



**THE BOMET COUNTY PUBLIC FINANCE MANAGEMENT (STANDING EMERGENCY FUND) DRAFT  
REGULATIONS, 2024**

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*Regulation*

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IN EXERCISE of the powers conferred by section 197 (1)(e) of the Public Finance Management (County Governments) Regulations, 2015, the County Executive Committee Member for Finance and Economic Planning makes the following Regulations—

**THE BOMET COUNTY PUBLIC FINANCE MANAGEMENT (STANDING EMERGENCY FUND) DRAFT REGULATIONS, 2024**

**PART I-PRELIMINARY**

Citation	1. These Regulations may be cited as the Bomet County Public Finance Management (Standing Bomet County Emergency Fund) Regulations, 2024.
Interpretation	2. In these Regulations, unless the context otherwise requires— ‘Act’ is the Public Finance Management (PFM) Act 2012 “Accounting Standards Board” means the Public Sector Accounting Standards Board established under section 192 of the Public Finance Management Act, 2012; “Administrator of the Fund” means a person designated as such under regulation 15 (1) ; “Board” means the Standing Emergency Management Oversight Fund Board established under regulation 11; “County” means Bomet County; “County Assembly” means Bomet County Assembly; “County Executive Committee Member” has the meaning assigned to it under Article 179 2(b) of the Constitution; “Emergency” means an urgent and unforeseen need which falls within the mandate of the County Government that threatens damage to human life or welfare or threatens damage to the environment for which immediate expenditure is required; “Fund” means the Standing Emergency Fund established under regulation 4; “Regulation” is the Bomet County Public Finance Management (Standing Bomet County Emergency Fund) Regulations, 2023; ‘ Response Agencies referred to concerned departments responding to emergencies “Unforeseen event” means an occurrence or circumstance that is not anticipated.
Scope of the regulation	3. These Regulations shall apply to the objects and purpose of the Fund specified under regulation 5.

**PART II —ESTABLISHMENT OF THE FUND**

Establishment of the Fund	4. There is established a Fund to be known as the Bomet County Standing Emergency Fund as per the stipulation of the PFM Act 110 (2).
Objects and Purpose of the Fund Functions of the Fund in relation PFM ACT Section 112 (2)	5. The purpose of an Emergency Fund is to enable payments to be made in respect of a PFM Act 110 (2) when an urgent and unforeseen need for expenditure for which there is no specific legislative authority arises. 6. The fund shall be: (a) for the purposes in (5) which cannot be delayed until a later financial year without harming the general public interest; (b) payment is meant to alleviate the damage, loss, hardship or suffering which may be caused directly by the event; and (c) the damage caused by the event is on a small scale and limited to the county.
Application of the Fund	7. (1) The Fund shall be applied towards the objects and purpose as specified under regulation 5-6. (2) Despite the provisions of paragraph (1), the Fund shall not apply to funding of crop damage and animal deaths for any cause.
Sources of the Fund	8. The Fund shall consist of— (a) such moneys as may be appropriated by the County Assembly; (b) grants or donations for the purposes of this Fund; (c) any moneys accruing to or received by the Fund from any other source as may be approved by the County Executive Committee Member for Finance; (d) the allocation shall not exceed 2% of the annual budget (PFM Act, 2012, Section 113)
Capital of the Fund	9. The initial capital of the Fund shall not exceed 2% (PFM, Act Section 113), in the last audited Financial Year.

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Expenditure of the Fund	<p>10 (1) There shall be paid out of the Fund payments in respect of any expenses incurred in pursuance of the objects and purposes for which the Fund is established.</p> <p>(2) The expenditure incurred on the Fund shall be on the basis of and limited to annual work programmes and cost estimates which shall be prepared by the Administrator of the Fund, and approved by the Board at the beginning of the financial year to which they relate.</p> <p>(3) Any revision of the approved annual work programmes, and of any cost estimate, shall be referred to the Board for approval.</p>
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**PART III — MANAGEMENT OF THE FUND**

Establishment of the Board	<p>11. (1) There is established a board to be known as the Standing Emergency Management Oversight Fund Board.</p> <p>(2) The Board shall consist of—</p> <ul style="list-style-type: none"><li>(a) CEC Finance as the chairperson;</li><li>(b) the Chief Officer for the time being responsible for matters relating to emergency management;</li><li>(c) the Chief Officer for the time being responsible for matters relating to education;</li><li>(d) the Chief Officer for the time being responsible for matters relating to finance;</li><li>(e) the Chief Officer for the time being responsible for matters relating to agriculture;</li><li>(f) the Chief Officer for the time being responsible for Matters relating to Infrastructure, Housing and Urban Development;</li><li>(g) the Chief Officer for the time being responsible for matters relating to environment;</li><li>(i) the Chief Officer for the time being responsible for matters relating to Health;</li><li>(j) the Director for the time being responsible for matters relating to emergency management who will be the Secretary to the Board; and</li></ul> <p>(3) Members under 2 (c), (d), (e), (f), (g) and (i) may attend in person or through a representative nominated in writing.</p>
Conducting meetings	<p>(4) (a) Board meetings will be chaired by Chairperson who is the CECM in charge of Finance; and</p> <p>(b) In the absence of the chairperson in any meeting of the Board the members present shall elect one of the members, excluding (j) in Section 11 (2), to chair the meeting.</p>
Co-option into the Board	<p>(5) The Board may, from time to time co-opt other members as it may deem necessary, for the proper and efficient discharge of its functions over the Fund, for such period as the Board considers necessary.</p>
Frequency of the Meetings	<p>(6) Unless in certain special circumstances, the Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.</p>
Procedure of the Board	<p>12. A person shall be eligible for a position of a chairperson or member of the Board under regulation 11(2) (a) ,(h) and (i) if that person (a) has at least a university degree from a university recognized in Kenya;</p> <p>(b) has professional experience of not less than ten years in fields of finance, health, urban, administration, civic education, agriculture, environment, and disaster management; and</p> <p>(c) satisfies the requirements of Chapter Six of the Constitution.</p>
Tenure and vacation of Office	<p>13. (1) The Chairperson and members of the Board under regulation 11 (2) (a) respectively shall serve for a term of five years but shall, subject to satisfactory performance, be eligible for one further term of 5 years, for a maximum of two terms.</p> <p>(2) The Chairperson or a member under regulation 11 (2) (a) becomes vacant if the holder—</p> <ul style="list-style-type: none"><li>(a) dies;</li><li>(b) resigns from office by notice, in writing, addressed to the Board;</li><li>(c) is convicted of a criminal offence and sentenced to a term of imprisonment exceeding 6 months</li><li>(d) is adjudged bankrupt; or</li><li>(e) is removed from office for any of the grounds set out in regulation 13(2).</li></ul>
Functions of the Board	<p>14. The Board shall—</p> <ul style="list-style-type: none"><li>(a) provide oversight on the administration and management of the Fund;</li><li>(b) formulate policies to achieve the objects and purpose of the Fund;</li><li>(c) in consideration to emergency preparedness, prevention and response, the Board shall review and approve estimates of revenue and expenditure of the Fund for each financial year;</li><li>(d) give prior approval for the opening of any bank account of the Fund before seeking approval of the County Treasury in accordance with section 82 of the PFM Act (2015);</li><li>(e) the Board shall determine criteria for expenditure of the Fund in a Yearly Work Plan;</li></ul>

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'Third Party' as defined in the Act Section 138	(f) receive, review and approve statutory and management reports disbursement of funds to finance emergency management interventions; (g) advise the County Executive Committee Member responsible for matters relating to emergency management on the proper administration of the Fund; (h) approve, monitor and evaluate programs and activities of the Fund; (i) mobilise resources for the Fund; (j) review the estimates of annual revenue and expenditure of the Fund, recommend and submit them to the County Executive Committee Member responsible for Finance for approval; (k) receive and review reports on the performance of the Fund and make recommendations on the operations of the Fund to the administrator of the Fund; (l) review policy on the management of assets, equipment and all properties under the Fund; (m) develop a criteria for funding arrangements with third parties; (n) perform such other duties as may be considered necessary by the County Executive Committee Member responsible for emergency management from time to time for the proper administration and management of the Fund and such a duty shall be assigned in writing.
Administration of the Fund	15. (1) Administrator of the Fund shall be Chief Officer for Finance or any other person with relevant qualifications appointed by the Executive Committee Member for Finance. (2) the administrator of the Fund shall:- (a) open and operate a separate bank account or accounts at the Bank approved by the Board and the County Treasury in accordance with the Act; (b) supervise and control the administration of the Fund; (c) consult with the Board on matters relating to the administration of the Fund; (d) cause to be kept proper books of accounts and record in relation to the Fund; (e) prepare, sign and submit to the Board in respect of each financial year and within three months, after the end thereof, a statement of account related to the fund for approval; (f) prepare, sign and transmit to the Auditor General, upon the approval by the Board, in respect of each financial year and within three months after the end, thereof, a statement of accounts relating to the fund and submit a copy to the County Treasury and the statements shall be prepared in such a manner as the Public Sector Accounting Standard Board shall prescribe in accordance to the provisions of the PFM Act, 2012 and Public Audit Act, 2015; (g) furnish additional information to the Auditor General as he/she may consider to be proper and sufficient for the purpose of and audit by the Auditor General in accordance with the provisions of the Public Audit Act, 2015; (h) prepare quarterly reports on financial and non-financial activities of the fund in accordance with the provision of the Act, and as may be prescribed from time to time by the Public Sector Accounting Standards Board and submit the report to the Board for approval and subsequent transmission to the County Treasury, County Executive Committee Member responsible for Finance and a copy to the Controller of Budget and the Auditor General; and (i) be the custodian of all the assets, equipment and property under the Fund; and (j) authorise payments in consultation with Chair of the Board and the Secretariat.  (3) Every statement of account shall include details of the balance between the assets and liabilities of the Fund and shall indicate the financial status of the Fund as at the end of the quarter or financial year.
Secretariat of the Fund	16. There is established a Secretariat comprising of- (a) the Fund Administrator who shall be the head; (b) head/director of emergency management; (c) such other three (3) qualified and experienced staff as may be re-deployed from the county public service by the County Executive Committee Member for Finance in consultation with the head of county public service.
Functions of the Secretariat	The secretariat shall: (a) Receive expenditure proposals from Response Agencies; (b) Deliberate on the expenditure proposals and give recommendations whether it meets the required threshold for onward forwarding to the Board for considerations.

**PART IV: CRITERIA FOR ACCESSING THE FUND**

Access of Fund	17. Subject to regulation 18, the County Executive Committee Member for Finance may, with the approval of the Board, make payments out of the Fund if he or she establishes that— (a) payment not budgeted for cannot be delayed until a later financial year without harming the general public interest; (b) the payment is meant to alleviate the damage, loss, hardship or suffering which may be caused directly by the event;
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Procedure for making request for funding.	<p>(c) the damage caused by the event is on a small scale and limited to the county; and            (d) Not less than 20% will be used in emergency preparedness and prevention.</p> <p>18. (1) A request for funding shall—            (a) be made in writing and in the form in which the Board may specify; and            (b) be addressed to the Administrator of the Fund.</p> <p>(2) Upon receipt of a request under paragraph (1), the Administrator of the Fund in consultation with the Secretariat shall submit the request to the CEC Finance for evaluation on compliance with the requirements set out under the Regulations.</p> <p>(3) Upon receiving request, the CEC Finance shall consult the Board for approval</p> <p>(4) The CEC Finance shall, in writing, communicate the decision of the Board to the Secretariat within 24 hours of such decision.</p>
Limitation of Expenditure of the Fund	<p>19. The Executive Committee Member for Finance may not, during a financial year, make a payment from the Fund exceeding two per cent of the total county government revenue as shown in the county government’s audited financial statements for the previous financial year.</p>
Powers of the County Assembly	<p>20. (1) The County Executive Committee member for finance shall seek approval of the county assembly as per the PFM Act 114(1);            (2) If the county assembly is not sitting during the period referred to in subsection (1), the County Executive Committee member for finance shall seek the approval for the payment as per the PFM Act 114(2); and            (3) The County Executive Committee member for finance shall cause a draft of the appropriation Bill to be introduced in the county assembly for the appropriation of the money paid and for the replenishment as per the PFM Act 114(3).</p>

**PART V - FINANCIAL PROVISIONS**

Application of Government regulations and procedures Financial year of the Fund	<p>21. Subject to the provisions of the Act, existing government regulations and procedures shall apply in the administration of the Fund.</p> <p>22. The financial year of the Fund shall be the period of twelve months .Beginning of 1<sup>st</sup> of July to the 30<sup>th</sup> of June of every year.</p>
Preparation and submission of a work plan	<p>23. The Administrator of the Fund shall prepare a work plan in respect a financial year and submit to the Board for approval.</p>
Quarterly and annual reports on proposals and disbursements	<p>24. (1) The Board shall, on a quarterly and annual basis, submit the report to the County Executive Committee Member responsible for matters relating to emergency management.            (2) The report envisaged under paragraph (1) shall contain-            (a) a summary of the proposals approved by the Board in the preceding quarter as recommended by the Secretariat of the Fund and indicating the funding status of such proposals, if any;            (b) a summary of the status of disbursements from the Fund for the implementation of any proposals financed from the Fund;            (c) a summary of outputs and outcomes of each proposal, where applicable;            (d) any restriction imposed on any agency involved in the implementation of the proposal of the Fund;            (e) information on the financial and non-financial performance of the Fund; and            (f) reports in a prescribed form that complies with the standards set by the Accounting Standards Board from time to time.            (2) The Board shall prepare and submit quarterly monitoring and evaluation reports to the County Executive Committee Member responsible for matters relating to emergency management affairs.</p>
Record of disbursements	<p>25. An accurate record of all disbursements from the Fund shall be kept and updated every month by the Secretariat.</p>
Administration costs of the Fund	<p>26. The administration costs of the Fund shall be a maximum of three percent (3%) of the approved Budget of the Fund.</p>
Expenditure of Fund	<p>27. (1) There shall be paid out of the Fund payments in respect of any expenses incurred in pursuance of the objects and purposes for which the Fund is established;</p>

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(2) The expenditure incurred on the Fund shall be on the basis of and limited to annual work programmes and cost estimates which shall be prepared by the Administrator of the Fund, and approved by the Board at the beginning of the financial year to which they relate; and  
 (3) Any revision of the approved annual work programmes, and of any cost estimate, shall be referred to the Board for approval.

Opening bank Account  
 No. 35 of 2015

28. (1) The Board shall approve the opening and maintenance of bank accounts for the Fund with such a bank as may be recommended by the Administrator.  
 (2) Upon approval by the Board under paragraph (1), the administrator shall seek the approval of the County Treasury in accordance with Section 82 of the Act.

Retention of receipts

(3) The accounts shall be held for and on behalf of the Fund in the name of the Bomet County Standing Emergency Fund.  
 29. All receipts and accruals to the Fund, and the balance of the Fund at the close of each financial year, shall be retained by the Fund for use for the purpose for which the Fund is established.

Annual reports  
 No. 18 of 2012

30. (1) The administrator of the Fund shall prepare annual financial and non-financial reports in accordance with the provisions of the Act and as may be prescribed from time to time by the Accounting Standards Board.  
 (2) In addition, the administrator of the Fund shall prepare an annual general performance report of the Fund to be submitted with the report under paragraph (1).

No. 35 of 2015  
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(3) The annual financial and non-financial paragraph (1) shall be approved by the Board and submitted to the Auditor General for audit within three months after the end of the financial year and a copy thereof submitted to the County Treasury, the Controller of Budget and the National Treasury

Audit No. 18 of 2012  
 No. 34 of 2015

31. The books of accounts of the Board including donor funds shall be prepared, audited and reported in accordance with Articles 226 and 229 of the Constitution, the Act and the Public Audit Act, 2015.

**PART VI- MISCELLANEOUS PROVISIONS**

Conflict of interest

32. The Board shall not hold any interest in any property of the Fund otherwise other than in their capacity as Board members of the Fund or receive remuneration or be interested in the supply of work, goods or services to the Fund or any other non-pecuniary conflict of interest.

Offences and Penalties

33. (1) A person who misappropriates any funds or assets from the Fund, or assists or causes any person to misappropriate or apply the funds otherwise than in the manner provided in these Regulations, commits an offence and shall, upon conviction, be liable to imprisonment for a term of not less than five years or to a fine not exceeding ten million shillings or to both  
 (2) In addition to the penalty prescribed under subject to existing relevant law, the court may order for the recovery of the monies or assets acquired as a result of the commission of the offence thereof.

Personal liability

34. No Board member or staff of the Secretariat shall be liable for any action, suit or proceedings for or in respect of any act done or omitted to be done in good faith in exercise of the functions, powers and duties conferred under these regulations.

Winding-up of the Fund

35. (1) In the event of winding up of the Fund, the Board shall—  
 (a) pay any amount remaining in the Fund into the County Exchequer Account while other assets of the Fund shall be transferred to the Section for the time being responsible for Finance;  
 (b) the County Executive Committee Member for Finance shall pay any deficit in the Fund from the funds of the County Government in the County Exchequer Account with the approval of the County Assembly; and  
 (c) the County Executive Committee Member for finance shall submit a final statement of accounts of the Fund to the County Assembly.  
 (2) The Board shall prepare the final winding up report not later than six months from the date of the decision to wind up the Fund and submit the financial and non-financial reports to the Auditor General; and  
 (3) The Auditor General shall after audit, submit the final report to the County Assembly within three months of the receipt of the initial report under paragraph (2), with a copy to the County Treasury.