Ministry of Transport, Infrastructure Housing and Urban Development

State Department of Housing and Urban Development

Urban Development Department

PROGRAMME OPERATIONS MANUAL

KENYA URBAN SUPPORT PROGRAMME (KUSP)

Volume I

(Final draft)

November 2017

Cianda House
Koinange Street
Nairobi - KENYA

Preamble

This Programme Operations Manual (POM) is prepared to operationalize, from the side of the Government of Kenya, the implementation of the support to be received from the World Bank under the Kenya Urban Support Programme (KUSP). KUSP seeks to support the implementation of the Kenya Urban Programme (KenUP), which is the Kenya government's development strategy emanating from and giving life to the Kenyan National Urban Development Policy (NUDP). The latter was approved by a special cabinet committee in October 2016, and presented to parliamentary and senator committees in February and March 2017.

KUSP has different targets. First it addresses the basic steps as provided for in KenUP, namely the establishment of urban governance as well as management structures, and secondly providing funding, to and through the county governments, to allow those urban structures to fulfil their mandates. Thirdly, the programme is providing capacity development support to central government, notably the State Department of Housing and Urban Development for it to better assist and support the county governments in addressing urban issues in the spirit of the Constitution of Kenya (2010). Overall, it seeks to emphasise the pivotal role urban areas are supposed to be playing in terms of development, prosperity and modernisation.

POM is presented in two volumes. This first presents, in chapter 1, the context, the vision and the concrete objective of the programme. Chapter 2 provides an overview of the overall project design and implementation modalities, including the principles of the overall flow of funds. Chapters 3 to 5 describe in detail the three programme components, with one chapter for each window. Chapters 3 and 4 deal with the urban institutional grant (UIG) and the urban development grant (UDG) respectively, and are specific to the county governments and their urban boards. Chapter 5 describes the capacity development and support component. Chapters 6 and 7 deal with institutional issues, from a county and national perspective respectively. Chapter 7 discusses the roles and responsibilities of the various national level stakeholder parties in the programme whilst identifying the lead parties for each set of activities. Chapter 8 deals with issues related to public financial as well as environmental and social management, followed by a concluding chapter (Chapter 9). Volume II contains, as a series of annexes, a range of technical formats, specific guidelines as well as terms of reference related to actions and provisions as referred to in Volume I.

The target audience for the POM are all those involved in the implementation of the programme, both at national level and notably at the county level. It involves members and staff of the county governments, notably those responsible for urban development; members of the urban boards and staff of the urban administrations under those boards. For the counties and their Council of Governors (CoG), the POM serves as the KUSP programme document. At national level, and next to the CoG, the POM is relevant to participating ministries, including the Ministry of Transport, Infrastructure Housing and Urban Development and the Ministry of Finance.

Updates of this document and its annexes will be posted on the UDD/KUSP website, where also the MS Word versions of the various annexes to be used by the counties and municipalities can be found. At the same time, the reader is referred to the World Bank website http://projects.worldbank.org/P156777?lang=en for all publicly disclosed World Bank documents on KUSP, including the Project Appraisal Document (PAD) on which this POM is based.

Finally, the POM is and will remain a *living document*. It will be further improved during the lifespan of the programme. Users are invited to address any observations, suggestions and/or questions in this regard to the Programme Coordination Unit within the Urban Development Department.

KUSP - Contact persons		
Victor Ogutu	• Programme Co-ordinator	E-mail: victorogutu@yahoo.com Mobile: 0722 811 702
Solomon Ambwere	• Urban Planning and Urban Management	E-mail: sambwere@gmail.com Mobile: 0704050824
Eng Charles Mutunga	• Infrastructure Management and Urban Services	E-mail: mutungaceng@gmail.com Mobile: 0722 403 899
Isaac Mungania	• Institutional Development and Management Support	E-mail: imungania@gmail.com Mobile: 0721 206 089
Francis Ndereba	• Urban Grants Management	E-mail: mbae.ndereba@gmail.com Mobile: 0722 922 147
Abdu Muwonge	• World Bank, Task Team Leader	E-mail: amuwonge@worldbank.org Mobile: 0790 307 268

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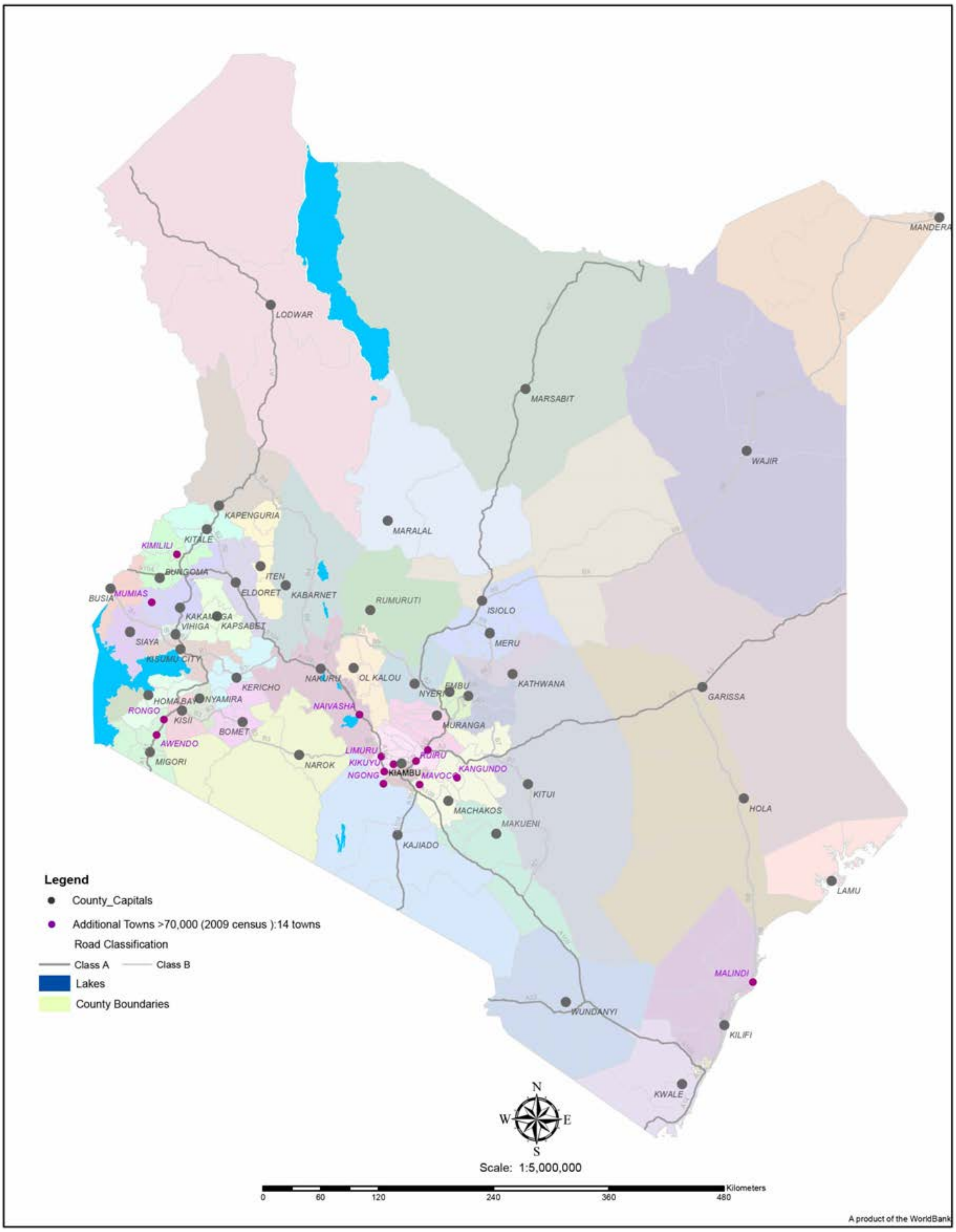
KENYA URBAN SUPPORT PROGRAMME: MAP of ELIGIBLE URBAN AREAS



Note: See also Table 2.2 on page 6 for a full list of all 59 eligible urban areas under KUSP

Foreword

1. The overall vision and strategic objectives

The 21st century has been referred to as the first urban century. More than 50% of the world's population lives in urban areas. Rapid urbanisation is both an opportunity and a global challenge. Urban centres drive economic growth and offer economies of scale in productivity and public investments; they are social melting pots, centres of innovation and drivers of social change. However, cities can also be marked by inequality, poverty, conflict violence and environmental degradation. Urban Governance, GSDRC, 2016

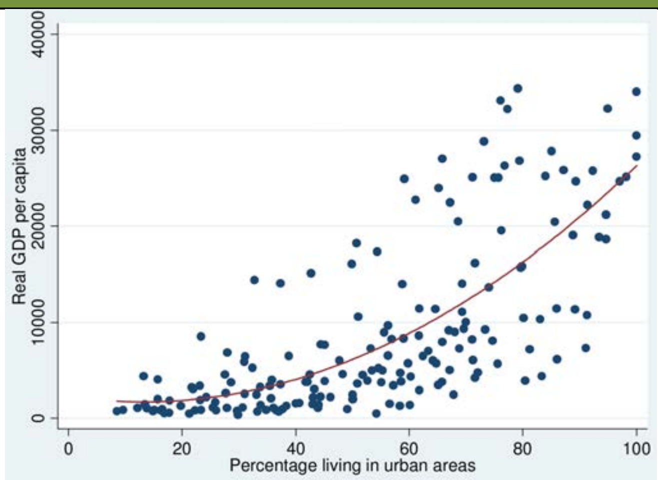
1.1 Background and Context - Challenges faced

Data from different countries around the world show a clear correlation between levels of income and levels of urbanisation. When countries move along the line from a low middle income to a mid middle income country, levels of urbanisation typically increase from around 20-30 % to around 50-60% (See Fig 1). GoK's National Urban Development Policy (NUDP) states, among other things, that '[n]early all countries become 50% urbanised before reaching middle-income status' (GoK, 2016, para. 1.1).

As compared to other sub Saharan countries, the urbanisation rate in Kenya is still relatively low. With the Census of 2009 (and whereby all people living in settlements of at least 2,000 people were categorised as urban, the rate was 31.3 %. When looking at the core urban population only (excluding peri-urban and smaller urban centres in rural areas the percentage of the people in Kenya living in urban areas is estimated at 25% for 2014 (0r 23.1 % for 2009; Kenya Urbanisation Review, 2016).

But without a doubt, over the next years and decades, the share of the urban population will spectacularly grow to reach estimated levels of around 50% by 2050). This is considered a logical and good development, provided that these urban areas area well managed. If urban areas are well managed, they serve as engines of growth and provide people with better job opportunities, improved health care, housing, safety and social development. But if poorly planned, and badly managed and governed, urban areas can easily become centres of poverty, inequality and violence. The challenge is that, compared to the present total population of around 40 million people, the Kenyan urban areas have to accommodate, jointly, over 30 million more people over the next three decades.

Fig 1.1 : Per capita income*) and degree of urbanisation



Source: Bloom et al, 2008 *) 180 countries, data for the year 2000

1.2 The contours of urban governance

As such, managing the growing cities and urban areas is one of the major challenges of the 21st century. This was well acknowledged in the Kenyan ***Vision 2030***, first published in 2008 as a technically well-underpinned policy statement by the Kibaki Government, which identified urban issues as one of the four key areas in need of explicit attention in view of the counties development and targeted prosperity.

In 2016, Government endorsed the revised National Urban Development Policy (NUDP), to be operationalized through the Kenya Urban Programme (KenUP; February 2017). The overall objective of NUDP policy is *to provide a framework for sustainable urban development in Kenya for the benefit of all*.

Both the NUDP as well as KenUP are divided in three sections dealing with (i) urban management; (ii) urban core functions, such as planning, land, urban infrastructure, housing and disaster and risk management and (iii) social issues and inclusiveness. The urban management component is further divided in (a) urban governance; (b) urban finance, as the underlying condition for urban service delivery; and (c) the urban economy and the role the urban management has to play to facilitate private sector development and economic growth.

The three sub-components under the heading 'urban management' are closely related. The NUDP defines urban governance as the ways in which individuals and institutions, public and private, plan and manage the common affairs of urban areas. The above quoted GSDRC study (2016) goes even a little further and defines *urban governance* as "the process by which governments (local, regional and national) and stakeholders collectively decide how to plan, finance and manage urban areas. [...] It involves a continuous process of negotiation and contestation over the allocation of social and material resources and political power. It is not just about the formal structures of the city government but encompasses a host of economic and social forces, institutions and relationships, formal and informal."

In the Constitution 2012, and in recognition of the fact that both urban and rural areas in a county are two sides of the same coin, no separate governance structures were initially created (to replace the earlier urban and local governments). However, the Constitution (Art 184) mentions that "national legislation shall provide for the governance and management of urban areas and cities and shall in particular [...] establish the principles of governance and management of urban areas and cities; and provide for participation by residents in the governance of urban areas and cities."

As alluded above, it must be recognised that areas with high population densities have special requirements e.g. in terms of planning and development control ('enforcement of regulations') as well as with regards to typical urban services, less or not required in rural areas, such as, solid and liquid waste management, drainage, road infrastructure inclusive of sidewalks and streetlights, urban economic infrastructure as well as creation and management of public spaces).

It is through the *Urban Areas and Cities Act* (UACA, 2011 as amended), that the provisions of the Constitution and the County Government Act (section 48) with regards to urban governance are operationalized in terms of (a) areas being granted municipal or city status (by the county government) an (b) the creation (by the governor) of city and urban boards.

Under the UACA (Art 9) the county governor may, on resolution of the county assembly, confer the status of *municipality* to an urban area if, amongst other things, that area has a population of at least 70-thousand people, as per the last census (but less than 250 thousand, in which case it would be considered a city[1]).

The Amendment to the UACA in 2016, specified that the urban area that serves as the seat of the county government is considered a municipality (even if it has less then 70-thousand inhabitants).

The UACA states unequivocally that the management of cities and municipalities remain vested in the County Government, but shall be administered, on its behalf, by a board, appointed by the governor, that oversees the operations by an urban manager and its staff as to be determined by the county public service.

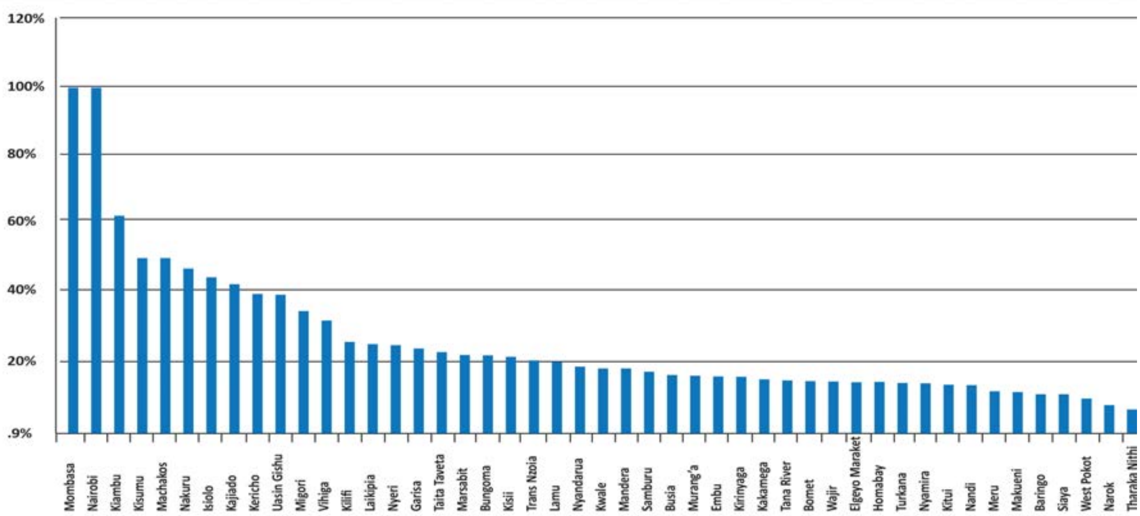
The city and municipal board shall consist of eleven and nine members respectively, six and four of which are to be appointed by the county government (i.e. county executive committee through an executive process), whilst for both the other five will be elected as representatives from different stakeholder parties, being

(i) the umbrella body of professional associations in the area;
(ii) the association representing the private sector in the area;
(iii) the registered associations for the informal sector in the area;
(iv) the registered neighbourhood associations in the area; and
(v) a representative for the association of urban areas and cities.

1.3 Opportunities and Challenges for County governments

Levels of urbanisation differ greatly across the counties and vary from less than ten percent (e.g. Narok and West Pokot) to over 40% percent (for Kajiado, Kiambu, and Machakos as part of the Nairobi metropolitan area, as well as Kisumu, Nakuru and Isiolo) to 100% for Mombasa and Nairobi (See Fig 2).

Fig 1.2 : Share of population living in urban areas, by county



Source: KNBS, Census 2009 - as published in the Kenya Urbanisation Review, World Bank 2016

1 As per the 2009 census, Kenya has only 6 urban areas that have a population of over 250-thousand, being Nairobi, Mombasa, Nakuru, Kisumu, Eldoret and Kikuyu (KNBS, Analytical report on urbanisation, 2009).

Whereas Kenya is bound to see a heavy increase in levels of urbanisation over the next decades, it is important to notice that through the Constitution 2010 and the UACA it has created, outside of the traditional urban areas of Nairobi and Mombasa, 45-plus potential growth poles as urban centres, that can serve as engines of development and modernisation, and that are managed in a devolved manner and thus able to take into accounts particular needs and circumstances as well as local priorities. It provides for a framework of a more broad based urbanisation process, that is at the same time localised and takes into account for each urban area the levels of urbanisation, the size of the urban area (in terms of population) as well as its location to other urban areas.

Most counties, mirroring the national government institutional set up, have created a Department of Housing and Urban Development, but only few have put in place the dedicated urban governance structures as provided for under the UACA; and only few counties so far have a clearly earmarked (income and expenditure) budget for urban services and urban development. In most cases, responsibilities and budgets for urban infrastructure and services are fragmented across different county departments or agencies. Given this situation, it is difficult, if not impossible, to tell what amounts counties have allocated to urban infrastructure and services. And even though counties cannot be blamed for it (as this situation existed also prior to them being created), over the past years, spending on urban infrastructure and service provision in Kenya has not kept pace with the country's urbanization rates, creating a backlog in urban infrastructure and service-provision, which is now a challenge that county governments need to address.

It is in the interest of each county government to address these issues as on the one hand urbanisation, if not well managed, is a threat, whilst on the other hand, if well managed provides opportunity for development and modernisation, for both the individual counties as well as for the country as a whole.

1.4 Government's strategic focus for the urban sector

KenUP prioritises and operationalizes the objectives of NUDP. Whilst recognising the importance of an array of issues, from urban management to core urban topics and social issues, the KenUP also acknowledges that the establishment of sound governance structures is a pre-requisite to achieve sustainable results in the areas of planning and development control. Such government structures include the overall urban governance institutions (the boards), the urban management and administration (under the board) and citizen participation.

A second main objective of KenUP is to build efficient financial management systems (including secured budgets at county level) for urban services and development.

The third priority objective of KenUP is to promote the actual development of the required infrastructure and delivery of most needed services.

It are these three areas that the *Support to KenUP,* as funded by the World Bank under KUSP, and subject of this operation manual, is targeting, whereby emphasis is put on establishing the governance structures and their operational procedures.

2. KUSP - Programme description

2.1 Development objectives

Against the background and the challenges to deal with the issue of urbanisation over the next decades as described in the previous chapter, the Government of Kenya has agreed with the World Bank on a loan of USD 300 million to support the implementation of KenUP. The agreed development objective of the *Kenya Urban Support Programme* (KUSP) is to:

> *Support the establishment and strengthening of urban governance and management institutions and systems to deliver improved infrastructure and services in municipalities and cities in 45 participating counties in Kenya.*[2]

Through the provision of grants to counties, for both institutional strengthening and urban infrastructure and services, the programme seeks to incentivise county governments to put the provisions of the UACA (2011) in place and establish appropriate institutional arrangements for urban development.

The programme starts in July 2017, and will be operational for a period of 6 financial years (till end of June 2023). The programme hence largely coincides with the period of office of the 2nd generation of county governments that will be elected in August 2017 for a period of five years.

2.2 Focus on all secondary cities

The programme is situated at the cross roads of supporting devolved country governments, established under the Constitution of 2010, to take up their responsibilities vis-à-vis the urbanisation challenges.

Traditionally, Nairobi and Mombasa were the 2 urban centres of the country. Due to urbanisation and growth, other major urban areas are emerging like Kisumu, Nakuru and a handful of other urban areas that have a population of over 150,000. The Kenya Urbanisation review (2016) foresees that Kenya's system of cities will primarily develop around the northern corridor and its three hubs (Mombasa - Nairobi - Kisumu).

Devolution has the potential to spread both the burden as well as the benefits of urbanisation more equally (though, naturally, still unevenly) across the country. The county capitals as well as the other 'secondary cities' have the prospect of becoming urban centres of economic growth, development and modernisation in their own right. Given the expected further urbanisation, and pull of the urban areas even the smaller county capitals are likely to grow anyway - and it is important that county governments stay ahead of those developments (to avoid having to fight back against a backload later).

For this reason, the KUSP focuses on *all* urban areas that qualify for the status of 'municipality' or 'city', with the exceptions of Nairobi and Mombasa city Counties. As such, the programme focuses on 59 urban areas, being 45 county headquarters (including three -Eldoret, Kisumu and Nakuru- that have over 250-thousand

2 All 47 existing counties, with exception of Nairobi and Mombasa which are city counties, meaning that the entire country area is considered city area

inhabitants and are cities, and 14 that would by themselves qualify for the status of Municipality by having over 70 thousand inhabitants), and another 14 areas, that are not county capitals but have a population of over 70-thousand (as per the KNBS 2009 census data; See Table 2.1).

Thirty-seven of the 45 counties only have one major urban area being the county capital. In ten cases, the number of inhabitants of the county capital is below 25-thousand. For 28 county headquarters, the population was with the census of 2009, below 70-thousand, and they are eligible of the status of municipality by the virtue of being the county capital.

As per the census 2009, the total population of the 59 urban areas that, population wise and/or by virtue of their administrative status as county headquarters (and outside of Nairobi and Mombasa), qualify for the status of city or municipality, was 5.6 million or 14.5% of the total population that will -directly- benefit the programme. The total population for the 45 county headquarters was 3.6 million.

Table 2.1 : Secondary cities - List of eligible cities and municipalities

#	County	Urban area*)	Urban population	#	County	Urban area*)	Urban population
1	Baringo	Kabarnet	25,954	31	Machakos	Machakos	150,467
2	Bomet	Bomet	83,440	32		Kangundo-Tala	218,722
3	Bungoma	Bungoma	54,469	33		Mavoko	135,571
4		Kimilili	94,719	34	Makueni	Wote	67,542
5	Busia	Busia	50,099	35	Mandera	Mandera	87,150
6	Elgeyo Maraket	Iten	44,513	36	Marsabit	Marsabit	14,474
7	Embu	Embu	59,428	37	Meru	Meru	57,940
8	Garissa	Garissa	115,744	38	Migori	Migori	66,234
9	Homa Bay	Homa Bay	59,165	39		Awendo	108,742
10	Isiolo	Isiolo	46,578	40		Rongo	81,968
11	Kajiado	Kajiado	14,434	41	Muranga	Muranga	30,949
12		Ngong	107,042	42	Nakuru	Nakuru	367,183
13	Kakamega	Kakamega	90,670	43		Naivasha	170,551
14		Mumias	102,208	44	Nandi	Kapsabet	87,850
15	Kericho	Kericho	127,042	45	Narok	Narok	37,129
16	Kiambu	Kiambu	83,265	46	Nyamira	Nyamira	56,857
17		Karuri	115,731	47	Nyandarua	Ol Kalou	67,186
18		Kikuyu	264,714	48	Nyeri	Nyeri	117,297
19		Limuru	79,686	49	Samburu	Maralal	15,213
20		Ruiru	240,226	50	Siaya	Siaya	23,825
21		Thika	151,225	51	Taita Taveta	Wundanyi	6,576
22	Kilifi	Kilifi	47,957	52	Tana River	Hola	17,124
23		Malindi	115,882	53	Tharaka Nithi	Kathwana	0
24	Kirinyaga	Kerugoya	35,343	54	Trans Nzoia	Kitale	148,261
25	Kisii	Kisii	81,318	55	Turkana	Lodwar	47,101
26	Kisumu	Kisumu	383,444	56	Uasin Gishu	Eldoret	312,351
27	Kitui	Kitui	115,183	57	Vihiga	Vihiga	124,391
28	Kwale	Kwale	21,378	58	Wajir	Wajir	82,106
29	Laikipia	Rumuruti	10,064	59	West Pokot	Kapenguria	36,379
30	Lamu	Lamu	18,328			**TOTAL**	**5,576,388**

*) **Source:** 2009 Kenya Population and Housing Census Volume VIII, Analytical Report on Urbanization, Kenya National Bureau of Statistics, March 2012

**) County capitals are highlighted in green

2.3 The three programme components ('windows')

2.3.1 Three distinct but related components

In order to achieve the development objective as stipulated above the programme, has three interlinked components that are briefly discussed below and more in detail in the chapters 3 to 5.

2.3.2 The urban development grant (window-3) - USD 247.5 million

The mainstay of the programme is an urban development grant for infrastructure and urban services. County governments can access, from FY 2018/19 onwards substantial amounts to the tune of USD 20 per capita for their urban boards, provided they (both the county government and the urban board/department) meet certain minimum conditions and performance standards that are linked to the establishment of urban governance institutions and procedures for creating a dedicated budget for urban development. Although the grants will be made available through the County governments, they are allocated to individual urban areas (municipalities or cities) to finance infrastructure and services within those urban jurisdictions.

2.3.3 The urban institutional grant (window-2) - USD 22.5 million

To help county governments meet the minimum conditions and performance standards to access the urban development grant, starting FY 2017/18 county governments have for a period of three years access to an urban institutional grant. This grant is allocated to the County Government and can be used for any activity or investment that, in a sustainable and institutionalised manner, raises the profile of and attention for urban development and urban service delivery. A few -easy to fulfil- minimum conditions are to be met for the County Governments to access the grant, and in principle, all counties should be able to access the grant.

2.3.4 Technical support and capacity development (window-1) - USD 30.0 million

With the creation of devolved county governments the Constitution (2010) also the role of the central government agencies has changed considerably from being first responsible for actual implementation and delivery to a policy making, standard setting, monitoring and advisory role. The programme component for capacity development supports the central government, and notably the Urban Development Department, to play that supporting role vis-à-vis the county governments for urban development issues.

2.3.5 The link between the components further clarified

County governments take centre stage in the programme with their role and responsibility to ensure good urban governance, so that the virtues of urbanisation (growth, development, modernisation) can emerge, instead of its equally potential vices (of poverty, inequality and crime). The urban development grant provides county governments with both the incentives to institutionalise urban governance (as per the provisions of the UACA) *and* supplementary financial resources to directly address priority issues of urban infrastructure and urban service delivery. The other two components (of the institutional grant and capacity support by UDD) assist the county governments, in a demand and supply driven manner respectively, to put systems in place and ensure sufficient technical and other capacity to spend the resources in an effective and efficient manner, and face the urban challenge adequately.

2.4 Implementation modalities

2.4.1 Two implementation modalities

Linked to the three components, there shall be two distinct implementation modalities for the IDA/World Bank support to KenUP. The grant component (windows 2 and 3), that account for 90% of the total loan, will follow the, still relatively new, *Programme for results (or P4R)* modality (see para 2.4.2 and 2.4.3), whilst for the component of capacity support the more traditional and well know modality of Investment project financing (IFP) will apply (see para 2.4.4).

2.4.2 Programme for Results (P4R - for windows 2 and 3)

Under a P4R operation, the IDA/World Bank credit is a form of budget support whereby the amounts released are dependent on the performance as measured against certain indicators (the “DLIs; see below) whilst for the spending of the financial resources government rules and regulations apply.

2.4.3 Disbursement linked indicators (DLIs)

The crucial element of the P4R modality are the so-called Disbursement Linked Indicators (or DLIs) that, legally binding, determine the amounts that will be released under the loan. For KUSP the DLIs are relatively simply and ensure that the Government of Kenya (GoK) can draw from the loan exactly those amounts needed for the grants to the counties as per the provisions (including minimum conditions and performance standards) as described in more detail in chapters 3 and 4. The DLIs for the KUSP are summarised in Table 2.2.

Table 2.2 : DLIs and related maximum amounts (estimates)

	Results area	DLIs	Estimated disbursement amount (US$ Million)	
Window 2	County governments commit to address urban development and management issues	**DLI #1** # of County governments having met the minimum conditions (see Ch 3) for the **Urban Institutional** grant [USD 200K per County in years 1 and 2 and USD 100K in year 3]	Annual verification - 30JUN Years 1-3	
			Maximum amounts:	
			2017/18	$9.0
			2018/19	$9.0
			2019/20	$4.5
Window 3	Institutional framework put in place	**DLI #2** # of County governments having met the minimum conditions (see Ch 4) for the **Urban Development** grant [USD 10 for each inhabitant - data last census]	Annual verification - 30JUN Years 2-6	
			Estimated max. amounts:	
			2018/19	$28.4
			2019/20	$31.2
			2010/21	$57.4
			2021/22	$36.9
			2022/23	$39.7
Window 3	Urban planning, infrastructure and service delivery	**DLI #3** # County governments and urban boards having met specified performance standards [USD 1 per capita for each of the 10 standards met]	Annual verification - 30JUN Years 2-6	
			Estimated max. amounts:	
			2018/19	$5.7
			2019/20	$8.5
			2010/21	$11.4
			2021/22	$11.4
			2022/23	$17.0
		***) For DLI 2 and DLI 3 amounts are below the calculated maximum as not all counties are expected to meet the MCs or score 100% on performance**	**TOTAL**	**$270.0**

Although the data for measuring the DLIs is collected during the preceding FY (see chapters 3 and 4) the official date to assess the DLIs is 30th June for the releases in the FY that starts 01July.

2.4.4 Investment programme funding (IPF - for window 1)

The IPF funding modality applies for window-1. Under this modality, loan proceeds are spent on the basis of an agreed work (and procurement) plan under the direct supervision of the World Bank. World Bank financial guidelines and procedures apply.

2.4.5 Two modalities - one operation

The KUSP hence combines two funding modalities that are quite different in nature, but that suit the respective windows. The grants for the counties, as said over 90% of the total loan, will be 'on budget' and flow through the treasury system and treasury is responsible to ensure that these funds reach the respective counties. For the activities managed by UDD, under window-1, the funds will be made available into a dedicated bank account, directly managed by UDD, which has the advantage that funds are guaranteed for the agreed activities (even though, from a government perspective, it sits less well with the idea that all funds should be spend through the government system using government procedures). In World Bank terms, the two modalities jointly form one operation.

In World Bank documents, the hybrid operation as a whole will be referred to as the "Operation" unless specified otherwise, whereas the IPF element will be referred to as the "Project" and the PforR element as the "Program". In this POM we have often used the word 'programme' for the entire operation.

2.5 Representation in the GoK-budget and Flow of funds

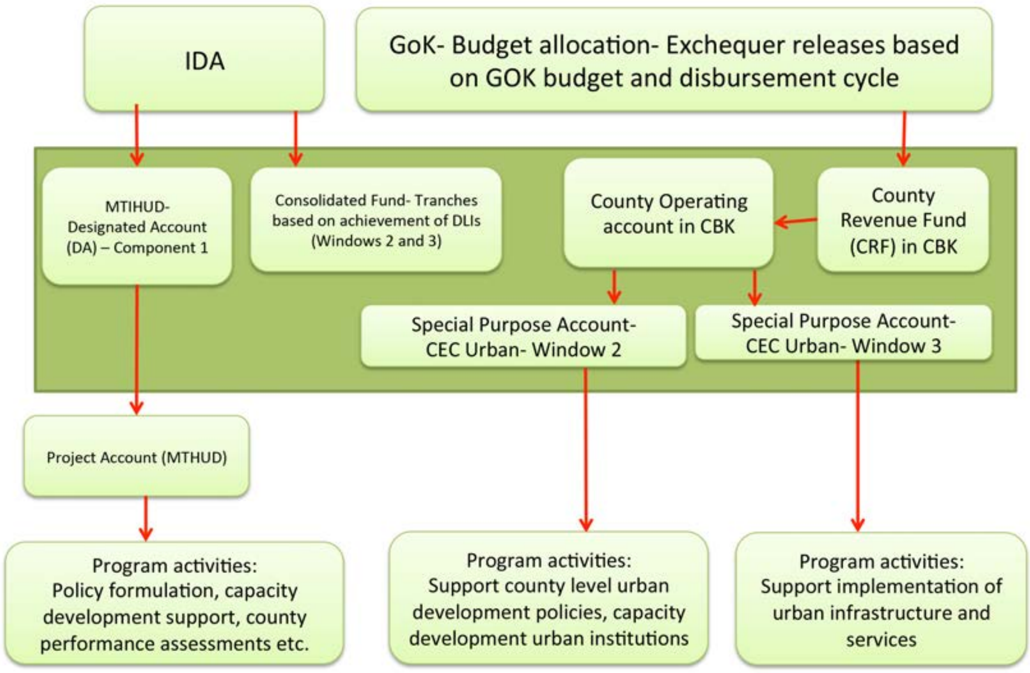
The allocations for both modalities (the IPF and the PforR windows) will fall under the budget of the State Department of Housing and Urban Development (SDHUD) as appropriated by the National Assembly.

The PforR resources (the urban institutional and development grants) will be allocated to the counties in the form of conditional grants. Conditional grants form part of the national share of government resources and as such fall directly under the budget of the SDHUD (see figure 2.1).

The two KUSP conditional institutional and development grants would need to appear -separately- in the County Allocation of Revenue Act (CARA). The latter is crucial, as otherwise the National Treasury will not be able to transfer funds to the counties

Flow for P4R grant funds: Once the results of the assessment for Minimum conditions and performance standards are formally approved (see Chapter 3 and 4) GoK (i.e. UDD/SDHUD) will request the World Bank to release funds against DLIs 1-2-3. When released, these funds will be deposited in the Consolidated Fund. From there, funds will then be transferred, directly to the counties, by the National Treasury on the advice (request) of UDD/SDHUD. As soon as the funds reach the consolidated fund they are subjected to the rules and regulations of the National Treasury systems.

Fig 9.1 : Fund flow for the three windows



Flow for IPF: Whereas the funds for windows 2 and 3 are based on results whilst GoK procedures apply, the funding for window-1 is based on inputs, whilst World Bank rules regulation apply. The funds under window-1 are budgeted under UDD/SDHUD.

The funds for window 1 are disbursed to fund (and on the basis of approved) eligible expenditure; They flow from IDA/Word Bank directly to a designated account in the national Treasury and from there to a special bank account, exclusively for KUSP window 1. The financial management rules are summarised in a separate document (see the FM guidelines).

2.6 The Planning and Budget Calendar for the grants

Table 2.3 overleaf shows the timing of the critical milestones for the major transfers under the program during its first three years.

Table 2.3 : UIG and UDG - Planning and Budget calendar				
Period			**Activity**	**Responsible party**
21017	PREP	April	▪ Yr-1 Window-1 and UIG allocations included in UDD/SDHUD budget as submitted to Parliament ▪ UIG for year 1 included in the DoRB and CARB	National Treasury
		May	▪ Counties draft a first version of the County Urban Institutional Development Strategy (CUIDS) ▪ 31/5 results of the UIG/MC Assessment known	
		June	▪ National budget approved	National Parliament
			▪ SDHUD to request WB to release P4R funds	UDD
	FY 2017/18 (Yr-1)	July	▪ Release of P4R funds into the consolidated fund	WB
		August	▪ Urban Institutional grant for Yr-1 released	UDD to advice Treasury
		September	▪ Include UIG, UDG and window-1 allocations for Next FY in MTEF proposals and sector reports prior to budget hearings	SDHUD
		Sep-Nov	▪ APA team to visit all counties to start the APA process for FY 2018/19 (UIG and UDG)	
		October	▪ Counties (new county governments) re-visit CUIDS, integrate or annex it to the new 5yr County Integrated Development Plan to be prepared	
		November	▪ UIG/UDG allocations for next FY send to NT & CRA for inclusion in the CARB/DORB	Responsible party: SDHUD
		December	▪ 15/12: UIG & UDG allocations included in the Divisions of Revenue Bill and the County Allocation of Revenue Bill	National Treasury
2018		January February	▪ County governments/urban boards finalise a first draft of the 5-yr Urban area Investment Plan, including identified investments for FY 2018/19	Counties
		March	▪ UDD / SDHUD budget proposals for Window 1, UIG and UDG prepared and submitted to NT	SDHUD
			▪ 30th March - submission APA documentary evidence	Counties
		April	▪ Budget estimates for UDD/SDHUD including KUSP Window-1, UIG & UDG submitted to Parliament	National Treasury
		May	▪ 20/5 - draft APA results available	APA team and UDD
		June	▪ Before 15/6 : PSC endorses APA results	PSC
			▪ National budget approved	National Parliament
			▪ SDHUD to request WB to release P4R funds	UDD
		July	▪ Release of P4R funds into the consolidated fund	WB
		August	▪ Urban Institutional grant for Yr-2 released ▪ The annual urban development grant released (in full - in one transfer)	
		September	▪ Include UIG, UDG and window-1 allocations for Next FY in MTEF proposals and sector reports prior to budget hearings	SDHUD
		Sep-Nov	▪ APA team to visit all counties to start the APA process for FY 2019/20 (UIG and UDG)	
		October	▪ CGs and Urban Boards update CUIDS and the Urban Area Investment plan including the proposals and budget estimates for UIG and UDG FY 2019/20	Counties
		November	▪ UIG/UDG allocations for next FY send to NT & CRA for inclusion in the CARB/DORB	Responsible party: SDHUD
		December		
2019		January	From here the annual cycle (like for 2018) is repeated	
		February	See 2018	
		March	"	
		April	"	
		May	"	
		June	"	

3. The urban institutional grant (UIG)

3.1 Objectives

Central to the overall objective of the KUSP is the desire to stimulate County Governments to pay explicit attention to urban development issues, and create, in response to the existing legal framework, the necessary urban institutions (urban boards) to manage these issues, as well as to provide and oversee the provision of municipal services (like waste management, drainage, urban infrastructure, etc.)

The Urban Institutional Development Grant (UIG), under window-2 of the KUSP, is to provide the County Governments with financial resources to:

(i) Establish and strengthen the urban institutions, notably the municipal board(s) and the municipal administration(s);

(ii) Integrate and regularly update the section on urban development issues (challenges and opportunities) in the County's development strategy and its ensuing development plan;

(iii) Assist the County Government and their urban institutions in meeting the minimum the conditions necessary to access the urban development grant.

The UIG is a provision to ensure that all County Governments that make an effort can access the, much larger, urban development grant (UDG), discussed in the next chapter.

3.2 UIG allocations for each county government

The UIG, being a start-up assistance grant to put in place the necessary foundation for institutionalising urban governance, is available for the first three years of the programme only (i.e. FY17/18, FY 18/19 and FY 19/20).

The UIG will be made available as a flat amount for all County Governments that have signed up for the programme as follows:

FY 17/18 : USD 200,000 (roughly around KES. 20 million)
FY 18/19 : USD 200,000 (roughly around KES. 20 million)
FY 19/20 : USD 100,000 (roughly around KES. 10 million)

3.3 Minimum conditions

In order to receive the above amounts, two (and for the third year three), straightforward minimum conditions (MCs) must be met. These are reflected in Table 3.1.

Table 3.1: UIG Minimum grant access conditions

UIG Minimum Condition	**Indicator - to be met by 31/3/n-1** latest (year n = year of grant)
UIG/MC-1: The County government has committed itself to participate in KUSP	▪ The County Governor has signed a letter of participation with the Ministry of Transport, Infrastructure, Housing & Urban Development (MTIHUD) stating that the county government signs up to KUSP and that it will adhere to the provisions of the Operations Manual [3]

[3] The template for such a letter of participation is provided in Volume II of this POM, Annex 1

UIG Minimum Condition	**Indicator - to be met by 31/3/n-1** latest (year n = year of grant)
UIG/MC-2: The County government has drawn up (and is implementing) its county urban institutional development strategy	▪ The county government has prepared a (10-15 page) County Urban Institutional Development Strategy (CUIDS) that is reflected in or annexed to the (5-year) CIDP ▪ The county government has prepared a brief annual County Urban Institutional Development Plan & Budget for FY n that entails a proposal for use of the UIG in compliance with the UIG expenditure menu and other provisions of the POM
Starting UIG 2019/20 (assessment in FY 2018/19 - 31/3/n-1	
UIG/MC-3: UIG spending in accordance with the eligible menu	▪ Use of previous year's UIG (FY n-2) was consistent with UIG eligible expenditure menu (to be validated through annual report on UIG budget implementation)

The fulfilment of the MCs is measured against the indicators as presented in the right column of Table 3.1. All the indicators (the various bullet points) reflect a binary (yes/no) question. In order to meet the MCs, *all* indicators should score a 'yes'. Failing one (that means scoring a 'no') means that the MCs are *not* met. A simple scoring format to be used by the assessors is provided in Volume II, Annex 6.

The minimum conditions for the UIG in financial year n should be met latest by end of March the preceding FY (FY n-1). Hence, by end of March 2018, the UIG/MCs should be met for the allocation to be received in FY 2018/19.

County Governments that meet all minimum conditions in all three years will in total benefit an amount of USD 500-thousand (equivalent to about KES 50 million). If in a particular year, one or more of the MCs are not met, the grant will not be released and is foregone. However, it should be noted that meeting the UDG/MCs should be straightforward for all county governments that make an effort, and hence, in principle, all 45 counties should qualify for three years.

3.4 Annual assessment

The MCs will be assessed annually, to determine which counties are eligible for the UIG. The assessment of the MCs for the UIG will be part of the overall annual performance assessment; discussed in the next chapter. The same information and communication as well as appeal mechanisms will apply. For the UIG/MCs, the annual assessment will be completed in the month of March of each year (except for the first year as the assessment for FY 2017/18 will be completed, as part of the programme preparatory activities by January 2018 only). It will be conducted as a desk-review based on documentary evidence with spot field checks as necessary.

3.5 Menu of eligible activities

The UIG can be used by the County Government for all activities to help achieve the above-defined objectives (see para 3.1). Within that context and within the menu of eligible activities as presented in Table 3.2), county governments are relatively free to decide on what they want to use the grant for. The governing principle is that the UIG funded activities contribute to strengthen the ability of the county and its urban institutions to engage in the management of urban development and the provision of urban services as part of an overall agenda for installing good urban governance.

Table 3.2 below shows, in the left column, examples of eligible activities, whilst in the right column are listed the activities that are explicitly prohibited to be funded from the grant. An added general restriction is that expenditure on movable assets (like office equipment and furniture) should not exceed 30% of the total grant amount in any particular year.

Table 3.2: UIG - Menu of eligible expenditure

Eligible expenditure (examples)	Non-eligible expenditure items
• Urban planning activities/exercises (including spatial or town planning) ▪ Training costs (e.g. for Municipal Board members or other relevant county staff) ▪ Workshops and learning events ▪ Meeting costs, including local travel allowances, refreshments (e.g. related to the development of Municipal Charter and other urban planning activities) ▪ Experience sharing and peer-learning activities with other counties ▪ Incremental office operating costs (stationery, etc.) ▪ Office equipment and furniture (for urban boards and urban administrations)*	▪ Means of transport (vehicles, m/cycles) ▪ International travel and associated costs ▪ Long term training costs (e.g. university degree programs) ▪ Recurrent costs (for e.g. salaries, utilities, etc.)
General: Expenditure on moveable assets (office equipment, office furniture, etc.) may not exceed 30% of annual spending from UIG allocations	

3.6 Planning and budgeting for use of the grant

Whereas the UIG is a conditional grant to County governments, the use of which follows GoK / National Treasury financial and management regulations, it is the county governments that are to plan and budget for the use of the grant.

A plan for the spending of the UIG is part of the annual County Urban Institutional Development strategy, which is a minimum condition for the release of the grant (See para 3.3 above). This document, which aims to raise the profile of the attention for urban matters, should be produced for at least three years (first three years of the programme). Preparation of this document would typically be done under the supervision of the member of the County Executive Committee (CEC) responsible for urban issues, whilst the actual work of writing the document would be delegated to the (head of the) department involved in urban issues. This could be, for example, the county department for lands, housing and urban issues or any other department mandated with the urban portfolio. It could also be a cross cutting unit like the Planning Department or, in the 2nd or 3rd year, the urban board(s). Though, it is to be noted, that the UIG is a grant to the county governments and not to its urban institution(s), and the county governments have to decide on whom (which unit) to nominate as budget-holder for the UIG within its organisation.

Depending on the decision made, the UIG shall be reflected under the budget vote of the county department (or urban board) designated by the county governor to be the budget holder for the grant, based on that units mandate in relation to enhancing the urban portfolio.

In making the plan, the concerned department and the responsible chief officer (member of the CEC) are expected to consult with stakeholders, to identify the best options for spending the grant and creating a basis for urban governance. A consultative meeting may be held to discuss the options for spending the grant and a draft plan (with options) may be presented to the County Assembly for their input.

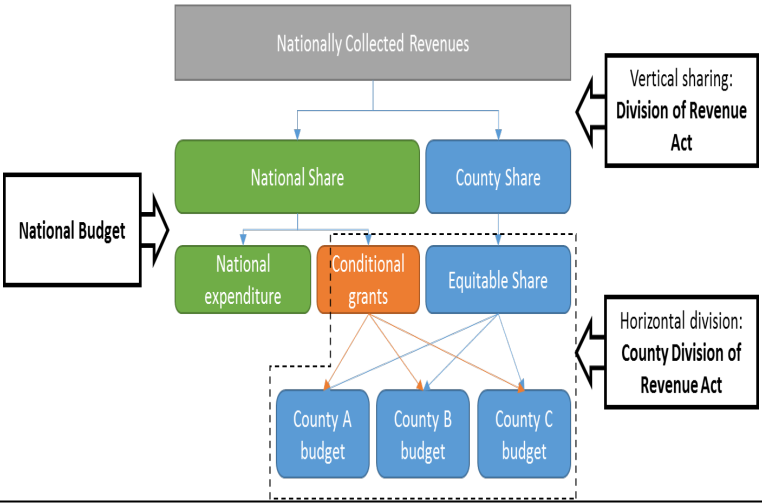
In the end, the budget for the UIG is to be reflected as a visible part of the county budget.

3.7 Fund flow

From the consolidated fund and based on provisions in the Division of Revenues Act (DoRA) and the County Allocation of Revenue Act (CARA), the UIG will be released by the National Treasury into the County Government's Special Purpose Account the account for conditional grants) upon advise of the UDD. The latter is only authorised to do so, once the assessment results have been confirmed by the programme's steering committee (see Chapter 7); serving as the highest governance body for the grant at national level.

Technically speaking, within the architecture of fiscal decentralisation in Kenya, the KUSP grants (both the UIG and the UDG as discussed in the next chapter) are conditional grants, provided to counties over and above the equitable share (see Fig 3.1). The allocation of conditional grants to counties (as is the allocation of the equitable share), is guided by the annual County Division of Revenue Act.

Fig 3.1 : Fund flow to counties



In principle, the UIG will be released at the beginning of the financial year (month of August). At national level a special IFMIS code for UIG will be created. Upon receipt, the county government shall take necessary action to ensure that the UIG is given such an accounting code and that its expenditure can be tracked.

3.8 Fund Management and Procurement

Fund management and procurement is in accordance with the GoK provisions for expenditure and procurement by county governments, i.e. the same rules as apply for all County expenditure and procurement.

3.9 Implementation, monitoring and supervision

The County Government Department that serves as the budget holder for the UIG is the first responsible party for the implementation of the activities once approved as part of the county government's budget.

All the usual county government monitoring and supervision arrangements apply, whereby, after the governor, the concerned CEC member is the responsible agent, who oversees the work and actions of the department.

In as much as spending of the UIG is the full responsibility of the county government, UDD and World Bank both have the right to monitor the use of the grant, and county governments shall facilitate such monitoring.

3.10 Reporting

First, the county government will report on the use of the grant as part of its normal reporting to (i) the county Assembly; (ii) the controller of Budget; and (iii) its constituents.

Secondly, twice a year (that is, at the end of the second quarter and at the end of the financial year), each county that has received the UIG will need to report to UDD on the use of the grant, the progress and improvements made, the problems encountered (if any) together with an outlook on the activities for the next 6 months. The relatively short report (3 pages maximum, and a template for which is provided in Vol II Annex 8), includes both a physical progress report and a financial overview.

The UDD will use these reports to make a consolidated report for the World Bank. Counties are expected to present their reports to UDD within one month (31st January and 31st July) after the end of the reporting period. UDD is expected to present the consolidated report to World Bank by end of February and end of August. The consolidated reports will also be posted on the KUSP designated webpage (see para 5.9). Counties are expected to post their reports on their websites.

3.11 Audit

The use of the UIG is audited as part of the general government audit of the county accounts.

In addition, and based on provisions in the loan agreement, the office of Auditor General will annually carry out a special programme audit of the UIG account (together with the audit for the use the UDG; see next chapter) in the first six months after the end of each financial year (for ToRs see Volume II, Annex 13).

4. The urban development grant (UDG)

4.1 Objectives

The centrepiece of the KUSP is an urban infrastructure capital development grant called the *Urban Development Grant* (UDG). In principle, 59 urban areas are eligible (see para 2.2), being all county capitals and other urban areas that potentially qualify as 'municipalities' under the Urban Areas and Cities Act (2012), with the exception of Nairobi and Mombasa city counties.

The objective of the urban development grant (UDG) is to incentivize the establishment of urban governance structures and the establishment of a dedicated budget for urban development and urban service provision.

The grant will provide eligible municipalities, as agents of their respective county governments, with capital funds through the county budget, to finance investments in urban infrastructure. These are identified by the municipal board, after consultations with the citizens, and implemented by the urban administration, under the oversight of the municipal board. In fact, the grant seeks to establish a semi autonomous urban agency (or agencies in case there is more than one municipality in the county), under the wings of the county government that pushes the urban issues agenda on behalf of the county government. In the urban areas legislation, this relation is defined as a 'principle-agency' relationship.[4]

As will be described in this chapter, the UDG is structured to provide incentives for counties and urban boards to strengthen their institutional, governance, and service delivery performance.

4.2 UDG allocations for each Municipality

The amount of funding for each of the 59 eligible municipalities is based on a per capita amount of USD 20 (equivalent to about KES 2,000) per municipal resident per year, using data of the last census (2009), with the provision that Municipalities (i.e county headquarters) with less than 25,000 inhabitants will still receive a minimum of USD 500,000 to ensure that UDG investment projects do have a certain scale, to ensure impact and visibility.

To get access to the UD-Grant, as for the UI-Grant, both the County Government and the concerned municipality (municipal board) must meet certain stipulated minimum conditions. If all these are met, the Municipality will get access to 50 percent of the calculated allocation. The allocations for the other 50% will be pro-rata based on a performance score for that municipality against ten performance standards.

Based on the population data for the universe, the total maximum UDG envelope for any particular year is estimated at USD 113.7 million (KES 11.4 billion) per year (see Table 4.1 for the calculated maximum allocations for each municipality).

Out of the 59 municipalities, ten have less than 25,000 inhabitants but will still be eligible to receive USD 500,000. Nine urban areas (including the city of Kisumu and the will-be-cities of Nakuru, Eldoret and Kikuyu in Kiambu County) have over 150,000 people and will be eligible to over USD 3 million a year, provided they meet the minimum conditions and score maximum on the performance standards (see below). The remaining 40 municipalities (including 31 County headquarters) all have allocated amounts of between USD 0.5 and 3.0 million a year.

The UDG will start flowing from FY 2018/19 onwards, for 5 fiscal years.

4 The Urban Areas and Cities Act 2011, section 11(b)

Table 4.1: Indicative maximum annual UDG allocation for eligible municipalities [5]

County		Urban area		Urban population	Indicative UDG (USD)	Total for county
1	Baringo	1	Kabarnet	25,954	519,080	519,080
2	Bomet	2	Bomet	83,440	1,668,800	1,668,800
3	Bungoma	3	Bungoma	54,469	1,089,380	2,983,760
		4	Kimilili	94,719	1,894,380	
4	Busia	5	Busia	50,099	1,001,980	1,001,980
5	Elgeyo Maraket	6	Iten/Tambach	44,513	890,260	890,260
6	Embu	7	Embu	59,428	1,188,560	1,188,560
7	Garissa	8	Garissa	115,744	2,314,880	2,314,880
8	Homa Bay	9	Homabay	59,165	1,183,300	1,183,300
9	Isiolo	10	Isiolo	46,578	931,560	931,560
10	Kajiado	11	Kajiado	14,434	500,000	2,640,840
		12	Ngong	107,042	2,140,840	
11	Kakamega	13	Kakamega	90,670	1,813,400	3,857,560
		14	Mumias	102,208	2,044,160	
12	Kericho	15	Kericho	127,042	2,540,840	2,540,840
13	Kiambu	16	Kiambu	83,265	1,665,300	18,696,940
		17	Karuri	115,731	2,314,620	
		18	Kikuyu	264,714	5,294,280	
		19	Limuru	79,686	1,593,720	
		20	Ruiru	240,226	4,804,520	
		21	Thika	151,225	3,024,500	
14	Kilifi	22	Kilifi	47,957	959,140	3,276,780
		23	Malindi	115,882	2,317,640	
15	Kirinyaga	24	Kerugoya/Kutus	35,343	706,860	706,860
16	Kisii	25	Kisii	81,318	1,626,360	1,626,360
17	Kisumu	26	Kisumu	383,444	7,668,880	7,668,880
18	Kitui	27	Kitui	115,183	2,303,660	2,303,660
19	Kwale	28	Kwale	21,378	500,000	500,000
20	Laikipia	29	Rumuruti	10,064	500,000	500,000
21	Lamu	30	Lamu	18,328	500,000	500,000
22	Machakos	31	Machakos	150,467	3,009,340	10,095,200
		32	Kangundo-Tala	218,722	4,374,440	
		33	Mavoko	135,571	2,711,420	
23	Makueni	34	Wote	67,542	1,350,840	1,350,840
24	Mandera	35	Mandera	87,150	1,743,000	1,743,000
25	Marsabit	36	Marsabit	14,474	500,000	500,000
26	Meru	37	Meru	57,940	1,158,800	1,158,800
27	Migori	38	Migori	66,234	1,324,680	5,138,880
		39	Awendo	108,742	2,174,840	
		40	Rongo	81,968	1,639,360	
28	Muranga	41	Muranga	30,949	618,980	618,980
29	Nakuru	42	Nakuru	367,183	7,343,660	10,754,680
		43	Naivasha	170,551	3,411,020	
30	Nandi	44	Kapsabet	87,850	1,757,000	1,757,000
31	Narok	45	Narok	37,129	742,580	742,580
32	Nyamira	46	Nyamira	56,857	1,137,140	1,137,140
33	Nyandarua	47	Olkalou	67,186	1,343,720	1,343,720
34	Nyeri	48	Nyeri	117,297	2,345,940	2,345,940
35	Samburu	49	Maralal	15,213	500,000	500,000
36	Siaya	50	Siaya	23,825	500,000	500,000
37	Taita Taveta	51	Mwatate	6,576	500,000	500,000
38	Tana River	52	Hola	17,124	500,000	500,000
39	Tharaka Nithi	53	Kathwana	0	500,000	500,000
40	Trans Nzoia	54	Kitale	148,261	2,965,220	2,965,220
41	Turkana	55	Lodwar	47,101	942,020	942,020
42	Uasin Gishu	56	Eldoret	312,351	6,247,020	6,247,020
43	Vihiga	57	Vihiga	124,391	2,487,820	2,487,820
44	Wajir	58	Wajir	82,106	1,642,120	1,642,120
45	West Pokot	59	Kapenguria	36,379	727,580	727,580
			TOTAL	**5,576,388**	**113,699,440**	**113,699,440**

5 Population data as per the *2009 Kenya Population and Housing Census Volume VIII, Analytical Report on Urbanization*, Kenya National Bureau of Statistics, March 2012

4.3 Minimum conditions

To get access to the base 50 percent of the calculated UDG allocation, ten (10) Minimum Conditions (MCs) are to be met as provided in Table 4.2. The MCs will be assessed by the end of March of each year for the grant in the next financial year. To qualify for the first year of the UDG grant (FY 2018/19), the MCs should be met by 31st of March 2018 at the latest.

For the first two cycles (assessments in FY 2017/18 and 2018/19 for the grants in FY 2018/19 and 2019/20) a number of six MCs will be assessed, as the UDG/MCs #5, #8, #9 and #10 can only be assessed from the third cycle onward as they refer to the performance in the last year but one. From the assessment in FY2019/20 (for the grant in FY1920/21) the number of MCs will be increased from six to ten.

For a municipality to qualify for the first 50 percent of the UDG it must score a 'YES' on all the initially 6 and later 10 applicable MCs. Failing one MC means that it does not qualify for the UDG for the following year (and that the allocation is lost and returned to the pool for allocation across all eligible municipalities in later years).

The Minimum Conditions are divided into two categories related to, first, progress on institutional issues and secondly, safeguards for fiduciary and programme-related risks. Most MCs for the UDG are to be complied with by the county government, although for some to-be-established urban boards will have a role to play.

4.4 Performance standards

Once all UDG/MCs are met,[6] the second 50 percent of the UDG can be earned based on a performance score that is measured against several predefined indicators called performance standards. A municipality that has not met all the MCs (and hence did not 'earn' the first 50 percent) cannot get access to the second 50 percent, even if its scores are good. The second 50 percent is a performance-based *top-up* to the MC-related base amount.

The 10 performance standards are presented in Table 4.3 under two headings of (i) administration and governance; and (ii) planning, infrastructure and service delivery, further divided in seven specific performance areas, as shown in the first column of the Table.

As for the MCs, the deadline to meet the performance standards is the end of March of each year (unless stated otherwise). Nine of the ten Performance standards apply from the assessment for the first cycle (in FY 2017/18 for the UD-grant in FY 2018/19) and one standard (UDG PS # 10) is added in the third cycle.

For each of the Performance Standards five (5) points are gained, when the standard is complied with. Otherwise, the score is zero. No gradual points are awarded as the standard is either met (5 points) or not met (0 points).

The total maximum score adds up to 50 points, whereby 50 points gives full access to the performance based second 50 percent of the UDG. Twenty-five points give access to 25 percent of the performance part, hence results in obtaining 75 percent of the total calculated allocation. In fact, every 5 points (every standard met) increases the grant allocation by 5% of the total allocation, over and above the 50 percent base amount earned against meeting the MCs.

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6 Theoretically, a municipality can access the UDG even in case the UIG MC were not met, but given that the UIG/MCs are relatively easy to meet, while one of the two overlaps with UDG/MC #5, the chance for this to happen is small.

Table 4.2: UDG Minimum grant access conditions, for each eligible urban area

Minimum Condition	**Indicator - to be met by 31/3/n-1 latest** (n is year of grant)
Urban Institutional	
UDG/MC-1: Municipal status established	▪ The County governor, upon resolution of the county assembly, has granted municipal charter to the eligible urban area [7]
UDG/MC-2: Municipal Board established	▪ An Urban board has been appointed by the county governor, in line with the provisions of the UACA, upon approval by county assembly [8]
UDG/MC-3: Municipal administration in place	▪ A municipal manager has been appointed and is, together with his/her staff, paid out of municipal budget vote [9]
UDG/MC-4: Municipal budget vote established	▪ A Municipal budget vote -in which UDG is budgeted- is included in the county budget for FY n
For FY 2020/21 onwards (assessment in FY 2019/20 onwards):	
UDG/MC-5: Municipal finance reporting done	▪ The County government reported on the municipal budget vote for FY n-2 to Controller of Budget (as part of the counties overall financial report for FY n-2)
Programme and fiduciary risks	
UDG/MC-6: (same as UIG/MC1) The County government has committed itself to participle in KUSP	▪ The County Governor has signed a letter of participation with the Ministry of Transport, Infrastructure, Housing & Urban Development (MTIHUD) stating that the county government signs up to KUSP and adhere to its Operations Manual [10]
UDG/MC-7: An annual urban investment plan is available	▪ The annual Urban investment plan for FY n is available and provides the budget for the UDG investments, whilst feasibility (or pre-feasibility) studies for the proposed investments are completed and attached to the document
For the grant in FY 20/21 onwards only (assessment in FY 2019/20)	
UDG/MC-8: Use of previous annual UDG	▪ UDG for FY n-2 has been used in accordance with the eligible [positive] and non-eligible [negative] investment menus and the minimum size thresholds as described in the KenUP/KUSP POM - Table 4.5 below)
UDG/MC- 9: Municipal absorptive capacity	▪ Over 50 percent of the UDG allocation in FY n-2 had been spent by end the FY (n-2)
UDG/MC-10: Municipal procurement and contract management	▪ The Procurement method(s) applied in FY n-2 for the UDG funded project(s) were consistent with the procurement rules for the applicable tender amounts (i.e. ICB)

7 For the first assessment in FY 2017/18, this is to read: "The county governor has submitted a proposal to the assembly to grant municipal charter to the eligible urban area". The actual granting of municipal status becomes part of the MC for year-2 of the grant.

8 For the first assessment in FY 2017/18, this is to read: "The governor has made a proposal to the county assembly for the appointment of the persons to constitute the urban board. The actual appointment becomes part of the MC for year-2.

9 For the first assessment in FY 2017/18, this is to read: "Key municipal staff (as mentioned) has been appointed." Payment of their costs from the urban budget vote becomes part of the MC for year-2 of the UDG.

10 The template for the letter of participation is provided in Volume II of this POM, Annex 1.

Table 4.3: UDG Performance standards for municipalities, indicators & scores

Performance area	Performance standard measured by 31/3/n-1[11] for grant yr n	Max. Score
Urban Administration and Governance		
Municipal administration	▪ **PS-1:** The Municipal Manager has a publicly available job description	5
Municipal board and citizen engagement	▪ **PS-2:** Past 4 quarters (period 01/04/n-2 to 31/3/n-1), at least 4 urban board meetings were held and at least one (1) in every quarter (for 1st assessment only last two quarters)	5
	▪ **PS-3:** Past 4 quarters (period 01/04/n-2 to 31/3/n-1), at least 4 citizen fora (public consultation between urban board and residents on plan, budget, budget execution and other areas of public interest) were held, and at least one (1) in every quarter (for 1st assessment last two quarters)	5
Public disclosure and transparency	▪ **PS-4:** The Municipality has made available on line all of the following key public documents: ○ Municipal charter ○ Contact Information for board and key officials ○ Urban IDeP (and other plans, as relevant), ○ Board meeting minutes for last 12 months ○ Financial statement for the Municipal vote for FY n-2 ○ Municipal vote Budget proposal (including appropriate annexes for FY n All the above needs to be online to qualify the 5 points	5
	▪ **PS-5:** The Municipality has published its annual calendar of Citizens Fora with urban area residents, including plan and budget consultations (i.e. announced in local media and on county government website)	5
Planning, Infrastructure and Service delivery:		
Municipal budgeting	▪ **PS-6:** The Urban board has adopted an urban area budget for FY n based on the budget ceiling provided by the county government (by 30/4/n-1as per the UAC Act)	5
Municipal Planning	▪ **PS-7:** The Urban IDeP has been reviewed, and where deemed necessary modified - as evidenced by minutes of the Board meeting and a revised version of the IDeP	5
	▪ **PS-8:** An Urban spatial plan is completed and available	5
Municipal Services	▪ **PS-9:** The Municipal board has adopted a solid waste collection and disposal policy; and ▪ An operational waste collection and disposal plan is being drawn up and implemented	5
For the grant in FY 20/21 onwards only (assessment in FY 2019/20)		
Municipal Infrastructure delivery	▪ **PS-10:** Past 12 months, (period 01/04/n-2 to 31/3/n-1), all UDG funded projects that were completed, were ○ On time (within 3 months of plan); ○ According to design and fit for purpose; ○ Within the budget (with a 5% margin up and down). All three criteria to be met to gain the 5 points; Zero points if no project was completed in the period	5
	Total performance points	***50***

[11] Unless specified otherwise, as for PS #6 where the deadline for meeting the indicator is 30th April

Table 4.4: Timing of the steps in the APA-process

Period	Activity	Description / output
July	• Preparations	• APA team contracted and prepares fieldwork • Counties are informed of upcoming APA fieldwork and visit schedule
Aug /Oct	• APA team visits and undertakes fieldwork in all 45 eligible counties	• Preliminary assessment of the state of compliance with UIG/UDG MCs and UDG Performance Standards - Provide advice and explain what is required - so counties know their standing and what is expected from them
	• Indicative UIG/UDG allocations included in the County Annual Development Plan and BROP	
Nov	• APA team presents report to PTC for discussion and action	• UDD communicates initial results to each county/urban area, specifically indicating the MCs requiring compliance before 31 March
	• Indicative UIG/UDG allocations are included in CARB, in DORAB, and in UDD sector budgeting docs	
Feb	• UIG/UDG indicative allocations included in County Fiscal Strategy Paper	
Nov / March	• Counties address outstanding MC compliance and performance standards issues	• Counties to submit full documentary evidence of their compliance with MCs and their meeting PSs any time prior to March 31st
01 March	• UDD to send a customized e-mail to each county updating/reminding them of their MC/PS status	• In order to avoid a "deadline pile-up", a month before the deadline all counties will be reminded of their MC/PS status
31 March	• <u>**Deadline**</u> for counties and urban areas to submit adequate evidence of complying with MCs and meeting PSs	• Counties missing the deadline, despite the coaching and reminders, are considered non eligible for the grant in the upcoming FY
30 April	• <u>**Deadline**</u> for Counties to provide evidence for UDG/PS #6	•
April	• CEC submits budget estimates and other budget documents to County Assembly, including UIG and UDG	
April / 20 May	• APA team verifies county/urban area update submissions; APA team determines final APA results	• APA Team makes updates to the APA results on the basis of documentary evidence as provided by counties and their urban areas • Where necessary APA team will contact and/or meet with or even visit county/urban area officials in order to review and validate the documentary evidence provided
01 June	• <u>**Deadline:**</u> Programme Technical Committee reviews/validates final APA results	
15 June	• <u>**Deadline:**</u> Programme Steering Committee endorses final APA results	• Formal approval/endorsement of both APA results and the UIG/UDG allocations for next FY
17June	• UDD publicly discloses and publishes final UIG and UDG allocations	
Second half June	• Counties include final UIG and UDG allocation in the County Appropriations Bill (CAB) and submit it the to County Assembly	

The way the UD-grant is designed, with the base amount and the performance top up, means that there is a strong incentive for Counties and their urban institutions to comply with both the MCs and the Performance Standards which all refer to good practices in the area of urban governance and urban infrastructure and service delivery. By providing financial incentives to put such practices in place, it is expected that urban issues will get the attention they deserve.

4.5 Annual Performance Assessment (APA)

The Annual Performance Assessment (APA) for both the minimum conditions (for both UIG *and* UDG) and the performance standards (for the UDG) starts in August of each year. Rather than a 'clinical scoring exercise', the assessment is a process over several months that supports the County Governments in meeting the MCs and scoring against the performance standards.

In the period August - October, the APA-team will visit all 45 counties to carry out a initial assessment - as an on-the-job learning exercise for the counties to know what is expected. Note will be taken of those MCs and performance standards already met. Most of the MCs and PSs, however, can only be fully assessed towards the end of the third quarter (end of March) of each financial year.

Except for Performance Standard #6, which shall be assessed at the end of April of each year, the deadline and final point of measurement for all other Minimum Conditions and Performance Standards shall be the end of the third quarter of each financial year (i.e. 31st of March). Several Performance Standards (e.g. PS #2, #3 and #10) review the performance over the period of 12 months ending 31st March.

The APA-team assesses three sets of data, i.e.:

- Whether counties have met the (2/3) Minimum conditions for the UIG
- Whether counties and urban boards have met the (6/10) MCs for the UDG
- Score of the urban boards against the (10) performance standards

A simplified score card for these sets of data, also listing the required documentary evidence, is provided in Volume II, Annex 6.

The final assessment will be done during the months of April and May, as much as possible on the basis of documentary evidence provided by the counties period or 31st March. After the APA has made a round of field visits to all counties (in August - October), the UDD will provide each county by email with a list of the documents that are required for the APA team to be able to make the assessment.

The documentary evidence is to be provided to the UDD, but in order to ensure the objectivity of the assessment process, the actual scoring will be done by an independent assessment firm that has an outstanding reputation of impartiality and integrity.

If needed, during those months of April and May the APA team may visit counties for spot checks to ascertain the validity of the documentary evidence provided. By 20th of May latest the APA team will submit a report (Template for which is provided in Volume II, Annex 7) to the Programme Technical Committee who shall discuss and make its recommendations to the Programme Steering Committee latest by 01 June. The PSC shall deliberate on these recommendations before 15th June and official confirm the results as well as the ensuing UIG and UDG allocations for the next FY (see Table 4.4 for the APA timeline, mayor actions and deadlines).

4.6 Summary of the Calculation of the annual allocation per urban area

The annual amount available for each of the 59 eligible urban areas is equal to the Kenyan shilling (KES) equivalent twenty US dollars for each inhabitant as per the official data of the last census (See table 4.1).

Once all minimum conditions as specified in Table 4.2 are met, the urban area has acquired access to 50 percent of the annual available amount as calculated for that urban area.

The other 50 percent is allocated on the basis of the performance score (based on Table 4.3). Here, every five points (the score for a performance standards that is complied with) gives a ‘right’ to a 5 percent top up to the base amount.

Hence an urban area that meets all minimum conditions and has a performance score of 30 (out of 50), will get 80 percent of the annual available amount. An urban area that scores 35 points in the performance assessment but that fails one (or more) of the minimum conditions will have zero amount allocated. Only once all MCs are met and the first 50 percent of the grant secured will the urban area become eligible for any portion of the second 50 percent, meant as a performance based ‘top up’.

4.7 Menu of eligible activities

The sections above described the possible UDG allocations a county may expect and what needs to be done to actually get it. This section describes what can be done with the funds. Table 4.5 below summarises, in the left column, the eligible activities that can be funded under the UD-grant, which are typical urban infrastructure works, both new and rehabilitation, related to waste management, drainage, roads and public spaces. The list of eligible activities also includes urban socio-economic infrastructure as well as functions of the fire brigade and disaster management.

The right column of the Table 4.5 lists the ineligible types of infrastructure, which are mainly those types of infrastructure that are considered beyond the size of a country and that normally ought to be undertaken by the national government. Mandatory, all infrastructure works funded under the UDG must be part of the five-year Urban Investment Development Plan.

In addition there are a few more restrictions:

- In order to enhance visibility and avoid ‘pilferage’, each project (or tender package) shall have a minimum value of USD 500,000. It means that all municipal areas that have a UDG allocation of less than USD 1 million only can plan for one project a year.
- The annual allocation (either alone or in combination with other sources of funding) should cover total project costs (meaning that partial funding against annual budgets is not allowed.
- At least 80 percent of the UDG for any particular year shall be used on non-moveable infrastructure assets; and
- The maximum share of the UDG that may be used for investment preparation and service costs is 5% of the total amount.

In the annual urban investment plan, the county/urban boards will show that they have adhered to these conditions.

Table 4.5: UDG - Menu of eligible investment/expenditure areas

<table>
<tr><th>Eligible Urban Functional investment areas</th><th>Non-eligible investments areas</th></tr>
<tr><td>1. Waste management (liquid and solid)
Examples:
o Solid waste: collection equipment, collection bins, transfer stations, collection points (construction of sanitary landfill excluded)
o Liquid waste: sludge ponds, community septic tanks, vacuum trucks, vacuum handcarts, other</td><td rowspan="5">▪ Any investment projects that trigger Category A environmental impact (as defined by the World Bank[12])
▪ The following types of investment:
o power plants;
o dams;
o highways;
o urban metro systems;
o railways and ports;
o engineered landfills; and
o office buildings.
▪ Land acquisition
▪ Investment projects that are not included in the urban IDeP or urban spatial plan.</td></tr>
<tr><td>2. Storm water drainage
o Urban drainage systems; flood control systems</td></tr>
<tr><td>3. Connectivity (roads, non-motorized transport facilities, and street and security lights)
o Urban roads pedestrian walkways and bicycle paths, street and security lights and road signs</td></tr>
<tr><td>4. Urban socio-economic infrastructure
o Urban greenery and public spaces</td></tr>
<tr><td>5. Fire and disaster management
o Fire control stations and disaster management equipment (fire fighting trucks, rehabilitation and/or construction of new fire fighting station and facilities)</td></tr>
<tr><td colspan="2">General rules for UDG investments:
▪ Proposed investments must be reflected in the five year and annual urban Investment Plan
▪ Investments can be for both rehabilitation and construction of new infrastructure
▪ Project budgets should be 100% secured and covered the concerned fiscal year. No project shall start with partial funding assuming that remaining funds will become available later.
▪ At least 80% of the UDG shall be spent on non-moveable infrastructure assets. This means that overall, less than 20% of the UDG shall be spent on moveable assets (e.g. vehicles, equipment); this figure shall be calculated and show in the annual urban investment plan
▪ To avoid the fragmentation of urban investments (and reduce required procurement efforts), investment projects are subject to a <u>minimum</u> investment of KES 50 million (USD 500,000). This requirement is subject to the following caveat: Municipalities shall be permitted to combine a number of related urban infrastructure items in the same geographic area into a single procurement package.
▪ In order to finance investment preparation costs, municipalities shall be permitted to spend max 5% of their UDG allocations on the design, costing and supervision of investment projects.</td></tr>
</table>

4.8 Planning and budgeting for use of the grant

The first responsible party for the planning of the use of the Urban Development Grant is the urban board with assistance from the urban manager and his/her staff, whilst taking into account inputs from stakeholders including citizens.

The following are, in a logical sequence, the documents that are important and considered part of the documentation for use of the UDG:

- The county urban institutional development strategy (CUIDS), as prepared by the county government and reflected in the county investment development plan (see UIG MC #1 and the template in Volume II, Annex 3). The strategy cum

12 Category A projects are those that have "significant negative environmental and social impacts; are sensitive, diverse, or unprecedented". See www.policies.worldbank.org/sites/ppf3/PPFDocuments/090224b0822f7384.pdf

policy statement provides, at county level, the broad guidance on urban issues and urban investments.

- The five year integrated development plan (urban IDeP)[13] to be made by each urban board, based on the urban policy statement, for the same period as the CUIDS) but worked out in more detail with regards to possible investment opportunities;
- The annual urban investment plan, based on the five year UIP, and picking the priorities for one particular year (see UDG/MC # 7).

Planning is always a process of prioritisation, but given that under the UDG the number of projects a city or municipality can annually undertake is fairly limited,[14] the priority process is becoming more important than usual. Hence the importance to involve the population in the consultations for the choice of the preferred projects (which is reflected in the UDG performance standards #3 and #5). It is expected that draft plans as mentioned above are presented for discussion in the citizen fora that are mandated by the UACA (Section 22 and the Second Schedule).

Given that the start of the KUSP programme coincides with the start of the period of the 2nd County Governments means that, with regards to urban matters, in the first year of the programme the counties are expected to draft, and in the following sequence:

- The County Urban Institutional Development Strategy (CIUDS), discussed in the previous chapter; together with a brief County Urban Institutional Development plan and budget with a proposal for the allocation of the UIG;
- The overall county integrated development plan (2017/18 - 2021/22), in which the CUIDS/Urban policy statement is reflected; and
- A 5 year urban investment plan (2017/18 - 2021/22), including a one year urban investment plan for 2018/19 for each urban area, the latter to be updated annually and approved by the urban board and County Assembly, latest by end of April 2018 of every year.

It is expected that before finalisation of any of these documents, both the county assembly as well as the population (thought public fora) are given a chance to comment and contribute (see Table 6.1 for the calendar of citizen involvement).

Once the annual urban investment is finalised, the budget shall be reflected under the county's 'urban vote' for which the urban manager is the budget holder. It shall be visible in the county budget as UDG funding for earmarked projects.

4.9 Investment planning and appraisal

Planning and budgeting is an iterative process. This is even more so the case for participatory planning as there is no single straight line from the 'suggestion of a good idea' by either a citizen, an assembly member or a member of the executive to 'a fully fledged proposal with budget provision in the urban investment plan that is based on detailed design'. Nevertheless, in order to be transparent, inclusive and participatory a certain number of steps need to be followed for the identification of

[13] Sometimes also called 5-year urban investment plan. The UACA (2011 in section 39 stipulates that an urban IDeP is to be prepared within one year of a board's election: the scope of an urban IDeP's scope is defined in section 36 of the Act; its intended provision defined in the Third Schedule. See also UDD's Urban IDeP handbook (draft), July 2016.

[14] Nineteen (19) out of the 59 urban areas can only select one project as their UDG budget is below USD 1 million; whilst 38 out of 59 have at most 3 projects a year i.e. a budget of less than USD 2 million.

possible projects to be funded under the Urban Development Grant, for their ultimate inclusion in the annual urban investment plan (see next paragraph).

As reflected in the performance standards, the KUSP seeks to promote the establishment of a system of regular (that is quarterly) meetings of the citizen fora, the legal provision of which is provided in the Urban Areas and Cities Act (UACA. These public meetings are to be used to generate project ideas for the use of the UDG but also be used to provide feedback and to seek feedback as the development of the plans progresses. At the same time, the Urban Board and the urban administration would also generate possible project ideas. It is for the urban board to screen the various project ideas and decide which ones merit further data collection and analysis.

From the initial list of project ideas (based on input from the citizen fora, the urban boards and its administration; and the county government and its assembly), the urban board will make a long list for further data collection and information gathering to allow project appraisal, which will be undertaken by (or under the supervision of) the urban administration. In the appraisal the various items as mentioned in Text box 4.1 will need to be considered.

Text box 4.1: Appraisal items for project ideas on the Long list

In order to get from the long list of selected project ideas to a shortlist to be effectively included in the five year Urban investment plans the following aspects would need to be considered:

(a) Situational analysis and problem(s) to be addressed
(b) Objectives, rationale and targeted benefits of the proposed investment
(c) Urgency and severity of the problem the proposed investment is addressing
(d) Number of direct and indirect beneficiaries
(e) Location of the project, land ownership and Description of the beneficiaries
(f) Inventory of individuals and groups that maybe negatively affected by the project
(g) Social and environmental impact of the proposed project (positive and negative)
(h) Economic benefits
(i) Overall Costs and relation between costs and number of beneficiaries
(j) Assessment of Pros and Cons / Overall Cost/Benefit analysis

The Social and Environmental impact assessment, as part of the overall project appraisal process, is very important and merits special attention. Involvement of the county social and environmental safeguards officers (trained under KDSP; see para 8.3) is mandatory. It is explicitly disallowed to fund projects from the Work Bank funded UDG grant that have a irreversible negative impact on the environment, on the natural habitat, cultural resources or those that cause serious occupational or health risks (see also Vol II, Annex 16). Obviously, all proposed projects funded under UDG have to fulfil all criteria of GoK legislation, environmental and other. Projects have to comply with the regulations as provided by the National Environmental Management Agency (NEMA).

The results of the appraisal of the projects on the long list may be shared with the citizens (though website or citizen fora) for further feedback prior to the Urban Board taking a decision on which projects are to be included in the 5-year urban investment plan together with an indicative budget.

Once the urban board has made a short list of approved projects (that all pass the social and environmental impact screening), detailed designs and costings for individual projects will be made as preparation of the annual urban investment plan in which the respective projects are to be included. A rough timeline for the project identification and appraisal process is provided in Table 4.6 below.

Table 4.6 : Timeline for UDG project identification and appraisal

Period		Activity	Who
FY 2017/18	Q2 Oct-Dec	▪ Consultations for project ideas - with CEC, County Assembly, Citizen fora	Urban Board / administration
		▪ Urban board makes a long list of project idea	Urban Board
	Q3 Jan-March	▪ Urban administration prepares project appraisal sheets for each project on the long lists	Urban administration
		▪ The preliminary results of the project appraisal are presented to the second citizen fora for feedback	Urban Board / administration
		▪ The urban board takes a decision on the shortlist of project to be included in the 5-year urban investment plan taking into account the results of the project appraisal and feedback from citizens	Urban Board
	Q4 April-June	▪ Preparation of detailed designs and costing for next FY	Urban Administration

4.10 Environmental and Social management systems

Given the provisions of investment menu (Table 4.5), it is expected that the proposed investment projects will have low to moderate environmental impacts and that these, if any, are mainly to occur during construction, therefore site specific and temporary. Many of these can (and should) be prevented or otherwise mitigated through appropriate standard operating procedures and construction management practices that should be stipulated in the tender documents.

In order to further mitigate and avoid adverse environmental impacts, no project shall be funded under the UDG that is likely to:

- Generate irreversible environmental impacts on affected parties and third parties;
- Impact on the natural habitat;
- Impact on physical and cultural resources; or
- Cause serious occupational or health risks.

Projects to be funded under the UDG are selected, when stipulated provisions are followed, through a participatory process, whereby ultimately, as the result of a political process, some investments are selected. As such, the final choice of projects is the result of an inclusive process (even if everyone can not always be totally satisfied). As such, all should be contented with the outcome (as such is the fate of planning with scarce resources). In cases, a dispute may arise on the location/selection of the projects, project benefit sharing, pre-existing or historical social issues in communities, but the chances of such conflicts are expected to be minimal, as the programme, by its nature, promotes good (better) urban governance and provides for consultative processes prior to decision-making. This all failing, there is the provision of the grievances redress mechanism (see Chapter 8).

This notwithstanding, it is explicitly stated that no investments may be funded by the UDG that could be anticipated to lead to or aggravate social conflict between or within communities or counties.

In order to further mitigate and avoid adverse social impacts, no project shall be funded under the UDG that:

- requires physical displacement of households;
- requires economic displacement of more than 200 persons;
- is likely to create or exacerbate conflict within communities or neighboring counties; ; or
- has significant impacts on vulnerable and/or marginalized/indigenous groups.

When undertaking the appraisal of potential investment projects, these aspects of environmental and social impact shall be considered explicitly and, if recommended for implementation, it shall be stated that none of the above prohibiting factors applies. For each project funder under UDG the social environmental check list as provided in Vol II, Annex 16 needs to be filled, filed and adhered to. The checklist (in Annex 16) has special provisions in case of land acquisition.

In order to address issues of the social and environmental impact assessment, the counties and urban boards may seek assistance from the KUSP Programme coordination team and the full time expert in the Central Technical Assistance team dealing with these issues (See Window-1 in Chapter 5).

4.11 Fund flow

As for the UIG (see para 3.7 above), the funds for the UDG move from the consolidated fund -based on provisions in the Division of Revenues Act (DoRA) and the County Allocation of Revenue Act (CARA)-, into the County Government's Special Purpose Account following action of the National Treasury upon advise of the UDD. This advice is to be based on the decision of the Programme Steering Committee, endorsing (a) the results of the APA and (b) the calculated allocations based on these results.

In principle, the UDG will be released in one transfer at the beginning of the financial year (month of August), together with the UIG. At national level a special IFMIS code for UDG will be created. Upon receipt of the funds, the county government and the Urban manager will ensure that the funds are registered under the urban budget vote established to 'receive' UDG, as well as other funds dedicated to the urban area (ref. UDG MCs #1 to #4).

4.12 Fund Management and Procurement

Fund management and procurement for the UDG is as per GoK provisions for expenditure and procurement by county governments, i.e. the same rules as apply for all County expenditure and procurement.

For the urban vote, the urban managers (as chief officers) are the budget holder and as such they initiate all activities as well as payments under that vote. The CEC member responsible for urban issues (and hence the urban vote) is the accounting officer and will need to sign of on all expenditure even though he/she may delegate this responsibility to a staff member.

This arrangement illustrates the urban board as the agent of the county government. As much as the urban board (and the urban department) have their own responsibility, the Counties CEC member remains the accounting officer, with accountability responsibilities to the governor, the county assembly and the public.

4.13 Implementation arrangements, monitoring and supervision

The Urban board(s) and the urban manager with his/her staff are the first responsible party for implementation of projects under the UDG. The urban manager acts as the budget holder under the purview of the urban board.

The urban board being an agent of the County Government, all the usual monitoring and supervision arrangements that apply for a county department (and a chief officer) also apply, whereby, the concerned CEC members responsible for 'urban issues' is on a day to day basis expected to oversee the work and actions of the urban administration under the board.

In as much as spending of the UDG is the responsibility of the urban board, under the purview of the county government, both UDD and the World Bank will have the right to monitor the use of the grant, and both county governments and urban boards shall facilitate such monitoring.

4.14 Reporting

As for UIG, all the county governments and the urban boards will report on the use of the grant as part of its normal reporting to (i) the County Assembly; (ii) the controller of Budget; and (iii) the constituents Counties and urban boards are expected to use the county web sites as well as social media to (i) engage with citizens and (ii) to report on the progress of investments under the KUSP, as part of general reporting on the use of funds.

In addition, twice a year, at the end of the second quarter and at the end of the financial year, each urban board that has received the UDG will need to report to UDD on the use of the grant. This will include reporting on progress of the various projects, problems encountered (if any) together with suggestions on how to resolve these, and an outlook on the activities for the next 6 months and the estimated completion dates of the various projects. A template for the relatively short report is provided in Vol. II Annex 8, and includes both a physical progress report and a financial overview showing the status for each project undertaken.

The reports will be prepared by the administration of the Urban Boards under the purview of the Chair and send to UDD via the CEC responsible for urban issues.

The UDD will use these reports to make a consolidated report for the World Bank. Urban Boards and Counties are expected to present the UIG utilisation reports to UDD within one month (31^{st} January and 31^{st} July) after the end of the reporting period. UDD is expected to present the consolidated report to World Bank by end of February and end of August latest. The consolidated reports will also be posted on the KUSP designated webpage (see Para 5.9). Counties and urban boards are expected to post their reports on their websites.

4.15 Audit

The expenditure under the UDG is audited as part of the audit of the county accounts by the Office of the Auditor General.

In addition, and similar to the UIG, based on provisions in the Loan Agreement, the office of the Auditor General will audit the UDG special account annually and the use of its funds in the period of the first six months after the end of each financial year (for ToRs for this audit see Volume II, Annex 13).

5. Technical support and capacity development

5.1 Objectives

The third main component of the Kenya Urban Support Programme is to provide support to the Urban Development Department (UDD) to be able to manage the programme. More importantly it is to be able to support counties and urban boards in the implementation of the program, as well as more generally, in their dealing with urban planning, infrastructure and services, as well as to support the establishment of a national policy framework for urban development in a devolved context. As such, the programme component on technical support and capacity development (also called ‘window-1) has four distinct objectives:

- Development of a policy framework for urbanisation in a devolved context;
- Support to counties and urban boards by UDD (national government) in dealing with urban development, whereby a distinction can be made between
  - Support for putting in place the institutional arrangements, such as the urban boards and the citizen for a (see Chapter 6); and
  - Support on technical issues, both in a supply driven mode (training) as well as in demand driven fashion (on call support / help-desk)
  - Support for urban infrastructure and urban services
- National level urban grant management; i.e. support all the necessary actions to ensure that the grants are properly and timely included in the various budget papers to allow releases in the course of the financial year; and
- Support for the overall management and implementation of KUSP, Windows 1, 2 and 3.

In the sections below, a short narrative is provided for the activities under each of these headings. The total maximum budget for Window -1 for the six year programme period amounts to USD 30 million.

5.2 Urban Management - Developing a National Policy framework

To support the national policy and oversight function of the Urban Development Department, KUSP will support the following activities related to Urban Management:

- Commission a consultancy to establish the principles for urban areas classifications through spatial definition - to lead to standardised guidelines that will be subsequently disseminated;
- Undertake a review of the existing legislation on urban planning legislation with the aim to modernise and harmonize the said legal framework.
- Undertake a review of the legislation around development control and its application, presently considered as a important weakness in urban management. The aim of the review is to establish a more effective legal framework as well as provisions of enforcement around issues of development control.
- Finally, and whilst recognising that KUSP is in fact support to the implementation of the Kenya National Urban Development plan (K-NUDP), a review will be undertaken to assess NUDP progress with the aim to resolve bottlenecks and make it more effective.

5.3 Institutional Capacity Development for counties & urban boards

Under this sub-component, UDD will provide training to the counties and the urban boards on a variety of topics ranging from urban board formation, to special planning and project identification. There is also provision for annual peer-to-peer study tours cum exchange visits to learn from experiences in other counties and other urban areas.

As much as provision is made in the budget to train counties and urban boards on all the aforementioned topics in each year, it is expected that, over the years, the training topics will evolve to respond to actual training needs as they emerge.

In addition to the supply driven training (which, obviously, will be based on actual generic capacity needs as felt and expressed by a majority of the counties and urban areas), there is a provision under the capacity development component under window-1, where counties and urban areas can request for individual, tailor made technical and other support.

5.4 Support for urban infrastructure and urban services

To support infrastructure development and urban service delivery by the urban boards, this sub-component under window-1 will support the following activities:

- Review of engineering standards for urban roads, storm water drainage infrastructure and street lights, with the aim to produce better standards and supporting regulations;
- Create a policy and action framework for urban safety and resilience;
- Create a policy framework and action for soft-side Solid Waste Management; and
- Engage a consultant to review the quality and appropriateness and levels of use of completed UDG funded investments as well as service delivery projects, with the aim to generate feedback to urban boards and improve project identification and implementation.

5.5 National level Urban Grant management

Besides providing support and transferring knowledge and skills to counties and urban boards, under window-1 provision is also made for support to the management at the national level of the (UIG and UDG) grants. In the previous chapters (CH 3 and CH 4), it was described what counties and urban boards have to do in relation to these grants, in terms of accessing and using them, but under window-1 provisions are made to ensure that the grants are included in the UDD/SDHUD budget, the Division of Revenue Bill (DoRB) and the County Allocation of Revenue Bill (CARB) and subsequent Acts (see also the planning and budget calendar in Table 2.3)

The sub-component on grant management also includes the Annual Performance Assessment (APA) as well as all further support actions required to ensure that the grants under windows 2 and 3 reach the counties and the urban boards as intended; that these funds are administered as an urban budget and used as per the provisions laid out in this Programme Operational Manual.

5.6 Programme management and implementation support

The fifth and final sub component under Window-1 deals with KUSP overall programme management, and covers all three windows. It includes a modest operational budget, that also caters for programme M&E, as well as provisions for a mid term and end of project evaluation. It also has provision for hiring an external technical team to support the implementation (as mentioned in para 44 of the PAD)

For operational reasons, this sub-component also includes the costs of programme preparation; the so-called Programme Preparation Facility (PPF).

5.7 Procurement under Window-1

Whereas for windows 2 and 3 the P4R modality applies (which is budget support on the basis of meeting the DLIs; See para 2.4.3), for window-1 the traditional Investment Project Finance (or IPF) modality applies. Procurement under the IPF modality shall be implemented in accordance with the procedures set out in the Financing Agreement.

Modifications in the procurement plan, as well as the plan for later years, are proposed as a matter of course and approved as part of the World Bank's regular programme monitoring missions and the agreed mission's Aide Memoire.

5.8 Reporting

The World Bank's Program Appraisal Document (PAD) states that the UDD will report twice yearly to the World Bank on general progress and the use of the funds under each of the three windows. For Windows 2 and 3, the relevant sections of the progress report will be based on the reports to be provided by the county governments and the urban boards respectively (see paras 3.10 and 4.14 above). Reports are due by end of February (for the first semester) and by end of August (for the end of the financial year). A Table of Content for these progress reports, which contain a physical progress as well as a budget expenditure overview, and mandatory annexes is provided in Vol II, Annex 8.3.

Specific requirements for financial reporting please refer to the KUSP Financial Management Manual (see Vol II, Annex 15).

5.9 UDD communications and disclosure

With the objective to enhance accountability and transparency, and to improve communication with both the county governments and the urban boards as well as the wider public, the UDD will create a dedicated website for KUSP, either as a sub set of the website of the Ministry or as a stand alone provision. Subsequently, the KUSP manager responsible for communication, will ensure that the website is regularly updated (at least monthly). The UDD may, under sub component 5.2, hire a third party to assist with the creation and maintenance of the website.

Amongst other information on the programme and its progress, as well as this POM and relevant World Bank documents (including the Program Appraisal Document), the website will disclose any changes in the procurement plan, announcement of all tenders, as well as contract awards.

The website will also publish the results of the Annual Performance Assessment, as well as information, or links to information, showing the annual grant allocations and the actual transfers.

Subsequently, county governments and urban boards are encouraged (see para 3.10 and 4.1.4 above) to publish information on their websites on the use of the grants.

5.10 Summary of activities for Window-1

In summary, the support under window-1 is divided in five sub-components as follows:

- Developing a national policy framework for urban planning & management
- Institutional Capacity development for counties and urban boards
- Technical Support & guidance on urban infrastructure and service delivery
- Support for Urban Grants management and related PFM
- Programme management

Apart from the programme management, the activities under window-1 are by and large to create the required policy environment for urban development in and by counties and their urban boards and to support the latter in their establishment and implementation of activities. At the same time, Window-1 is assisting the UDD to assume its modified role under the devolved set-up, away from direct implementation and execution of projects, to a role of facilitation and support. Under the new dispensation, central government agencies have, amongst others, the role of creating the necessary policy environment for county governments to fulfil the transferred mandates and to assist the counties (and the urban boards) in the execution of these tasks if and when needed, and as much as possible on a demand-driven basis.

6. Institutional arrangements - the county perspective

6.1 The provisions in the legal framework

From the Constitution (2010) to the County Governments Act (2012) and the Urban Areas and Cities Act (2012, revised 2015), the legal framework is clear.

Under the Constitution, County Governments are independent devolved units of localised governance. They are responsible for an array of transferred functions and services as described in the fourth schedule of the constitution. These include functions like waste management, drainage, traffic control, streetlights, public spaces, control of pollution, fire-fighting and disaster management that are typical (although not exclusively) urban functions.

The County Government Act refers, in section 49, to issues of urban institutional structures and their functions, entirely to the Urban Areas and Cities Act. The latter Act describes the following urban governance structures and procedures, which can be seen in sequence:

1. Bestowing urban areas with the status of city or municipality, which can be done in the form of a charter;
2. Creating urban (city or municipal) boards [15] composed of both county government appointed as well as stakeholder group elected representatives;
3. The appointment of an urban manager to operate under the urban board;
4. Appointment of staff to the urban department;
5. The establishment, by the board, of Citizen fora, to be held as a consultative meeting once every quarter, as a mechanism for citizens to share their views and forward their request to the urban board and its manager.

The County Urban Institutional Development Strategy as discussed in chapter 3, which is to be updated annually in the first three years of the project (in relation to the UIG) is, amongst others, meant to describe how the county government envisages putting these provisions in place.

6.2 Support for urban governance structures through urban boards

KUSP is meant to stimulate (through windows 2 and 3) and assist (through windows 1 and 2) County governments to put the above urban institutional arrangements in place, and to formalise this through a municipal charter that spells out what functions and decision-making mandates the county government is delegating to its Urban board(s). Under KUSP, all participating urban areas are expected to sign such a charter (see UDG/MC#1). A template for the charter, as well as guidelines on how to use the template, are provided in Volume II, Annex 2.

All five urban governance provisions described in the UACA (and as mentioned above), are subject to the minimum conditions and performance standards as presented in Chapters 3 and 4. It means that County Governments, in order to ensure

15 In supporting the implementation of KenUP, KUSP is focussing on Cities and Municipalities. For that reason Town boards, as mentioned in the Act, are not part of the provisions in this POM.

the maximum UDG for their urban areas, have to make sure that these institutions and procedures are in place as soon as possible. Table 6.1 has a time line that would allow meeting the required MCs and PSs with regards to urban governance.

A range of actions is required, especially during the FY 2017/18, when the new (post August elections) county governments are installed, to put the necessary foundations for UDG in place. Despite the tight schedule, it is considered feasible.

Table 6.1 : Timeline for urban governance provisions to meet UDG MCs and PSs

Period			Activity	MC / PS
2017		Q4	▪ Counties draft a first version of the County Urban Institutional Development Strategy (CUIDS)	UIG MC #1
	FY 2017/18 (Yr-1)	August	▪ Installation of new County Governments	
		September	▪ County government announces dates of citizen fora for Q2, Q3 and Q4 of FY 2017/18	UDG PS #5
		Q2 Oct-Dec	▪ New county government re-visits the CUIDS, integrate or annex it to the new 5yr County Integrated Development Plan to be prepared	UIG MC #1
			▪ County Assembly discusses proposal to bestow urban status on qualifying (city/municipal) areas	UDG MC #1
			▪ Governor requests and guides stakeholder groups as mentioned in the UACA to elect and nominate their representatives to the urban board(s)	UDG MC #2 (prep)
			▪ First urban fora	UDG PS #3
2018		Q3 Jan-March	▪ County Assembly discusses proposal to appoint the urban boards	UDG MC #2
			▪ County governments/urban boards finalise a first draft of the 5yr Urban Investment Dev Plan, including identified investments for FY 2018/19	UDG MC#7 UDG PS #6
			▪ Urban board appoints an urban manager	UDG MC #3
			▪ Second urban fora	UDG PS #3
		Q4 April-June	▪ Quarterly urban board meeting	UDG PS #2
			▪ Third urban fora	UDG PS #3
	FY 2018/19 (Yr-2)	Q1	▪ Urban board announces dates for 4 citizen fora for the FY ▪ Quarterly urban board meeting ▪ Quarterly citizen fora	UDG PS #5 UDG PS #2 UDG PS #3
		Q2	▪ Quarterly urban board meeting ▪ Quarterly citizen fora	UDG PS #2 UDG PS #3
2019		Q3	▪ Quarterly urban board meeting ▪ Quarterly citizen fora	UDG PS #2 UDG PS #3
			▪ !! By end of this quarter the urban charter must be in place, the urban board duly appointed and staff from the urban department paid from the urban vote otherwise eligibility and size of UDG for FY 2019/20 is at risk	UDG MC #1 UDG MC #2 UDG MC #3
		Q4	▪ Quarterly urban board meeting ▪ Quarterly citizen fora	UDG PS #2 UDG PS #3

6.3 People's participation and stakeholder representation

Apart from creating dedicated urban management structures and establishing specific budget lines for urban areas and urban functions, the governance provisions that KUSP seeks to promote are those related to peoples participation and representation as provided for in the UACA (See Text box 6.1. and 6.2).

The stakeholder consultation is organised through the membership of specified group representatives in the Urban Board. Whereas the Act is very clear on the type of stakeholder groups, a lot of leeway is given to the county governments to organise for the election of these stakeholder members.

Text box 6.1: Stakeholder representatives in the urban boards
According to sections 13 and 14 of the UACA the boards of both a city and a municipality shall have, amongst the 11 and 9 members respectively, five members nominated by stakeholder groups as follows:
(a) an umbrella body representing professional associations in the area;
(b) an association representing the private sector in the area;
(c) a cluster representing registered associations of the informal sector in the area;
(d) a cluster representing registered neighbourhood associations in the area; and
(e) an association of urban areas and cities.

It is suggested that, in identifying these members, the county government applies a transparent process, involving at least the following steps:

- Identifying, for each of the five clusters, the organisations to be considered for 'providing' these representatives;
- Publicly announce the list of these organisations and invite the wider public for the provision of complementary information; The citizen fora (see below) would be a good platform to double check that the list of involved organisations is correct and comprehensive.
- By cluster (for each of the 5 stakeholder groups) organise a meeting with the listed organisations to agree on a best way to select/elect a representative that is considered the genuine representative of the entire stakeholder group and that can speak on behalf of that stakeholder group.

Stakeholder representation in urban management, as meant in the UACA, can only materialise if the selected members genuinely represent their respective groups.

In addition to this direct stakeholder representation, the UACA provides opportunity for direct engagement of citizens through the citizen fora, to be organised at last once every quarter (see Text box 6.2).

Text box 6.2: Citizen fora
Section 22 of the UACA describes the right of citizens to deliberate and make proposals with regards to service delivery and the plan and budgets for the county. For the urban areas, this means that citizens have, amongst others the right to deliberate on urban service delivery and the proposed urban investment plans.
Through the for a, the citizens have the rights to monitor the activities of elected and appointed officials of the urban areas and cities, including members of the board of an urban area or city; and receive representations, including feedback on issues raised by the county citizens, from elected and appointed officials.

Citizen fora are regular public meetings organised by the manager of the urban board for citizens to ask questions of clarification and to make recommendations. The UACA provides ample freedom to the urban boards on how they want to organise the for a, but it is expected that in each public meeting the management of the board provides an overview of the activities of the past quarter whilst tabling issues for which it is seeking input from the public. The latter is especially relevant in the context of planning and budgeting. Text box 6.3 provides a outline for the agenda of the citizen fora.

Text box 6.3: Possible agenda for a regular Citizen / public meeting

1. Opening by the chair of the urban board
2. Quarterly report to citizens - by the chair of the Board
3. Quarterly report to citizens - by the manager of the Board
4. Items where the board seeks citizen input
   - Stakeholder representation
   - Urban Investment plan and budget
   - Organisation of Urban Service delivery
   - Any other topic
5. Other issues
6. Question and Answer session
7. Closing by the urban manager

Under KUSP, and as reflected in the performance standards, the urban boards are expected to organise these public meetings quarterly, but they are also requested to announce the dates of these meetings well ahead (see UDG/PS #3 and #5).

In other to allow broad participation, the boards are encouraged to carefully select the location and the timing of the public meetings; such that, for example, both man and women can attend but also those that are employed.

6.4 A Programme Coordination Team at county level

The objective of KUSP is to put the GoK provisions with regards to urban governance, as provided for in the UACA, in place. Hence, other than the establishment of the urban boards and the urban administration under each board, there are no other programme specific institutional arrangements required within the county or urban area. The programme seeks to reinforce the GoK institutional arrangements.

The key players for KUSP at the county level are: (i) the CEC-member responsible for urban matters; (ii) the chair(s) of the urban board(s) and (iii) the urban manager(s). These could be seen to form the KUSP core management team at the county level. They can meet if/when required, to discuss and solve bottlenecks.

In addition, and or the sake of KUSP requirements, a more formal county programme coordination team (CPCT) needs to be formed with the following members; (i) the director responsible for urban development; (ii) at least one municipal manager; one engineer; one accountant plus the county environmental and social safeguards officers. Under the oversight of the CEC member responsible for urban development, the CPCT is responsible to manage the use of the UIG and facilitate the coordination of KUSP within the county and with the national government

7. KUSP Institutional arrangements at national level

7.1 Introduction

This chapter provides an overview of (i) the programme related institutional arrangements that are being put in place in relation to the execution of KUSP (para 7.2) as well as (ii) the regular institutional actors (in para 7.3) that have a important direct role to play in the implementation of KUSP.

7.2 Programme related institutional arrangements

7.2.1 Programme Steering and Programme Technical Committees (PSC / PTC)

At national level, the KUSP has two committees:

- o The Programme Steering Committee (PSC), at Cabinet secretary level; with representatives from the National Treasury, the Ministry of Devolution, the Council of Governors the Intergovernmental Relations Technical Committee (IGRTC), the Commission on Revenue Allocation (CRA) and the office of the Controller of Budget.
- o The Programme Technical Committee (PTC), with basically the same institutional representation, but at the level of principle secretaries and Chief Executive Officers. [16]

ToRs for both committees are provided in Volume II, annex 9 and 10 respectively.

The Technical committee deliberates and prepares motions for decision-making by the Steering Committee, which is the highest decision-making organ for the program. Basically, the committees, that need to meet at least once a year, at end of May (technical committee) and first half of June (steering committee), are threefold:

- Exercise oversight on the Annual Performance Assessment (APA) and endorse the results. The function of both committees is to ensure integrity of the APA process and indemnify lower level civil servants from undue pressure;
- Ensure inter-governmental collaboration between the KUSP implementing partners; and
- Deliberate and make recommendations or take decisions on any other matter related to programme implementation and programme performance.

Notwithstanding, the other two functions, the major function of the committees will be to endorse the APA results. UDD will provide secretariat for both committees as and when needed.

The main role of the technical committee is to oversee the management of the APA and review and cross-check the results as well as the ensuing calculated allocations, and escalate proposals for decision-making to the steering committee.

In addition, and as members of the technical committee are likely able to devote a little more time, the technical committee can discuss more in detail policy as well as technical details and bring resolutions for decision making to the steering committee.

16 The Office of the National Auditor is not represented in the committees as this office has an independent controlling, rather than a decision-making function. Members can, however, decide to expand membership of the two committees.

Approval by the steering committee of the APA results as well as confirming the ensuing calculated allocations is absolutely necessary in the process - and without such an approval there can be no releases and amounts cannot be included in the national budget. This is the reason to meet at least once a year - for the technical committee in the last week of May and for the steering committee in the first half of June.

The timing is tight, but is the only possible way to have relatively recent county and urban performance (up to end of March/April) influencing the allocations in the following financial year. Any other scheduling would result an undesirable larger time-gap between APA results and fund allocations and releases.

7.2.2 KUSP/UDD - National Programme Coordination Team (NPCT)

For the day-to-day management of KUSP, the UDD will establish a National Programme Coordination Team (NPCT), consisting of: a Program coordinator, two planners, an engineer, an institutional capacity building specialist, a monitoring and evaluation specialist, a financial management specialist, a procurement specialist, a public finance advisor, and an environmental and social safeguards specialist. The UDD will request the National Treasury for the secondment of qualified financial management and procurement specialists to KUSP and seek to fill other positions from within the ministry. If it cannot, it is expected to fill the positions with consultants.

Furthermore, UDD is considering the possibility of recruiting an external technical team under the budget of Wndow-1 to support the NPCT with the implementation of KUSP.

A more detailed overview of the structure and tasks of the members of the NPCT is provided in Vol. II, Annex 11.

The NPCT will meet at least twice a month.

7.2.3 Arrangements for demand driven capacity support to Counties / Boards

Under Window-1 and notably the sub component institutional development, ample provision is made for supply driven capacity development (see sub component 2.1). Over time, however, it is expected that tailor made demand-driven capacity support will become increasingly important.

Implementation arrangements for such an extended help desk type of demand driven support will be further worked out during the first year of KUSP, but tentatively a mechanism is proposed as outlined in Text box 7.1.

Text box 7.1: Tentative mechanism for demand-driven capacity development support

- Counties and urban boards are invited to address demands for capacity development support that cannot be handled under the Urban Institutional Grant) to the UDD for consideration.
- The request could relate to straight forward questions regarding programme implementation, but could also be more complicated issues in the areas of (i) urban governance, (ii) urban planning and management, (iii) urban infrastructure and service delivery or (iv) grant management and PFM. The requests should be around technical / advisory service (technical advice or support), and not related to a request for funds to finance certain activities

- Counties or urban boards would raise these questions initially by email to the KUSP programme coordinator within UDD.
- The UDD or NPCT can use its own (human) resources to address the issue or hire short-term consultants. In case neither of these options work, the County/Board may be advised on alternative ways to address the request.
- The requesting county/board will be given an answer to its request within 3 weeks maximum. In many if not most cases, the answer is expected to be provided much faster

The sub-component manager for institutional capacity development will handle both supply and demand driven capacity development support. His/her task will be to over time increase the volume of demand driven support and reduce the amount of supply driven capacity development.

7.3 National Institutional Stakeholder parties

Next to the Urban Development Department (under the State Department of Housing and Urban Development in the Ministry of Transport, Infrastructure, Housing and Urban Development), there is a host of other institutional players at the national level that have important roles to play for the successful implementation of the KUSP. All these parties and their roles in the Programme are outlined in the paragraphs below, whilst a summary is provided in Table 7.1 below.

7.3.1 SDHUD / Urban Development Department (UDD)

The State Department of Housing and Urban Development (SDHUD) is, in the relations with the World Bank as the provider of the loan, the agency that is overall responsible for implementation of KUSP on behalf of the Government of Kenya.

The Urban Development Department (UDD) within the SDHUD) is responsible for the implementation of Window-1 under the programme (as described in Chapter 5 above), which includes activities to ensure that the grants as operationalized under windows 2 and 3 do reach the counties in the agreed manner.

Counties and their urban boards are subsequently responsible for the proper use of those grants.

7.3.2 The Council of Governors and its urban committee

In the overall management of the programme, the counties and their urban boards are represented by the Council of Governors (CoG), established under the Inter Governmental Relations Act (2012), as the coordination mechanism between central government and the county governments. The Governor chairing the CoG's technical committee on Urban Development, Planning and Lands, is co-chair of the Programme Steering Committee. The secretary to the COG's urban committee is a member of the Programme Technical Committee (see Para 7.2.1 above as well as annexes 9 and 10 in Vol II).

The role of the CoG representation in these programme management committees is to enhance intergovernmental coordination and policy debate on urban development issues. An important aspect of that policy debate is about the increasing role of county governments and notably their urban boards in urban development.

7.3.3 National Treasury

The National Treasury, under the Ministry of Finance, is the conduit for the funds from the World Bank under the loan to the special programme account (for Window 1) and to the urban accounts with the county governments (for windows 2 and 3), respectively.

In order for such transfers to be possible, they need to be listed in the National Budget, and, for the grants to the counties, in the Division of Revenues Act (DoRA) and the County Allocation of Revenue Act (CARA).[17] The funds for window-1 are reflected under the heading of the State Department (SDHUD), whilst the resources for the counties (windows 2 and 3) are reflected under the heading of transfers from central government to the counties.

It is the tasks of SDHUD/UDD to help ensure that the different partners (National Treasury and the Commission of Revenue Allocation (CRA; see below) do the needful to ensure that the funds are indeed listed as required.

In addition, the National Treasury is expected to second qualified financial management and procurement specialist to KUSP upon receipt of a request from UDD.

7.3.4 Commission of Revenue Allocation (CRA)

The Commission of Revenue Allocation, is established under the Constitution and is tasked to make recommendations on an equitable sharing of national revenues, bit vertically, between national level and the counties (and which gets annually determined in the Division of Revenue Act), and horizontally, across the counties for the share of total revenue allocated to that level. Whereas the national treasury is responsible for drafting the Division of Revenue Bill, the CRA is tasked to draft the County Revenue Allocation Bill. The amounts for the KUSP grants, UIG and UDG, need to be included in the amounts as presented in the said bill.

7.3.5 Inter-Governmental Relations Technical Committee (IGRTC)

The Inter-Governmental Relations Technical Committee (IGRTC) was created in 2015 to succeed the Transitional Authority. The main task of the 10 member committee, who are supported by an secretariat, is to carry on the day-to-day administration of the Summit, the bi-annual meeting between the president an the 47 county governors. The main objective of the Summit is to serve as a forum for consultation between Central government and the County governments. The IGRTC is to ensure implementation of the decisions taken by the Summit and hence has a role to facilitate and co-ordinate the transition to the devolved system of government. In addition to this permanent function of intermediary between both levels of government to facilitate effective and harmonious devolved governance through the promotion of consultation and cooperation, the IGRCT took over the residual functions of the Transition Authority when its constitutional mandate expired.

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17 The Division of Revenue Act, made by the National Treasury, sets out, for next financial year, the division of the expected total revenue between the different levels of government (central government and the counties). It deals with the vertical distribution of expected revenues. The County Allocation of Revenue Act (CARA) deals with the horizontal allocation of the shared revenues across the 47 counties. Obviously, the DORA and the CARA need to be aligned as far as totals are aligned. For the UIG and the UDG the amounts need to be included in the DORA (for the total amounts made available for next financial year following the APA results, whilst the CARA needs to reflect the calculated distribution across counties.

Transferring urban development functions to counties and putting in place urban management structures falls under the agenda of the IGRTC, whilst urban development issues merit attention of the Summit. The IGRTC is hence represented in both PSC and PTC.

7.3.6 Office of the Controller of Budget

As per the Public Finance Management Act, the Controller of Budget is responsible for release of funds from the county revenue fund to the county operating accounts. At the same time, per the same Act, the controller of budget is due to receive from all counties quarterly financial (budget implementation) reports, as well as copies of the annual cash flow plan submitted to the National Treasury and copy of the annual financial statement presented to the Auditor General. Through these provisions, entrenched in legislation, through the controller of budget, the central government has some continuous oversight on the spending of counties against their plans.

The information thus obtained by the Controller of Budget, and which includes information on levels of spending on the grants, is useful UDD to complement the information as directly provided by the counties in their half yearly KUSP reports (see para 3.10 and 4.14). The Controller of Budget is expected to make this information available to UDD on request. Through the UDG/Minimum conditions, it is ensured that Counties do submit the reports to allow this oversight in a timely manner (See UDG/MC #5).

The office of the Controller of Budget is represented in both the Programme Steering committee as well as in the Programme Technical Committee.

7.3.7 Office of the Auditor General

In accordance with its independent position, the office of the Auditor General is not part of the PSC or PTC, but can be invited to these meetings if and when needed.

The Office of the Auditor General is important for KUSP in two ways :

- Regular annual audits (of both SDHAD and the counties), which covers use of the funds under windows 1, 2 and 3 ; and
- A special programme audit (ToRs for which are provided in Vol II, Annex 13) that will be completed in the 6 months after the end of each financial year.

Especially the latter audit, which is a condition under the KUSP financing agreement, the legal contract for the loan, is an important feature in the programme to ensure sound financial management.

7.4 Annual programme reviews

The UDD, on the initiative and with a lead role for the KUSP National Programme Coordinating Team, will once a year, ideally in August or September - at the start of a new APA cycle, organise an annual KUSP review meeting to assess progress but also to identify and resolve any bottlenecks in implementation.

The first annual review meeting should be held in August/September 2018 and every year thereafter, for all programme years. It could be organised in collaboration with volunteer counties or urban boards willing to host the event, which would at the same time provide an opportunity for site-visits.

Invited participants will be representatives from the above national level institutional players (mainly those also represented in the PSC and the PTC), representatives from all 45 Counties and 59 urban areas participating in the program. Representatives from the World Bank, other development partners as well as those from civil society organisations that deal with urban governance and devolution will also be invited to participate.

For the Agenda of these annual reviews, there should broadly be three topics that can be modified, expanded or shrunk as appropriate:

- Presentation and Review of overall progress
- Discussion on bottlenecks in implementation
- Special thematic themes that deserve attention

The agenda can, of course, be adjusted as necessary.

Table 7.1: Roles and responsibilities of national level institutional players

Institutional player	Main Expected Roles and responsibilities in relation to KUSP
SDHUD	Overall KUSP Implementing party for GoK
	Point of contact with World Bank for KUSP
	Chair of Programme Steering and Technical committees (PSC and NPTC)
UDD	Day-to-day overall programme management
	Implementation of window-1 (in support of windows 2 and 3)
Council of Governors	Co-chair the Programme Steering Committee
	Co chair Programme Technical Committee
	Promote attention for urban development issues amongst counties
Eligible (45) Counties	Make provisions for urban boards to be established, with its own staff and a dedicated budget
	Utilise the Urban Institutional Grant
	Pay increasingly attention to issues of urban development as part of the overall development plan
59 Urban boards	Utilise the Urban development grant
National Treasury	Ensure that UIG and UDG are included in the Division of Revenue Bill as per the provisions and calculations in this POM
	Ensure that UIG and UDG are included in the National Budget as per the provisions and calculations in this POM
	Transfer UIG and UDG to the counties on instructions of SDHUD
Ministry of Devolution	Ensure coordination with Kenya Devolution Support Programme (KDSP) and other relevant county support projects and programmes
CRA	Ensure that UIG and UDG are included in the County Allocation of Revenue Bill as per the provisions and calculations in this POM
IGRTC	Support counties paying more attention to and taking care of urban development issues
Controller of Budget	Monitor expenditures under UIG and UDG as part of general mandate to monitor expenditure
	Share data and information with SDHUD if/when appropriate
National Audit Office	Regular audit SDHUD and counties, to starts after submission of the Financial statements, 4 months after end FY
	Special KUSP audit, to be completed within 6 months after end of FY

8. PFM and other risk mitigation management measures

8.1 Financial management

For further details around financial management, please referred to KUSP Financial Management Procedures Manual, available as separate document, but also attached as Annex 15 in Vol II.

8.2 Procurement procedures

For windows 2 and 3, all procurement will be carried out per the Public Procurement & Asset Disposal Act, 2016 and it regulations, as applicable for all other expenditure by County Governments. Adherence will be verified through the Annual Performance Assessment (APA; MC #10), procurement audits that the Public Procurement Regulartory Authority may conduct as well as though the annual special and regular audits.

Counties and their urban boards are under the obligation to disseminate procurement information, and publicise on websites and notice boards the (i) procurement plans; and (ii) awards of contract and (iii) list of contract completed.

For window-1, guided by the Procurement Guidelines of the World Bank Investment Programme Funding (IFP), as set out in the KUSP Financial Procedures Manual (See Vol II of this POM; Annex 15). Adherence is verified through the special KUSP programme audit, terns of reference for which are provided in Vol II, Annex 13 and Procurement Post Reviews (PPR) that the World Bank procurement staff carry out at least once annually. As for the counties, UDD shall make available to the public, the procurement plan, the awards of contract as well as a list of completed contracts.

8.3 Environmental and Social Management

The provisions for environmental and social management under the KUSP are based on the existing legal, regulatory and institutional system in Kenya. However, there are weaknesses in implementation partly due to capacity gaps in the existing institutional systems for environmental and social management at the county level.

Counties have no documented procedures and processes in place for the management of the environmental and social management risks, and have not sufficiently mainstreamed land acquisition procedures provided by the National Land Commission into their planning and development processes.

To address these gaps, the Kenya Devolution Support Programme (KDSP), implemented under the Ministry of Devolution, supports the strengthening of the county social and environmental risk management systems in all the 47 counties. This is through the appointment of both social and environmental safeguards officers in each county, and support to NEMA environment and social curriculum review and rolling out a training programme for these officers by the Kenya School of Government (KSG). KUSP will build upon the efforts under KDSP to enhance environmental and social management measures at the county levels. The involvement of the county social and environmental safeguards officers in the appraisal of the project ideas for funding under UDG is mandatory (see paras 4.9 and 4.10).

In addition, for the UDG, special restrictions are applicable (as detailed in para 4.10) to minimise environmental and social risks. Investments financed by the UDG will exclude high risks projects Category A projects (projects that have significant negative environmental and social impacts that are sensitive, diverse, or unprecedented), and projects that require physical displacement of more than 200 households.

In case projects require land acquisition, such is preferably done using procedures of willing buyer and willing seller. Compulsory land acquisition is to be avoided as much as possible.

To screen potential UDG funded projects for all exclusions, the Programme will rely on both the country existing environmental and social management systems and legislations, and the project appraisal process as outlined in para 4.9. **For each project funded by UDG, the social and environmental impact assessment sheets as presented in Vol II, annex 16 need to be filled**. The annex also lays out the requirements for land acquisition.

The approach is that counties and urban boards are themselves responsible to ensure the social and environmental requirements (both GoK legal as well as the supplementary provisions detailed in para 4.10) are met, and through NEMA, the APA and supervision by the NPCT, adherence to the rules is monitored.

In addition, as programme implementing lead party, the UDD, on the basis of the annual urban investment plans (that ought to be published in the county websites) as well as other information, has the right to challenge counties and urban boards to prove they have adhered to all required social and environmental conditions and regulations.

8.4 Corruption mitigating measures

The KUSP adheres to the principle of zero tolerance to corruption. Being a GoK implemented programme (with implementation by both central government, notably UDD, and the counties for the grants), all GoK anti corruption measure and mechanisms apply, including the provisions for the Ethics and Anti-corruption commission. Under the Anti Corruption Act 20011, the EACC exercises its mandate over both national and county governments, with its headquarters (main reporting centre) in Nairobi and eight regional and two satellite offices in various parts of the country.

In addition to the GoK provisions to prevent corruption, also the World Bank's anti corruption guidelines apply), which means that actions can be taken against suppliers of goods and services (firms and individuals) that engage in sanctionable offenses under Bank funded projects.

Given the foregoing, under KUSP, no firm or individual shall be engaged in a contract if it has been debarred by either the World Bank or Kenya's Public Procurement and regulatory Authority.[18]

The World Bank does not sanction member governments or government officials. If fraud or corruption takes place within a government, the Bank will work with the

18 Lists of debarred companies and individuals can be found on www.worldbank.org/debarr and www.ppoa.go.ke, respectively.

government to solve the problem and, if a solution cannot be found, the Bank can take action under its legal agreement with the country. It may suspend disbursement of the loan and/or cancel undisbursed loan amounts and, may even require early repayment of the loan.

Corruption is to appear in all risk management registers as discussed in para 8.7 below.

8.5 Complaints handling, Grievances redress and whistle blowing

Under a programme like KUSP, there can be complaints and grievances at many different locations and different levels. In a first instance, such complaints should be addressed to the directly involved manager, by phone, email, the website, by letter or direct communication. Counties are under the obligation to publicise (amongst others on their websites) contact details with phone numbers and email addresses of persons that can be contacted in case of complaints and grievances. In addition, Counties have suggestion and anti-corruption boxes. All this failing, complainants can address the county secretary or the officer in charge of ethics. With support from the Kenya Devolution Support Programme (KDSP), county level complaints management systems are presently being rolled out.

Depending on the type of complaint, the public can also address directly the office of the ombudsman (commission on administrative justice with regional offices) for cases of maladministration. One of the mandates of the office of the ombudsman is to investigate complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair, or unresponsive official conduct. For fraud and corruption complaints can be addressed to the Ethics and Anti Corruption Commission (EACC); the Public Procurement Administrative Review Board (the Review Board); and in case it is related to environment and land, the National Environmental Management Agency (NEMA) or the National Lands Commission (NLC), respectively.

Any person having likely evidence of fraud involving the Urban Institutional Grants or the Urban Development Grant expenditures is expected to report this to the Ethics and Anti-Corruption Commission.

In relation to KUSP, the SDHUD will operationalize a complaints management system, and a window to deposit complaints will be opened at the SDHUD/UDD/KUSP website, whilst complaints can also be addressed (by email, letter or direct communication) to the KUSP manager or another assigned officer (contact details to be shared on the website). On the web site, a standard complaints form will be made available.

The Programme Coordination team, as grievances committee, will design a procedure to respond to each complaint within three weeks maximum. In addition, it will keep a log of all complaints received and the way they were handled. The log will show the date the complaint was received, the medium by it was received, the nature of the complaint and action that was taken. An extract of the log will be annexed to the half yearly KUSP progress report as will be presented to the World Bank.

In the event that an allegation refers to fraud or corruption of bidders, and where allegations are shown to be valid, sanctions shall be imposed as per the relevant government instructions.

Individuals who choose to report allegations of fraud or corruption may do so anonymously. In such cases, however, the full investigation of the complaint is made significantly more difficult, since there is no opportunity to seek any clarifying information from the complainant. Alternatively, complainants may request that their identity not be disclosed outside of any investigating team, and they can seek for protection under the Witness Protection Act, Chapter 79 Laws of Kenya if the matter was to be prosecuted. In any case, the person will be given assurance that his/her safety is guaranteed and that the source of information shall remain confidential.

Communities and individuals who believe that they are adversely affected as a result of KUSP, as defined by the applicable policy and procedures, may submit complaints to the above programme grievances redress mechanism but also use the World Bank's Grievance Redress Service (GRS), or submit a complaint to the Bank's independent Inspection Panel which determines whether harm occurred, or could occur, as a result of WB non-compliance with its policies and procedures.[19]

8.6 Programme Risk management register

Both UDD (for the programme as a whole) and the urban boards (for each UDG funded project) will keep a risk management register, the template for which is provided in Vol II, Annex 17.

A Risk Register is a tool that helps to flag risks and enables managers and project stakeholders to handle risk in the most appropriate way. A risk is anything that may slowdown project/programme implementation, and impact on its results. Risks are inherent to the implementation of projects and programmes and are no threat as long as they are properly managed. The Risk Register allows managers to proactively deal with risks and to focus on the more important ones.

A risk log will be kept, by UDD, for the project as a whole and for window 1 in particular and, by the urban boards for each single project funded under UDG (window-3).

8.7 Project audits

As part of the Financing Agreement it is foreseen that the Office of the Auditor will carry out an annual special programme audit in the first sic months after the end of each financial year that the programme is active. This audit (Terms of Reference are provided in Vol II, Annex 13) covers all three windows of the programme and as such will cover all the counties as well as the SDHUD/UDD special account for Window-1.

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19 For more information see www.worldbank.org/GRS or www.inspectionpanel.org, respectively

9. Concluding remarks

The Kenya Urban Support Programme (KUSP) as described in this Manual is meant to support the implementation of the Kenya Urban Programme (KenUP), a comprehensive set of activities designed to give life to Kenya's Urban Development Policy (NUDP).

KUSP seeks to help establish dedicated management structures for urban areas, with dedicated budgets that function under the county governments.

At the same time, it seeks t support the national department in charge of urban development to take charge of its new role in supporting counties in them taking responsibility for urban development.

KUSP is a programme implemented by the Government of Kenya to operationalize the provisions of the Constitution with regards to devolution in the field of urban development. The POM has sought to provide a comprehensive overview of the programme's activities, the stakeholders involved and their roles and responsibilities. It has tried to avoid repeating generic provisions, rules and regulations that apply for central and county governments. Instead it has focussed on Programme specific arrangements, whilst keeping the focus on the overall objectives of the programme.

As stated at the beginning, next to the World Bank's Programme Appraisal Document, the Programme Operations Manual is GoK's project document for KUSP, roles and responsibilities of the parties. It remains a living document that can be further improved during the lifespan of the programme.

For any comments and/or suggestions with regards to the POM or with regards to the implementation of the Programme, please contact any of the persons below.

Table 9.1: KUSP - list of contact persons

Name /	Position	Contact details
Victor Ogutu	Programme Co-ordinator	e-mail: victorogutu@yahoo.com Mobile: 0722 811 702
Solomon Ambwere	• Urban Planning & Urban Management	e-mail: sambwere@gmail.com Mobile: 0704050824
Charles Mutunga (Eng)	• Infrastructure Management & Urban Services	e-mail: mutungaceng@gmail.com Mobile: 0722403899
Isaac Mungania	• Institutional Development and Management Support	e-mail: imungania@gmail.com Mobile: 0721206089
Francis Ndereba	• Urban Grants Management	e-mail: mbae.ndereba@gmail.com Mobile: 0722922147
Abdu Muwonge	• World Bank Task Team Leader	e-mail: amuwonge@worldbank.org Mobile: 0790307268

References for further reading

- Avis, W. R., *Urban Governance (Topic Guide)*, Birmingham, UK: GSDRC, University of Birmingham, 2016, see : www.gsdrc.org
- Bloom, David E., David Canning and Günther Fink, *Urbanization and the Wealth of Nations,* Program on the global demography of aging, Harvard University, PGDA Working Paper No. 30, Harvard University, January 2008
- Government of Kenya, Ministry of Land, Housing and Urban Development, *Revised National Urban Development Policy (NUDP)*, Nairobi, October 2016
- Government of Kenya, Ministry of Land, Housing and Urban Development, *Kenya Urban Programme (KenUP)*, September 2016/February 2017
- Government of Kenya, Ministry of Transport, Infrastructure, Housing and Urban Development (MTIHUD) and the World Bank, *Financial management procedures manual for the Kenya Urban Support Program (KUSP)*, Draft May 2017
- Kenya National Bureau of Statistics, 2009 Kenya Population and Housing Census Volume VIII, *Analytical Report on Urbanization*, March 2012, see www.knbs.or.ke
- World Bank, *Republic of Kenya, Kenya Urbanisation Review*, Washington, February 2016, see www.documents.worldbank.org
- World Bank, *Program Appraisal Document (PAD) on a proposed loan to the Republic of Kenya for the Kenya Urban Support Program*, 5th July 2017

List of Abbreviations

APA	Annual performance assessment
BROP	Budget Review Output paper
CARA/B	County Allocation of Revenue Act / Bill
CEC	County Executive Committee
CIDP	County Integrated Development Plan
CoB	Controller of Budget
CRA	Commission on Revenue Allocation
CT	County Treasury
CUIDS	County Urban Institutional Development Strategy
DLI	Disbursement Linked Indicator
DoRA/B	Division of Revenues Act/Bill
EACC	Ethics and Anti-Corruption Commission
FY	Fiscal Year
GoK	Government of Kenya
GSDRC	Governance and Social Development Resource Centre
IDA	International Development Association
IDeP	Integrated Development Plan
IFMIS	Integrated Financial Management Information System
IGFR	Intergovernmental Fiscal Relations
IGRTC	Intergovernmental Relations Technical Committee
IPF	Investment Project Finance
KenUp	Kenya Urban Program
KES	Kenyan Shilling (KES 101 ~ USD 1; 15May 2017)
KNBS	Kenya National Bureau of Statistics
KUSP	Kenya Urban Support Programme
M&E	Monitoring & Evaluation
MC	Minimum Condition
MDP	Ministry of Devolution and Planning
MTEF	Medium Term Expenditure Framework
MTIHUD	Ministry of Transport, Infrastructure, Housing, and Urban Development
NACCSC	National Anti-Corruption Campaign Steering Committee
NEMA	National Environmental Management Authority
NPCT	National Programme Coordinating Team
NT	National Treasury
NUDP	National Urban Development Policy
OAG	Office of the Auditor General
PCT	Programme Coordinating Team
PforR / P4R	Programme for Results
POM	Programme Operations Manual
PS	Performance Standard
PSC	Programme Steering Committee
PTC	Programme Technical Committee
SDHUD	State Department of Housing and Urban Development
UACA	Urban Areas and Cities Act
UDD	Urban Development Department
UDG	Urban Development Grant
UIG	Urban Institutional Grant
WB	World Bank