



## REPUBLIC OF KENYA

### THE NATIONAL TREASURY AND ECONOMIC PLANNING

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The National Treasury

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NAIROBI.

#### NATIONAL TREASURY CIRCULAR NO. 11/2022

To: All Principal Secretaries/Accounting Officers

All Chief Executive Officers of State Corporations

#### **Guidelines for the Preparation of the Annual Budget for State Corporations for Financial Year 2023/2024 and Medium-Term Projections for FYs 2024/2025 & 2025/2026**

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##### **A. Introduction**

1. In accordance with the State Corporations Act, Cap. 446, Sections 11 and 12 and the Public Finance Management Act, 2012 (PFMA), Section 68, all State Corporations are required to prepare and submit their proposed budgets to the Line Ministry and the National Treasury & Economic Planning latest by end of January each year. The proposed budgets should indicate the projected revenue and expenditure for the succeeding financial year and medium-term projections.
2. The purpose of this Circular is to provide guidelines for the preparation and submission of the Annual Budget for State Corporations for **Financial Year 2023/2024** and Medium-Term projections for **FYs 2024/2025 & 2025/2026**.
3. The calendar for the preparation and approval of the FY 2022/2023 Annual Budget has been aligned to the timelines for the National Budget as per Treasury Circular No. 5/2022 dated August 24, 2022 on Guidelines for Preparation of the FY 2023/2024 and Medium-Term Budget. In this regard, State Corporations are required to submit their itemized Annual Budgets for FY 2023/2024 and projections for FYs 2024/2025 & 2025/2026 to their respective Line Ministries and the National Treasury & Economic Planning, not later than 31<sup>st</sup> January 2023 for approval.



4. As per the calendar for the preparation and approval of the FY 2022/2023 Annual Budget contained in Treasury Circular No. 5/2022, it is expected that, State Corporations whose operations are funded through the National Budget resource allocation, have confirmed their budgetary allocations from respective Sector Working Group through their Line Ministries. In this regard, the preparation and submission of the itemized Annual Budgets is **NOT** an additional resources bidding process.
5. The itemized annual budget should be within the budgetary allocation for the respective State Corporation and any other resources that may be received either from development partners, donors, or internally generated revenue by the State Corporation. In this regard, the National Treasury & Economic Planning will not approve a proposed budget with operating deficit.
6. In efforts to enhance service delivery and perform its mandate of financial and operational oversight of State Corporations as provided for in the Constitution, PFM Act and other relevant laws, the National Treasury (TNT) embarked on the design and development of the Government Investment Management Information System (GIMIS). GIMIS is an end-to-end automated platform for submission and reporting of statutory returns to TNT. The System also has capabilities for the preparation, submission, analysis/review and approval of State Corporations budgets. In this regard State Corporations are expected to submit their FY 2023/2024 budget estimates and revised budgets through GIMIS.

**B. General Guidelines**

7. The FY 2023/2024 and the Medium-Term Budget is being prepared on the background of strong but uneven economic recovery. The negative impacts of COVID-19 Pandemic, Ukraine-Russia war and resultant economic damage have largely contributed to the slowdown in economic activities, higher-than-expected inflation worldwide and weakening of the major global currencies. The Government will however continue to monitor these developments and take appropriate measures aimed at safeguarding livelihoods, creating jobs, reviving businesses and economic recovery.
8. Taking to account the many demanding needs for high priority areas on the shrinking National resources, and other economic shocks on the operational performance of State Corporations, there is urgent need for consideration and implementation of measures geared towards improving financial performance and efficiency. In this regard, in preparing the FY 2023/2024 proposed budgets, State Corporations will be required to develop and implement measures that will allow diversification and increase internally generated revenues, rationalize personnel emolument, operational & administrative costs and leverage on ICT in delivery of services among other measures with a view to minimizing dependence on the support of the National Exchequer.
9. State Corporations should harmonize their FY 2023/2024 and the Medium-Term Budget with priorities of the New Government Administration. Consequently, unnecessary expenditures not supportive of the core mandate like travel, training, seminars, consultancies, legal expenses, overtime and all non-core activities must be scaled down to the bare minimum.



10. Prioritization and allocation of the Corporation's available resources should be in support of set objectives of the State Corporation, strategic plan and planned activities for FY 2023/2024. In doing so, it is understood that the Strategic Plan under implementation by the respective State Corporation has already been aligned to the Medium-Term Plan IV and the current Administration priority agenda.
11. State Corporations are expected to seek specific approval from the Line Ministry, the National Treasury & Economic Planning and other relevant authorities prior to review of the Human Resource Policy Instruments and recruitment of staff.

#### **Estimates of Revenue**

12. It is noted that some State Corporations do not make full disclosure of internally generated revenues or under-estimate such revenues at the time of budget preparation. State Corporations are required to disclose all revenues that accrue to the respective entity, including grants. Please note that any revenues over and above the approved FY 2023/2024 budget will require a fresh approval before spending.
13. State Corporations with projects and programs to be financed from the National Exchequer are required to ensure budgetary requirements to be funded through the National Budget are as agreed with the Line Ministries during the Sector Working Groups before being factored in the FY 2023/2024 budget and the Medium-Term Expenditure Framework. Line Ministries are required to confirm the agreed State Corporations funding levels through GIMIS.

#### **Expenditure Control**

14. State Corporations are required to entrench prudent financial management practices in their planning. As a matter of priority, State Corporations should enhance cost control measures with the aim of delivering services in the most cost-effective manner. Chief Executives Officers of State Corporations are reminded that incurring expenditures that are NOT approved by their Line Ministry and the National Treasury & Economic Planning is irregular and they will be held personally liable for such expenditures in accordance with provisions of the Public Finance Management Act, 2012.

#### **Engagement of External Legal Counsel**

15. Circular Ref: OP.CAB.26/1/3A dated July 16, 2020 on Presidential Directive on Delivery of State Programs and Projects, sets out general guidelines on legal representation of State Corporations. In particular, the Circular directed State Corporations not to engage external legal counsels or consultants to render legal services without prior approval of the Attorney General. In this regard, State Corporations are required to comply and take necessary steps to build internal legal capacity to defend litigation matters internally.

#### **Payment of Dividends and Remittance of Surplus Funds**

16. All commercial State Corporations are expected to generate reasonable returns, declare and pay dividends to the National Treasury & Economic Planning and to other shareholders, where the State Corporation is not wholly owned by the Government. In this regard, all commercial State Corporations are required to upload their approved dividend policies before submission of their Annual Estimates for the FY 2023/2024.



17. State Corporations with arrears of unremitted dividend and surplus funds to the National Treasury should remit the same immediately.
18. State Corporations are reminded that the State Corporations Act empowers the Cabinet Secretary National Treasury & Economic Planning under Section 16(3) to recall the whole or part of the surplus funds to be paid to the Consolidated Fund.
19. In accordance with the Public Finance Management (2012) Regulations, Regulatory Authorities are required to remit 90% of the operating surplus reported in the audited financial statements to the National Exchequer. Kenya Revenue Authority has been delegated to collect the 90% of the operating surplus on behalf of the National Treasury.
20. However, it has been noted that some Regulatory Authorities are adjusting operating surplus by netting capital expenditure from the operating surplus purposely to determine the 90% of the operating surplus to remit to the National Exchequer. As it has been advised earlier, operating surplus are all revenues generated including budgetary allocations received by a corporation less total operating/recurrent expenses incurred excluding capital expenditure.
21. Regulatory Authorities have been advised that, in the event the Authority intends to use the operating surplus to implement strategic development/capital project(s), it has to obtain prior approval from the Cabinet Secretary, The National Treasury and Economic Planning before the beginning of budget preparation and approval process for the succeeding financial year.

#### **Settlement of Pending Bills/Outstanding Obligations**

22. It is a Government policy vide Treasury Circular No. 10 dated June 16, 2020 that MDAs including State Corporations should prioritize payment of pending bills. For purposes of common understanding, pending bills are any undisputed invoices due for payment but are outstanding for more than the Corporation's credit period.
23. Pending bills have adversely impacted on economic activities especially on the small and medium enterprises. In this regard, Accounting Officers of State Corporations are reminded of their cardinal responsibility of prudent financial management and directed to comply and settle all pending bills. Payment of pending bills including interest and principal loans repayment should therefore be the first charge of the entity's revenue.
24. In accordance with the PFM Act (2012) Section 74(d), Accounting Officers are reminded that accumulation of confirmed and verified liabilities/pending bills is prohibited and may invite punitive actions against those responsible. State Corporations should therefore not initiate implementation of new projects prior to ensuring that all outstanding obligations/pending bills are cleared.
25. In order for TNT to perform its mandate of financial & operational oversight and monitor accumulation of pending bills as they pose huge fiscal risk to the National Exchequer, State Corporations are required to submit the status of pending bills on a monthly basis through GIMIS. The National Treasury & Economic Planning will **NOT** grant approval of annual budgets for State Corporations without clear Action Plan to settle pending bills.



### **Pension Schemes**

26. All State Corporations are expected to have converted their pension schemes from Defined Benefit (DB) pension schemes to Defined Contribution (DC) pension schemes, in accordance with Treasury Circular No. 18/2010 of 24<sup>th</sup> November, 2010.
27. It is noted that some State Corporations have not been remitting sponsor and staff Pension contributions to the respective schemes. Consequently, these State Corporations have accumulated huge arrears of Sponsor and staff pension contributions contrary to existing laws and Government policies. In this regard, State Corporations should budget for and honour their staff pension obligations including the arrears. **The Board of Directors are reminded of their responsibility to protect the interests of the pensioners and to provide oversight for effective operations of such schemes.**
28. State Corporations are required to submit monthly, the status of sponsor and staff pension contributions including arrears through GIMIS.

### **Borrowings**

29. State Corporations are reminded that they should not procure any loan, overdraft facility and/or any form of credit facility with financial institution without prior approval of the Cabinet Secretary, Line Ministry with the concurrence of the Cabinet Secretary, National Treasury & Economic Planning.
30. The National Treasury & Economic Planning will not give concurrence for borrowings or, where applicable, grant guarantees for State Corporations which are in default of loan repayments and pending bills.

### **Cash Management and Bank Accounts**

31. In accordance with Section 28(1) of the PFMA, no State Corporation should open and operate bank accounts without prior approval of the National Treasury & Economic Planning.
32. State Corporations should provide details of all bank accounts, including the balances in each bank account at the end of each month through GIMIS.

### **Remuneration and Benefits to Employees**

33. Currently, members of staff of State Corporations are remunerated in accordance with categorization as per Circular No. OP/CAB.9/21/2A/LII/43 dated 23<sup>rd</sup> November, 2004 and respective approved salary structures by Salaries and Remuneration Commission (SRC) subject to financial sustainability as confirmed by the respective Boards and the National Treasury & Economic Planning.
34. Adjustment of salaries and other remunerative benefits to staff of State Corporations should only be done after receiving approval from the SRC. In this regard, State Corporations are reminded to first get written **approval from the National Treasury & Economic Planning confirming availability of funds before putting requests to SRC.**



### **Capital Budget**

35. The capital projects to be prioritized for execution should be those that adhere to Public Investment Management (PIM) framework and for which the State Corporation concerned can mobilize the requisite resources (including donor grants, borrowings and Exchequer funding allocated under sector/ministerial ceilings). The capital budgets should be realistic and consistent with sector/ministry strategic objectives and geared to the furtherance of the Corporations mandate.
36. Further, the CEOs of State Corporations are required to ensure that the following conditions are met before the start of execution of any new project:
  - i. The new project has a specific approval from the Line Ministry, the National Treasury & Economic Planning and other relevant authorities before being included in the budget;
  - ii. Funding is secured and confirmed;
  - iii. All conditions precedent including land acquisition are fulfilled;
  - iv. Detailed designs are completed and relevant approvals obtained where applicable;
37. State Corporations are required to take into account funding requirements of all on-going projects, multi-year funding requirements of capital projects up to their completion before initiating any new projects. Further, State Corporations should submit a full breakdown of the capital expenditure for 2023/2024 FY, including all on-going projects indicating the status of implementation, amounts required to complete the project, new projects and other capital items.

### **Revision of Budgets**

38. As State Corporations implement approved annual budget for revenue and expenditure during the respective FY, it is possible that unforeseen and unavoidable events may impact their operations and revision of the budget becomes necessary. Consequently, any revision exceeding 10% of the approved budget for revenue and expenditure must be submitted for review and approval by the Line Ministry and The National Treasury & Economic Planning.
39. The revised annual budget for FY 2022/2023 must be submitted separately from the proposed annual budget for FY 2023/2024. The revised budget should be done and submitted through GIMIS at the earliest time possible when the unforeseen/unavoidable events emerge but NOT at the end of FY or after the expenditure has been incurred since TNT has NO Legal basis to approve the expenditure which has already been incurred.

### **C. Submission of 2023/2024 Annual Budget and Projections for 2024/25-2025-26 FYs**

40. The National Treasury with the support of Information Communication Officers (ICT) from the State Department of ICT and Innovation continues to undertake the design, development and roll out of GIMIS in phases. Already, the design and development of State Corporation's Corporate information module, submission, review and analysis of the budget, submission of monthly, quarterly and other Statutory requirements have been completed, training of users conducted and successfully rolled out. State Corporation will be required to ensure that all the data submitted through the GIMIS is correct and factual.



41. Consequently, Ministries, State Departments and State Corporation are notified that all submission of budgets, monthly, quarterly and other statutory reports shall be done through GIMIS. **NO** hard copies will be accepted for the above listed submissions.
42. The information required in the submission of the FY 2023/2024 budget proposal is as outlined in the GIMIS platform. State Corporation are therefore, required to submit **ALL** information for each interface without exception.

***Please note that GIMIS has been configured to block the capturing and submission of the 2023/2024 FY budget for State Corporations that have NOT captured & submitted all the required information/data for the already designed, developed, rolled out, and operationalized Modules. Complete and accurate data/information of the following should be fully captured and submitted through GIMIS:***

- i. *State Corporation Profile: - Corporation Basic Details; Top Management Details' Board Establishment & Board Membership, State Corporation Mandate, Ownership details, Branches, Staff Establishment, Subsidiaries details & Subsidiary ownership, Document Uploads i.e current strategic plan, Audited, Financial Reports, Approved Staff establishment (Organigram);*
  - ii. *Previous Years audited Financial Statements: - Statement of Financial Performance, Statement of Financial Position, Statement of Cash flows;*
  - iii. *Monthly Returns: - Bank Balances, Account payables (pending bills) & accounts receivable), GoK/Donor receipts;*
  - iv. *Quarterly Returns: - Statement of Financial Performance, Statement of Financial Position, Statement of Cash flows, Project/capital item monitoring, investment of surplus funds, interaction with National Government;*
  - v. *Loan Portfolio Management: - GoK Loan (disbursement/draw downs and loan repayments), Direct Commercial Loans (loan basic details, loan disbursement/draw downs, loan repayments).*
43. The proposed FY 2023/2024 Annual Budget and Medium-Term Projections should include the following: -
    - i. Statement of the State Corporation's background information, short-term objectives, performance review for the last FY and outlook as approved by the Board, the degree to which a program will address the core mandate of the Corporation, job creation and poverty reduction;
    - ii. Updated State Corporations Board of Directors/Governing Bodies and Top management;
    - iii. Main assumptions including key economic parameters for the FY 2023/2024 and Medium Term;
    - iv. Concise explanatory notes on the proposed recurrent and capital budget.
    - v. Summary of the proposed recurrent and capital budget as per agreed budgetary allocations in the Sector Working Groups ceilings and other information;
    - vi. Detailed remedial action plan for any outstanding liabilities/pending bills including outstanding debt and pension scheme liabilities;



44. The following guidelines should be taken into consideration while preparing the Statement of Financial Performance: -
- i. All estimates of revenue and expenditure should be realistic;
  - ii. Grants from GoK and development partners should be as agreed and confirmed by Line Ministries;
  - iii. State Corporations should ensure that funds are prioritized towards the achievement of their respective core mandates and the realization of Key Result Areas (KRAs) identified in their respective sectors as articulated in the MTP IV, entity's strategic plan and the Government priority policy agenda.
45. The capital and development budget proposed for implementation should comply with the following guidelines: -
- i. Ongoing projects: An implementation schedule clearly indicating the level of completion for on-going projects, projected work(s) to completion and time frame to complete the project as well as sources of funding should be provided;
  - ii. New projects should have received prior National Treasury approval & Economic Planning before being included in the FY 2023/2024 budget for funding and implementation;
  - iii. Project preparation costs including feasibility studies must be budgeted separately and the National Treasury & Economic Planning approval granted;
  - iv. Budget for Capital Items are for purchase of motor vehicle, computers, spare parts and other normally procured items on a one off basis to support the Operations and Maintenance and whose useful life is beyond one financial year.
  - v. Plans in place to revive stalled projects.
46. The Statement of Cash Flow and projections should be consistent with other statements in the submitted budget and should not reflect any overdrawn position (negative cash flow) unless a State Corporation has in place bank overdraft facilities which have been approved by the Line Ministry with the concurrence of the National Treasury & Economic Planning.

**D. Deadlines for Submission of FY 2023/2024 Annual Budget and FYs 2024/2025 & 2025/2026 Projections**

47. Annual budget for FY 2023/2024 and projections for the FYs 2024/2025 & 2025/2026 for State Corporations should be submitted through the GIMIS platform not later than **31<sup>st</sup> January, 2023**
48. The respective Line Ministries should review the submitted annual budget by State Corporations within the timelines indicated in the Annex. The Line Ministry should critically review, analyze and approve the proposed budget for respective State Corporations under their jurisdiction in GIMIS.

**E. Responsibility for Submissions**

49. Responsibility for ensuring that the State Corporations comply with the provisions of this Circular lies with the Board of Directors/Governing Bodies and Chief Executive Officer of the State Corporation. The Accounting Officer of the respective Line Ministry should, as part of their oversight role, ensure that State Corporations falling within their dockets comply with this Circular.



50. Extracts of minutes of the relevant meeting of the Board of Directors/Governing Bodies at which the annual estimates and projections of revenue and expenditure were approved should be included in the submission. **The Board Resolution should clearly indicate the approved amount for recurrent and development expenditure.**

**F. Conclusion**

51. The National Treasury & Economic Planning will NOT approve or recommend to the Line Ministries approval for the proposed budgets that are not submitted in line with this Circular. Further, Accounting Officers and CEOs are reminded to ensure that NO State Corporation commences the implementation of programmes or incurs expenditure for the financial year where approval of the proposed budget has not been granted by the Line Ministry and the National Treasury & Economic Planning.



**NJUGUNA S. NDUNG'U, CBS**  
**CABINET SECRETARY**

**Copied to: All Cabinet Secretaries**

**The Hon. Attorney General**  
Sheria House  
**NAIROBI.**

**Head of the Public Service**  
Executive Office of the President  
Harambee House  
**NAIROBI.**

**The Auditor-General**  
Office of the Auditor General  
**NAIROBI.**

**The Controller of Budget**  
Office of the Controller of Budget  
**NAIROBI.**

**The Inspector-General Corporations**  
Inspectorate of State Corporations  
Executive Office of the President  
**NAIROBI.**



**Annex: Deadlines for Submissions of FY 2023/2024 Annual Budget and the 2024/2025- 2025/2026 Projections**

Submission of FY2023/2024 Annual Estimates of Revenue and Expenditure (Budget Proposals) and projections for FYs 2024/2025-2025/2026 by State Corporations to the Line Ministry. January 31, 2023

Submission of Recommendations by Line Ministries to the National Treasury & Economic Planning, with specific comments and recommendations, for each State Corporation.(Chief Executive Officers of State Corporations should follow up with their Line Ministries to ensure that this timeline is met). February 15, 2023

Review and Analysis of the Annual Budget Proposals and the projections by the National Treasury & Economic Planning. February 16 to April 15, 2023

Submission of Annex of Estimates of Revenue and Expenditure for State Corporations FY 2023/2024 to the National Assembly. April 28, 2023