounted to Kshs. 289 billion and Kshs. 300.4 billion respectively. In the FY 2019/2020 counties received an additional Kshs.7.71 billion conditional allocation from the national government towards the COVID-19 pandemic emergency response. Conditional grants comprise of conditional allocation from the national government's equitable share of revenue, and loans and grants from development partners. Conditional grants from the national government are in the areas of health, roads and education and are availed to the counties subject to their meeting some specific conditions. Table 4 summarizes the conditional allocations to the counties from the national government's equitable share.

Table 4: Summary of Current conditional allocations from the national government to the counties

Conditional Allocation name	Amount (Kshs. Billions)							
	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
Level 5 Hospitals	3.4	1.9	3.6	4.0	4.2	4.3	4.3	4.3
User fees forgone			0.9	0.9	0.9	0.9	0.9	0.9
MES			4.5	4.5	4.5	9.4	6.2	6.2
RMLF			3.3	4.3	11.1	8.3	8.9	9.4
Construction of county HQS					0.6	0.6	0.49	0.3
Rehabilitation of polytechnics					2.0	2.0	2.0	2.0
Free maternal health care			4.3	4.1				
Medical grant				0.2				
Total conditional transfer	**3.4**	**1.9**	**16.6**	**18.0**	**23.3**	**25.5**	**22.8**	**23.1**

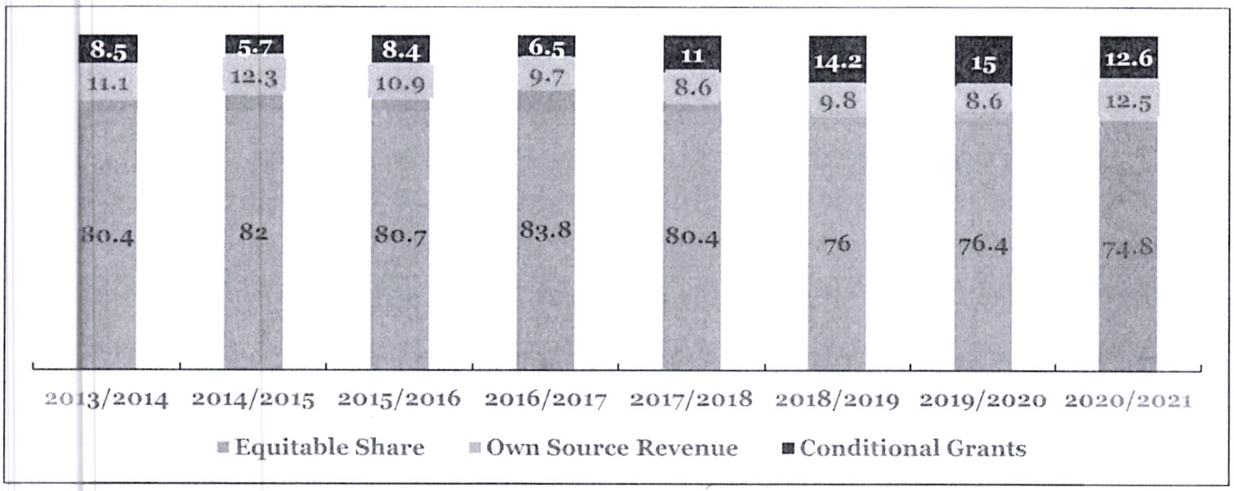
Source of data: CARA, Various Issues

Conditional grants are designed to achieve specific objectives, achievable over a specific transitional period. After eight years of devolution, counties have built capacity to effectively undertake functions assigned to them without conditionalities.

The OSR collected by counties in the FY 2019/2020 amounted to Kshs. 35.8 billion which represented 65 percent of the annual target of 54.9 billion. This was a decline of 11 percent from Kshs. 40 billion collected in 2018/2019. The county OSR was impacted negatively by the decline in growth of the production sectors occasioned by measures undertaken by government to contain the spread of the COVID-19 pandemic in the second half of the financial year. Since the start of devolution, county governments' OSR collection has substantially fallen below targets. The non-realisation of OSR targets by counties often leads to financing gaps, which negatively affect the implementation of county development plans.

The equitable share allocation to counties contributes on average 79.3 percent to the total county revenue. While the proportion of OSR and conditional grants to total county revenue is 10.4 percent and 10.3 percent respectively as shown in Figure 13.

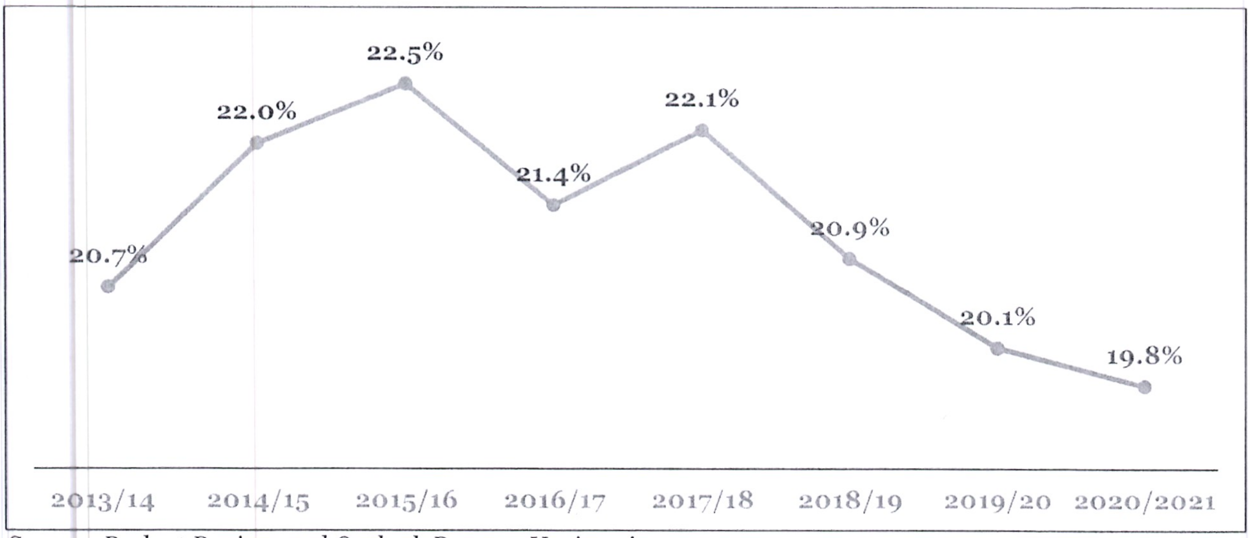
Figure 13: Contribution to County Governments' total Revenue for FY 2013/2014 – 2020/2021



Source: OCoB, various Issues
Note: OSR data for the FY 2020/21 is an estimate

Though the equitable share allocation to county governments has progressively increased over the years in absolute terms (except FY 2020/2021) and is in line with the provisions of Article 203(2), the proportion of county equitable share to ordinary revenue is on a declining trend. This is shown in Figure 14.

Figure 14: County Equitable Share as a Percentage of Ordinary Revenue for FYs 2013/2014 to 2020/21



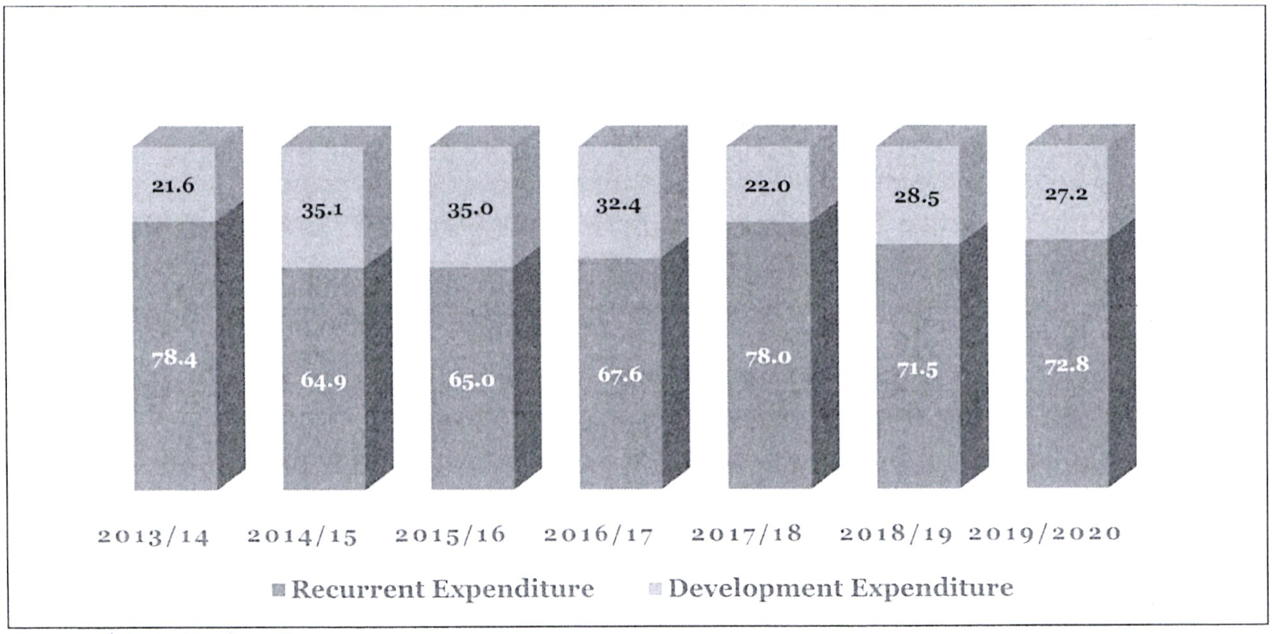
Source: Budget Review and Outlook Paper – Various issues

2.4.2 County Expenditure Performance

County expenditure increased by 17.5 percent from Kshs. 376.4 billion in 2018/2019 to Kshs. 383.8 billion in 2019/2020. Recurrent expenditure constituted Kshs 279.3 billion whereas development expenditure was Kshs 104.5 billion. A significant proportion of county spending is funded by the equitable share transfers. The transfers on average fund 79.3 percent of the counties' total approved budget.

An analysis of actual expenditures over the last seven financial years shows that on average counties have been spending 28.8 percent on development and 71.2 percent on recurrent expenditures. The PFMA 2012 Section 107(b) requires that over the medium term, counties should allocate a minimum of 30 percent to development expenditure. Figure 15 shows that on average counties' development expenditure has been below the PFMA requirement of 30 percent

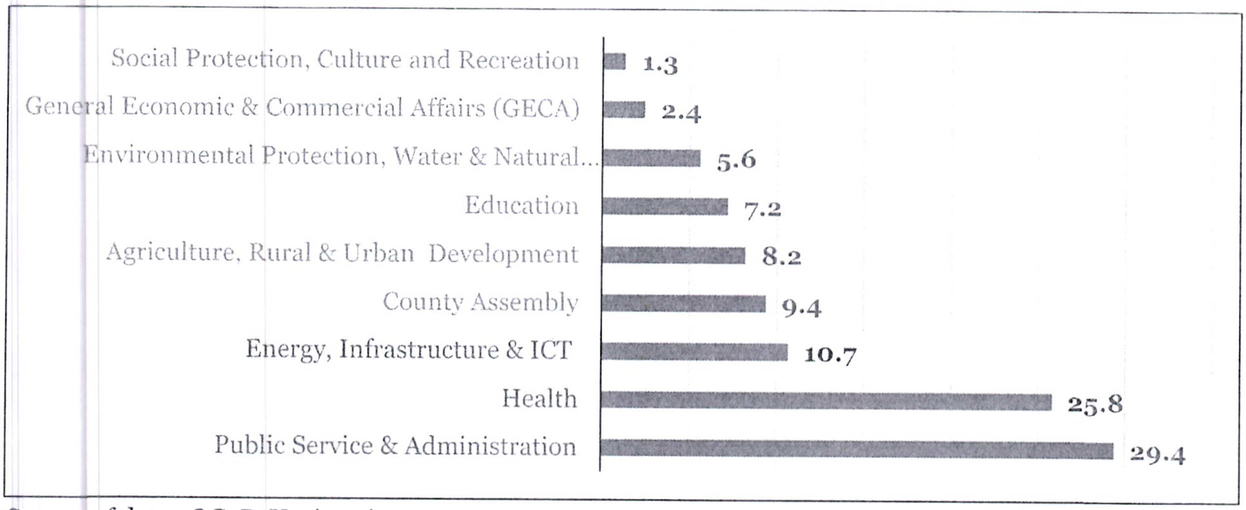
Figure 15: Proportion of County Expenditures for FYs 2013/2014 to 2019/2020



Source: OCoB, Various Issues

An analysis of average actual county expenditure by sector as shown in Figure 16 points that the public service and administration sector takes almost 30 percent of the total county expenditure. The health sector account for at least 25 per cent of the total county expenditures.

Figure 16: Average actual County government expenditure by sector (in Percentage)



Source of data: OCoB, Various issues

2.4.3 Pending Bills

Counties continue to incur pending bills due to delay in disbursement of equitable share by the national government as well as under realisation of the OSR targets. In 2018 counties had historical pending bills amounting to Kshs. 89 billion carried over from the previous financial years. During the FY 2019/2020 Kshs. 41.86 billion historical pending bills had been paid leaving a balance of Kshs. 47.12 billion. By the end of the FY 2019/2020 counties total pending bills (historical and current) amounted to Kshs.113.85 billion, equivalent to 27.5 percent of total county revenues. A high stock of county pending bills (77.3 percent) are in recurrent expenditures emanating from unremitted statutory deductions and good and service supplied to counties. Delay in paying of monies owed to contractors substantially affected private sector investments.

3.0 RECOMMENDATION ON EQUITABLE SHARES

Article 202(1) stipulates that the nationally raised revenue shall be shared equitably between the national and county governments. The shareable revenue excludes loans (internal and external) borrowed by the national government. This revenue is defined in the Constitution and Section 2 of the CRA Act, 2011 as:

"all taxes imposed by the national government under Article 209 of the constitution and any other revenue (including investment income) that may be authorized by an Act of Parliament, but excludes revenues referred to under Articles 206(1)(a)(b) and 209 (4) of the Constitution".

3.1. Equitable Share of Revenue for FY 2021/2022

The FY 2021/2022 recommendation on the division of revenue between the national and county governments is being made under a constrained fiscal framework characterized by revenue underperformance. Based on a shareable revenue projection of Kshs. 1,813.7 billion, and the Road Maintenance Levy Fund (RMLF) revenue projection of Kshs. 65.13 billion the Commission recommends that the national government be allocated Kshs. 1,443.7 billion and county governments Kshs. 370 billion. The recommendation of Kshs. 370 billion to county governments emanates from the following three recommendations:

1. **Recommendation one: Based on a constrained fiscal framework**

As shown in Table 5, revenues have underperformed in the last eight years of devolution. This performance is expected to worsen in the medium term due to decreased output of the economy as well as tax policy[9] measures undertaken by governments to cushion vulnerable households and firms to cope with the COVID-19 pandemic. Further, it is expected that the economy will perform less than optimum in the medium term as the country gears up for the 2022 general elections.

[9] These include: Lowering both corporate tax for resident entities and top individual income tax from 30% to 25%; 100% tax exemption of Pay As You Earn for individuals earning less than Kshs. 24,000; Reduction of VAT from 16% to 14&; and reduction of turnover tax rate from 3% to 1%

Table 5: Performance of Ordinary Revenue for FY 2013/2014 to 2021/2022 (Kshs. Billion)

Year	Projected Ordinary Revenue	Actual/ Revised Ordinary Revenue	Revenue Shortfall
2013/14	1,027.2	919	108
2014/15	1,087.1	1,031.8	55
2015/16	1,242.7	1,153.0	90
2016/17	1,380.2	1,306.6	74
2017/18	1,560.3	1,365.1	195
2018/19	1,769.2	1,499.8	269
2019/20	1,615.4	1,573.4	42
2020/21	1,633.8	1,601.4	32.4
2021/22	2,144.9	1,813.7	331.2

Source of data: The National Treasury, BROP Various Issues

The National Treasury projects shareable revenue for FY 2021/2022 at Kshs. 1,813.7 billion which is lower than the framework which underpinned the sharing of revenues during the FYs 2020/2021 and 2019/2020. In the FY 2020/2021 and FY 2019/2020 the Commission shared revenues based on projected ordinary revenues of Kshs. 1,883.7 billion and Kshs. 1,870.4 billion respectively. Out of the FY 2019/2020 projected revenues of Kshs. 1,870.4 billion, only Kshs. 1,573.4 billion was realised. The FY 2020/2021 projected revenues have since been revised downwards from Kshs. 1,883.7 billion to Kshs. 1,601.4 billion due to non-performance of revenues.

Taking into consideration the above economic and political factors, the Commission recommends that from a projected ordinary revenue of Kshs. 1,813.7 billion, Kshs. 1,497.2 billion be allocated to national government and Kshs. 316.5 billion be allocated to the counties in the FY 2021/2022.

2. **Recommendation two: Conversion of conditional grants to unconditional grants**

Article 202(2), provides that county governments may be given additional allocations from the national government's equitable share either conditionally or unconditionally. Over the last eight years of devolution, the national government has provided conditional grants to the counties targeted at realisation of specific national policies in the areas of health; roads and education. Given that the functions of health, roads and education are concurrent functions with clear responsibilities between the two levels of governments, the Commission recommends that these conditional grants be allocated to county governments unconditionally as part of the county governments' equitable share. The grants are presented in Table 6 and discussed in the subsequent section.

Table 6: Conditional Grants to be converted into unconditional grants

No	Sector	Nature of Grant		Budgetary Provision for FY 2021/22
1	Health	i.	Conditional allocation for Level 5 Hospitals	4.32
		ii.	Conditional allocation for Compensation for User Fees Foregone	0.9
2	Education	i.	Conditional Allocation for Rehabilitation of Youth Polytechnics	2.0
3.	Roads	i.	Conditional allocation for Road Maintenance Levy Fund-15% of Fund levy	9.8
Totals				**17.02**

Source: CRA 2021

1. Managed Equipment Scheme (MES)

Over the last six years the national government through the managed equipment scheme (MES) has facilitated the purchase and maintenance of modem specialised medical equipment in at least two level IV hospitals in each county. This scheme was meant to facilitate easy access to specialised health care services and significantly reduce the distance that Kenyans travel in search of such services. The counties are now able to provide specialised medical services in level IV hospitals. The national government has provided for an allocation of Kshs.6.1 billion under the MES in FY 2021/2022. Once the contractual obligations under this scheme are over, this grant should be allocated to county governments as part of the equitable share. The funds will be used by the county governments to finance health operations and maintenance of equipment.

2. Level- 5 hospitals conditional grant

There are 11 hospitals across 11 counties that have enjoyed additional conditional financing from the national government Level-5 hospital grant. Before devolution, these hospitals played a significant role in providing specialised health care services to Kenyans. Besides, the hospitals provided specialised health care services to citizens residing outside the province, usually for complicated cases referred from lower level health facilities. The grant given at onset of devolution in FY 2013/14 was therefore meant to compensate the level-5 facilities for the costs incurred in rendering services to citizens from neighbouring counties.

The grant to the 11 Level- 5 hospitals was a stop gap measure meant to enable other counties build their capacity to handle specialised treatment. Counties have built their capacity through the MES programme and individual county efforts to improve health services. At least two Level-4 facilities have been equipped through the MES programme to provide specialised health care services. Given that the third revenue sharing basis has taken into account the health needs of counties as measured by the facility gap needs and inpatient and outpatient needs, the Commission recommends that Kshs. 4.32 billion Level- 5 conditional grant budgeted for financial year 2021/2022 be allocated to counties unconditionally.

3. User Fees Foregone

To actualize the government's policy of not charging user fees in public health facilities, the national government introduced a conditional grant to county governments since FY 2014/2015. The national government has allocated annually Kshs. 900 million to counties as compensation to county governments for user fees revenue foregone. The Commission recommends that this grant be allocated to counties unconditionally as from FY 2021/2022.

4. Village Polytechnics Grants

Pre-primary education, village polytechnics, homecraft centres and children care facilities are responsibilities of county governments. In line with the government policy of empowering the youth, the national government in FY 2015/2016 introduced a conditional grant of Kshs. 2 billion for rehabilitation of youth polytechnics. The grant was meant to support county governments in equipping technical and vocational centres and capitation of student fees. The Commission recommends that this grant be allocated to county governments unconditionally effective FY 2021/2022.

5. Road Maintenance Levy Fund

Construction of roads is a concurrent function. This function is financed through the ordinary revenues and RMLF. The national government introduced an allocation of 15 percent of the RMLF to county governments as a conditional grant in FY 2014/2015. This allocation is meant to enhance and sustain county governments' capacity to repair and maintain county roads. The 15 per cent is based on the provisions of Article 203(2) that requires a minimum allocation of 15 percent to the counties of all revenue collected by the national government. The Commission recommends that an allocation of Ksh 9.8 billion provided for FY 2021/2022 by the Kenya Roads Board based on a fuel levy projection of Ksh 65.13 billion be allocated to county governments unconditionally effective FY 2021/2022.

Recommendation three: Harmonisation of functions in line with the Fourth Schedule of the Constitution and Article 187(2)

The Fourth Schedule assigns functions between the two levels of government. Whereas, some of the assigned functions are distinct to either level of government, other functions are performed concurrently by both levels of government. Since the advent of devolution in 2013, the national government has continued to perform functions that are devolved to the county level of government. Duplication of county functions by the national government are in the functional areas of: Health; Agriculture (crop, livestock and fisheries development); Water, Irrigation, Sanitation and regional development.

Further, Article 187 (2) provides that, if a function or power is transferred from a government at one level to a government at the other level, arrangements shall be put in place to ensure that the resources necessary for the performance of the function or exercise of the power are transferred. Table 7 summarizes functions undertaken at the national level that are also undertaken by the county governments.

Table 7: National Government Budget for FY 2020/21 on Concurrent Functions Kshs. Billions.

Functional Area	Recurrent	Development	Total
FISH, AQUACULTURE & BLUE ECON	**1,994,874,045**	**4,964,000,000**	**6,958,874,045**
Development & Coordination of the Blue Economy	94,897,735	1,117,000,000	1,211,897,735
Fisheries Development & Management	1,767,209,803	3,847,000,000	5,614,209,803
General Administration, Planning & Support Services	132,766,507	0	132,766,507
LIVESTOCK	**2,628,966,406**	**3,362,828,667**	**5,991,795,073**
Livestock Resources Management & Development	2,628,966,406	3,362,828,667	5,991,795,073
REGIONAL & NORTHERN CORRIDOR DEV'T	**2,266,744,036**	**1,087,450,000**	**3,354,194,036**
Integrated Regional Development	2,266,744,036	1,087,450,000	3,354,194,036
WATER, SANITATION & IRRIGATION	**6,232,606,765**	**70,982,834,883**	**77,215,441,648**
General Administration, Planning & Support Services	765,651,039	40,000,000	805,651,039
Irrigation & Land Reclamation	713,645,712	19,870,598,120	20,584,243,832
Water & Sewerage Infrastructure Development	3,066,273,233	39,513,236,763	42,579,509,996
Water Harvesting & Storage for Irrigation	30,453,405	2,308,000,000	2,338,453,405
Water Resource Management	1,656,583,376	9,251,000,000	10,907,583,376
HEALTH	**64,450,685,148**	**47,251,983,849**	**111,702,668,997**
General Administration, Planning & Support Services	7,287,815,429	1,245,000,000	8,532,815,429
Health Policy, Standards & Regulations	12,282,029,588	26,964,739,185	39,246,768,773
Health Research & Development	9,340,213,677	587,510,000	9,927,723,677
National Referral & Specialized Services	31,569,145,638	10,840,055,655	42,409,201,293
Preventive, Promotive & RMNCAH	3,971,480,816	7,614,679,009	11,586,159,825

Functional Area	Recurrent	Development	Total
CROP DEV'T & AGRIC RESEARCH	**10,798,470,415**	**31,009,977,392**	**41,808,447,807**
Agribusiness & Information Management	135,918,593	1,426,032,035	1,561,950,628
Agricultural Research & Development	5,525,843,368	848,500,000	6,374,343,368
Crop Development & Management	1,128,447,983	27,749,602,484	28,878,050,467
General Administration Planning & Support Services	4,008,260,471	985,842,873	4,994,103,344
Grand Total	**154,106,152,749**	**284,074,581,506**	**438,180,734,255**

Source of Data: National Treasury 2021

The Constitution provides that the level of government that is best suited to perform the function effectively, should be allowed to undertake the function. Among the objects of devolution (Article 174), is the need to give powers of self-governance to the people in the exercise of the powers of the state and in making decisions affecting them, and the need to recognise the right of communities to manage their own affairs and to further their development. Continued allocation of resources to national government ministries, departments and agencies for performance of devolved functions undermines the objects of devolution.

Health Care

The national government is responsible for the national referral health facilities (level-6) and health policy. County governments are responsible for the public health system (Level-1); dispensaries (Level-2); health centres (Level-3); primary referral facilities (Level-4) and the secondary referral facilities (Level - 5). It is therefore the responsibility of the county government to implement the health policy and undertake preventive and promotive health as part of public health. Currently, the Ministry of Health under the preventive and promotive health care programme, has substantial budgets in FY 2020/2021 for purchase of specialised materials and supplies, and provision of current and capital grants to government agencies and other levels of government and purchase of specialised plant, equipment and machinery. This budget needs to be rationalised and reallocated directly to county governments for FY 2021/2022.

On Health Policy, Standards and Regulations, the Ministry has substantial budgets for provision of current and capital grants to government agencies and other levels of government. The current government policy on Universal Health Coverage (UHC) came into being after devolution. The national government has piloted the programme in five counties over the last two years. UHC will largely be implemented and realised at the county level. Given that heath is a concurrent function, the MOH budget on UHC policy implementation should be split between the national and county governments.

Livestock, Fisheries, Crop Development and Agricultural Research

Agriculture is a devolved function. The responsibility of the national government relates to the development of the agricultural policy and veterinary policy. County governments are responsible for agriculture including: crop and animal husbandly, livestock sale yards, county abattoirs, animal and disease control and fisheries. The Ministry of Agriculture, Livestock and Fisheries has substantive budgetary allocation for FY 2020/2021 for: crop development and management; agricultural research, livestock resource management and development, fish aqua culture and blue economy. Part of the budget for crop development is allocated as subsidies to Financial Private Enterprises to provides seeds and fertilizer to selected farmers. The Ministry should focus on policy research and setting of norms and standards in line with the Fourth Schedule. The Ministry's budget therefore, needs to be rationalised and budgets relating to crop, livestock and fisheries development be transferred to county governments.

Water, Sanitation and Irrigation

It is the responsibility of the national government to protect the environment and natural resources, with a view to establishing a durable and sustainable system of development. This is particularly in relation to: fishing, hunting and gathering; protection of animals and wildlife; water protection, securing sufficient residual water, hydraulic engineering and the safety of dams and energy policy. Counties are responsible for the implementation of specific national government policies on natural resources and environment conservation. In line with the provisions of Article 187 (1) (a), the county governments are best suited to effectively and efficiently provide water, sewerage and sanitation.

There is duplication of functions relating to water services within the national government Institutions to include: Ministry of Water, Sanitation and Irrigation, Water Services Boards, Water Services Trust Fund, National Water Conservation and Pipeline Corporation, National Irrigation Board, Regional Development Authorities, and in some instances Ministry of Agriculture under the small holder irrigation schemes and soil and water conservation programmes.

Water infrastructure runs across several counties. This req
to provide. Whereas it is possible for a group of counties
regional bodies, adequate financing of such bodies by a num nal entity
not be without challenges. Given that it is the responsibili
government to protect the environment and natural resources, anage
to review the existing legal and institutional framework to alig will
Boards (WSBs) and the Water and Resources Management A
provisions of the Constitution.

Currently, the ministry has substantive resources for programme
irrigation and land reclamation, water sewerage and in
development; water harvesting and storage for irrigation, water
management, and, water storage and flood control. The programmes and budgets of the water the bodies need to be rationalised and split between national government and county governments. The water agencies should focus on provision of regional infrastructural. Part of the money from these agencies should be transferred to counties to provide the last mile water connectivity. This is important to ensure that water resources are equitably shared across the beneficiary counties.

Regional Development Authorities

Regional Development Authorities (RDAs) were established by the national government before devolution. The Authorities are constituted based on river basins and large water bodies to spur regional development through sustainable utilization and conservation of natural resources. The RDAs undertake strategic regional multi-purpose public investments traversing more than one county as well as coordinate integrated basin based projects and programs such as provision of hydropower, water supplies for irrigation, domestic and industrial use, flood control, value addition and environmental conservation.

The Fourth Schedule assigns the following functions performed by the RDAs to national government: the use of international waters and water resources; protection of the environment and natural resources with a view to establishing a durable and sustainable system of development; and public investments. Parliament needs to review the legislation establishing RDAs with the intent of restructuring and aligning them to the devolved system of government.

Currently, the State Department of Regional and Northern Corridor Development has substantive resources budgeted for provision of current and capital grants for integrated regional development. Development across region rised with substantive inequalities. The programmes and budgets of ...eds to be rationalised and activities that can be done by counties ...rred to counties and attendant resources in FY 2021/2022.

.. Sharing of Revenues from Natural Resources

The state is obligated in Article 69(1) of the Constitution to ensure sustainable exploitation, utilization, management and conservation of the environment and natural resources, and ensure equitable sharing of the accruing benefits. Natural resources revenues, which form a part of the nationally raised revenue include proceeds from royalties and other levies from extractives. Revenue sharing from natural resources are guided by legal provisions in the Petroleum Act 2019, Energy Act 2019 and Mining Act 2016.

The Petroleum Act 2019 provides for sharing of petroleum profits from upstream petroleum operations to ensure that county governments and local communities benefit directly from exploitation of petroleum resources located in their counties. Section 58(1, 2 and 3) of the Act provides that the national government's share of the profits derived from upstream petroleum operations shall be shared as follows: 75 percent to national government, 20 percent to county government and five percent to the local community. However, the country is still in the exploration stage and no commercial production of petroleum has commenced.

The Energy Act 2019, section 85 (3) provides that royalty from geothermal energy production shall be paid to the National Treasury and shared as follows: 20 percent to the county governments; five percent to the local community trust fund and 75 percent to national government. However, no royalty revenues have been shared to counties and communities yet from geothermal energy.

The Mining Act 2016, Section 183 (5) provides that mining royalties shall be apportioned as follows: 70 percent to national government, 20 percent to county governments and 10 percent to the community where mining operations are carried out. Mining has been ongoing and royalties have been paid. However, there are no modalities in place to operationalize revenue sharing of the royalties. The total royalties for FY 2017/2018 to FY 2020/2021 is Kshs. 5,868.7 million (Table 8).

Table 8: Natural Resources Royalties, FY 2017/2018 to 2020/2021 (Kshs. Million)

Source	2017/18	2018/19	2019/20	2020/21*
Cement levy	742.1	761.8	686.9	651.7
Mineral Export License Fee	8.4	8.9	6.1	6.2
Prospecting Fee	-	17.7	42.1	19.3
Royalty on Carbon Dioxide	-	-	51.3	25.1
Mining Royalties	143.2	150.3	136.2	100.6
Magadi Soda Royalties	104.9	57.7	145.3	156.8
Base Titanium Royalty	356.6	426.9	582.9	479.5
Source: National Treasury Total Estimates	**1,355.3**	**1,423.4**	**1,650.8**	**1,439.2**

Source: National Treasury
** Projections*

There is no revenue yet to be shared to counties from both petroleum and geothermal resources while revenues from mining royalties collected overtime but have not been shared to the county governments as regulations have not been put in place to operationalize the Mining Act 2016. From Table 8, the cumulative amount due to counties is Kshs. 1,760.6 million, which is 30 percent of the total royalties.

The Commission recommends that the concerned ministries together with other stakeholders establish modalities of sharing natural resources revenues. There is also need to finalize regulations to operationalize the Mining Act 2016, Energy Act 2019 and the Petroleum Act 2019 to enhance revenue sharing from natural resources. This is important to ensure county governments and communities in areas where mining is carried out benefit from the share of royalties.

4.0 FINANCING OF NATIONAL AND COUNTY GOVERNMENTS

The Fourth Schedule of the Constitution lists the functions and powers of national and county governments. In addition, Article 186(2) and (3) provides for concurrent functions that are performed by more than one level of government and residual functions or power not assigned by the constitution or national legislation to a county government as a function of the national government. Financing of national and county government functions is based on historical estimated cost of service delivery. Table 9 presents a summary of the sector expenditure of the national government functions for FY 2018/2019 and FY 2019/2020 and the expenditure estimates for the FY 2020/2021 and FY 2021/2022.

Table 9: Financing of National Government Functions for FY 2018/19 to 2021/21 Kshs. Billion

No	Sector	Actual Expenditure		Estimates	Ceilings
		2018/2019	**2019/2020**	**2020/2021**	**2021/2022**
1	Social Protection, Culture and Recreation: Sports, Culture and Arts; Labour Social Security and Services	50.9	68.7	67.5	71.9
2	Education: Education; Science and Technology; TSC	449.0	494.8	507.5	529.4
3	National Security: Defense, National Intelligence Services	146.4	159.3	149.3	155.1
4	Environment Protection, Water and Natural Resources: Environment & Natural Resources; Water & Regional Authorities; Mining	53.2	90.2	96.5	102.0
5	Health	73.3	92.7	112.7	120.1
6	Agriculture, Rural and Urban Development: Land, Housing and Urban Development, Agriculture, Livestock, Fisheries, NLC	69.6	59.6	48.3	52.8
7	Public Administration and International Relations: Presidency; Planning; Devolution; Foreign Affairs & International Trade; National Treasury, Parliamentary Service Commission, CRA, PSC, SRC, OAG, CoB; IGTRC; & CAJ	186.1	288.8	259.8	261.5
8	Energy, Infrastructure and ICT: nfrastructure; Transport, ICT; Energy and Petroleum)	375.9	435.1	404.6	430.4
9	Governance, Justice, Law and Order: Interior; Coordination of National Government; AG & Justice; The Judiciary; EACC; DPP; Registrar of Political Parties, KNCHR, IEBC, JSC, NPSC; NGEC; IPOA	175.7	209.6	195.6	219.1
10	General Economic and Commercial Affairs: Industrialization & Enterprise, East African Affairs; Commerce & Tourism	25.4	29.9	23.0	26.2
	Total	**1,605.4**	**1,928.8**	**1,864.8**	**1,968.6**

Source: National Treasury, 2020

In aligning county funding to their assigned functions and national priorities, the Commission recommends allocation to sectors as shown in Table 10.

Table 10: Financing of County Governments for FY 2018/19 to 2021/21, Kshs. Billion

Devolved Functions		Transfer to Counties			
		2018/19	**2019/20**	**2020/21**	**2021/22**
1	Health Services	90.8	91.5	91.5	117.2
2	Planning & Development	56.6	57.0	57.0	57.0
3	Agriculture, Livestock and Fisheries	24.2	24.4	24.4	33.5
4	Culture, Public Entertainment & Public Amenities	3.9	3.9	3.9	4.0
5	Youth Affairs and Sports	5.6	5.6	5.6	7.6
6	Trade, Cooperative Development & Regulation	5.6	5.6	5.6	5.6
7	Roads &Transport	48.9	49.4	49.4	59.2
8	Lands, Housing and Public Works	7.3	7.3	7.3	7.3
9	Water, Natural Resources & Environmental Conservation	8.9	8.9	8.9	15.9
10	Pre-Primary Education	2.8	2.8	2.8	2.8
Sub Total Devolved Functions		**254.4**	**256.5**	**256.5**	**310.1**
11	Public Administration	59.6	59.9	59.9	59.9
Total Equitable Share		**314.0**	**316.5**	**316.5**	**370.0**

Source: CRA 2021

5.0. SHARING OF REVENUE AMONG COUNTIES FOR FY 2021/2022

Section 190 (1) (b) of PFMA, mandates the Commission to submit the determination of each county's equitable share in the county share of the revenue. In accordance with the provision of Article 217, Parliament in September 2020 determined the Third Basis for sharing revenue raised nationally among the counties. The approved basis is summarised in Table 11 and will be used to share revenues for financial years 2020/21; 2021/22; 2022/23; 2023/2024 and 2024/2025.

Table 11: Third Basis for Revenue Sharing among Counties

Objective	Parameter	Indicator of Expenditure Need	Assigned Weight
1. To enhance service delivery	Health services	Health index	17%
	Agriculture services	Agricultural index	10 %
	Population	Population index	18 %
	Urban service	Urban services index	5%
	Basic Share	Basic share index	20%
2. To promote balanced development	Land	Land area index	8 %
	Roads	Rural Access index	8 %
	Poverty level	Poverty head count index	14 %

Source: CRA 2020

The mathematical expression on the Third Basis is summarised below:

$$AF_i = 0.18 * PI_i + 0.17 * HI_i + 0.10 * AI_i + 0.05 * UI_i + 0.14 * Pov\ I_i + 0.08 * LA_i + 0.08 * RA_i + 0.20 * BS\ I_i$$

Where,

i. AF_i *is the allocation factor of* i^{th} *county*

ii. PI_i *is Population Index of* i^{th} *county*

iii. HI_i *is Health Index of* i^{th} *county*

iv. AI_i *is Agriculture Index of* i^{th} *county*

v. UI_i *is Urban Index of* i^{th} *county*

vi. $Pov\ I_i$ *is poverty Index of* i^{th} *county*

vii. LI_i *is Land Area Index of* i^{th} *county*

viii. RI_i *is Roads Index of* i^{th} *county*

ix. $BS\ I_i$ *is Basic Share Index of* i^{th} *county*

The approved basis will be implemented as follows:

1. **Equitable share allocation for financial year 2020/21:** This is to remain the same as allocations for FY 2019/20. The allocation ratio for FY 2020/21 is summarised in the expression below:

$$AS_i = \frac{CA_i}{\sum CA_i}$$

   where,

   i. *AS_i is the allocation ratio of county i*

   ii. *CA_i is equitable share allocation for 2019/20 of county i*

2. **Allocation Shares for Equitable Revenues of Ksh. 370 billion and above:** This will apply to financial years 2021/22 to 2024/25 as summarised below:

   County Allocation= (50%*Equitable Share to counties *Allocation Ratio) +(50%*equitable share to counties *Formula)

   Subject to:

$$\boldsymbol{Allocation\ of\ County_i} \geq CA_i$$

   where,

   i. *CA_i is equitable share allocation of county i for 2019/20*

The determination of each county's equitable share in the county share of revenue based on the third bases and an equitbale allocation of Ksh 370 billion is presented in Table 12 .

Table 12: Summary of Equitable Share Allocation among Counties

No	County	2019/20 Allocation Index	2020/21 Allocation Kshs. Billion	Third Basis Allocation Index	2021/22 Allocation Kshs. Billion
1	Baringo	0.016	5,097	0.017	6,318
2	Bomet	0.017	5,499	0.018	6,655
3	Bungoma	0.028	8,900	0.029	10,630
4	Busia	0.019	6,015	0.019	7,155
5	Elgeyo-Marakwet	0.012	3,851	0.012	4,589
6	Embu	0.014	4,297	0.014	5,109
7	Garissa	0.022	7,023	0.022	7,962
8	Homa-Bay	0.021	6,745	0.021	7,817
9	Isiolo	0.013	4,250	0.013	4,747
10	Kajiado	0.020	6,419	0.021	7,895
11	Kakamega	0.033	10,418	0.033	12,365
12	Kericho	0.017	5,382	0.017	6,414
13	Kiambu	0.030	9,444	0.031	11,638
14	Kilifi	0.033	10,440	0.032	11,711
15	Kirinyaga	0.013	4,254	0.014	5,174
16	Kisii	0.025	7,772	0.024	8,912
17	Kisumu	0.022	6,836	0.022	8,022
18	Kitui	0.028	8,826	0.028	10,383
19	Kwale	0.025	7,787	0.023	8,372
20	Laikipia	0.013	4,166	0.014	5,097
21	Lamu	0.008	2,585	0.008	3,090
22	Machakos	0.024	7,753	0.025	9,149
23	Makueni	0.023	7,398	0.022	8,195
24	Mandera	0.032	10,228	0.031	11,289
25	Marsabit	0.021	6,767	0.020	7,355
26	Meru	0.025	8,054	0.026	9,491
27	Migori	0.021	6,765	0.022	7,990
28	Mombasa	0.022	7,058	0.021	7,653
29	Murang'a	0.020	6,295	0.019	7,201
30	Nairobi City	0.050	15,921	0.052	19,169
31	Nakuru	0.033	10,473	0.035	12,926
32	Nandi	0.017	5,360	0.019	6,904
33	Narok	0.025	8,027	0.024	8,908
34	Nyamira	0.015	4,826	0.014	5,206
35	Nyandarua	0.015	4,880	0.015	5,677
36	Nyeri	0.017	5,409	0.017	6,239
37	Samburu	0.015	4,625	0.015	5,377
38	Siaya	0.018	5,807	0.019	6,951
39	Taita-Taveta	0.013	4,244	0.013	4,858
40	Tana-River	0.018	5,851	0.018	6,566
41	Tharaka-Nithi	0.012	3,938	0.012	4,269
42	Trans-Nzoia	0.018	5,751	0.019	7,124
43	Turkana	0.033	10,549	0.034	12,579
44	Uasin-Gishu	0.020	6,335	0.022	7,987
45	Vihiga	0.015	4,660	0.014	5,119
46	Wajir	0.027	8,531	0.026	9,531
47	West Pokot	0.016	4,988	0.017	6,233
	Totals	**1**	**316,500**	**1**	**370,000**

Source: CRA 2021

APPENDIX I: EQUITABLE SHARE ALLOCATIONS TO COUNTIES (2012/13-2020/21) –Kshs. Billion

No	County	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	Grand Total
1	Baringo	167	3,248	3,875	4,441	4,791	4,983	5,087	5,096	5,096	36,784
2	Bomet	177	3,443	4,123	4,725	5,079	5,255	5,935	5,507	5,507	39,751
3	Bungoma	289	6,181	6,698	7,676	8,282	8,758	8,949	8,894	8,894	64,621
4	Busia	205	3,412	4,747	5,440	5,870	5,829	5,966	6,014	6,014	43,497
5	Elgeyo Marakwet	123	2,392	2,854	3,270	3,529	3,624	3,768	3,861	3,861	27,282
6	Embu	145	2,807	3,349	3,838	4,141	4,107	4,459	4,304	4,304	31,454
7	Garissa	217	4,221	5,036	5,772	6,228	6,659	6,939	7,026	7,026	49,124
8	Homa Bay	212	4,121	4,917	5,635	6,080	6,523	6,688	6,741	6,741	47,658
9	Isiolo	115	2,236	2,667	3,057	3,298	3,775	3,925	4,241	4,241	27,555
10	Kajiado	166	3,227	3,850	4,413	4,761	5,768	5,997	6,425	6,425	41,032
11	Kakamega	335	6,516	7,773	8,908	9,612	9,936	10,331	10,413	10,413	74,237
12	Kericho	170	3,295	3,915	4,487	4,861	5,225	5,715	5,381	5,381	38,430
13	Kiambu	281	5,459	6,512	7,464	8,053	9,664	9,357	9,432	9,432	65,654
14	Kilifi	280	5,443	6,492	7,441	8,029	9,951	10,833	10,445	10,445	69,359
15	Kirinyaga	133	2,588	3,087	3,538	3,818	4,409	4,113	4,241	4,241	30,168
16	Kisii	267	5,188	6,190	7,094	7,654	7,429	7,693	7,786	7,786	57,087
17	Kisumu	214	4,155	4,957	5,681	6,130	6,553	6,908	6,836	6,836	48,270
18	Kitui	274	5,315	6,340	7,267	7,841	8,652	8,729	8,830	8,830	62,078
19	Kwale	193	3,749	4,473	5,126	5,531	7,248	7,536	7,786	7,786	49,428
20	Laikipia	130	2,523	3,010	3,450	3,722	4,500	4,113	4,178	4,178	29,804
21	Lamu	77	1,501	1,790	2,052	2,214	2,476	3,548	2,595	2,595	18,848
22	Machakos	255	4,951	5,906	6,769	7,303	7,399	8,321	7,754	7,754	56,412
23	Makueni	225	4,366	5,209	5,970	6,441	6,825	7,128	7,406	7,406	50,976
24	Mandera	337	6,550	7,814	8,956	9,663	9,740	10,142	10,223	10,223	73,648
25	Marsabit	195	3,796	4,528	5,189	5,599	6,584	7,002	6,773	6,773	46,439
26	Meru	245	4,749	5,666	6,494	7,007	7,701	8,007	8,039	8,039	55,947
27	Migori	220	4,269	5,093	5,837	6,298	6,463	6,720	6,773	6,773	48,446
28	Mombasa	196	3,802	4,535	5,198	5,609	8,154	8,227	7,058	7,058	49,837
29	Murang'a	202	3,917	4,673	5,356	5,779	6,191	6,249	6,298	6,298	44,963
30	Nairobi	489	9,506	11,340	12,997	14,024	15,402	15,794	15,920	15,920	111,392
31	Nakuru	306	5,936	7,082	8,116	8,758	9,271	9,451	10,476	10,476	69,872
32	Nandi	179	3,478	4,149	4,755	5,131	5,104	5,3[illegible]	5,349	5,349	38,863
33	Narok	199	3,868	4,614	5,288	5,706	6,523	6,374	8,039	8,039	48,650
34	Nyamira	156	3,039	3,625	4,155	4,483	4,621	4,773	4,811	4,811	34,474
35	Nyandarua	162	3,150	3,758	4,307	4,647	4,772	4,930	4,874	4,874	35,474
36	Nyeri	168	3,254	3,882	4,449	4,801	4,953	5,014	5,412	5,412	37,355
37	Samburu	134	2,598	3,099	3,552	3,833	3,805	4,417	4,621	4,621	30,690
38	Siaya	188	3,654	4,358	4,995	5,390	5,527	6,019	5,792	5,792	41,725
39	Taita	125	2,421	2,887	3,310	3,571	3,896	4,0[illegible]1	4,241	4,241	28,743
40	Tana River	150	2,914	3,476	3,985	4,299	5,345	5,558	5,855	5,855	37,437
41	Tharaka Nithi	118	2,295	2,737	3,138	3,385	3,684	3,622	3,925	3,925	26,849
42	Tranzoia	192	3,730	4,450	5,100	5,503	5,647	5,611	5,760	5,760	41,763
43	Turkana	395	7,664	9,143	10,479	11,307	10,072	10,[illegible]70	10,539	10,539	80,908
44	Uasin Gishu	196	3,797	4,530	5,191	5,601	5,708	5,9[illegible]5	6,330	6,330	43,618
45	Vihiga	146	2,832	3,379	3,871	4,177	4,409	4,4[illegible]9	4,653	4,653	32,579
46	Wajir	272	5,290	6,311	7,233	7,804	8,139	8,4[illegible]8	8,546	8,546	60,619
47	West Pokot	162	3,155	3,763	4,314	4,655	4,741	4,900	5,001	5,001	35,722
	GRAND TOTAL	9,784	190,000	226,661	259,775	280,300	302,000	314,000	316,500	316,500	2,215

Source: CRA 2019

APPENDIX II: ROAD MAINTENANCE LEVY FUNDS PROJECTIONS

KENYA ROADS BOARD
KRB
Financing Road Maintenance

KRB/FIN/5/A Vol. II (98)

8th December 2020

Dr. Moses M. Sichei,
Commission Secretary/CEO
Commission on Revenue Allocation
14 Riverside Drive
Grosvenor Block, 2nd Floor
NAIROBI

10 DEC 2020

Dear

RE: ROAD MAINTENANCE LEVY FUND FORWARD BUDGET ESTIMATES FOR FINANCIAL YEARS 2021/22 TO 2023/24

Reference is made to letter Ref. No. CRA/CSO/OM&SC/3/VOL. VII (18) of 24th November 2020.

As requested in the referenced letter, the estimates for Road Maintenance Levy Fund and anticipated allocation to counties are as follows:

	FY 2021/22	FY 2022/23	FY 2023/24
	Kshs	Kshs	Kshs
Fuel Levy Estimates (excluding Roads Annuity Fund)	65,133,877,551	70,103,653,061	73,374,625,000
Allocation to County Governments	9,770,081,633	10,515,547,959	11,006,193,750

These estimates may change in future, in light of emerging economic conditions.

Yours

Rashid M[illegible]hamed, MBS
EXECUT[illegible]E DIRECTOR

ISO 9001-2015 Certified