A GUIDE FOR UNDERSTANDING
DECENTRALIZATION IN KENYA

Empowerment and Accountability: The Pillar for a Better Tomorrow

Empowering Communities for Self Governance and Development (ECSGD)
“Empowerment and Accountability: The Pillar for a Better Tomorrow”

“Funded with Support from the European Union”
EMPOWERING COMMUNITIES FOR SELF GOVERNANCE AND DEVELOPMENT (ECSGD)

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Preface

On 27th August 2011, a new constitution was promulgated in Kenya following a referendum held on the 4th of the same month. This was a major achievement for the nation considering that many nations transit constitutions during times of conflict and instability. The promulgation of the new constitution brought to an end a clamour that had persisted for more than twenty years that marked a period of agitation for better governance and greater democratic space.

Kenyans therefore have high hopes that their nation will be transformed by the coming in of the new constitutional dispensation.

Recognizably, the greater democratic space that Kenyans were yearning for was one that would enable them participate effectively and efficiently in the local, institutional and national level governance and management. They wanted a greater say in decision making processes.

At its core, the new constitution is one that embraces decentralization / devolution as the primary structure of government. This is radical departure from the centralized structure of government that Kenya had been having for almost 50 years.

The goal of the decentralization / devolution adopted in the constitution was to give the people at the grassroots more control over decisions and governance actions that affect them directly. This will greatly contribute to the improvement of their standards of living as well as eradicating the three evils that bedevil the nation: Corruption, Tribalism and Impunity.

This guide seeks to empower the people with information on the devolution of financial resources under the new constitution. This will enable them participate in the management as well as monitoring of the decentralized funds that will be operational under the new constitutional dispensation.

An empowered populace will lead to good governance of the national, county, constituency and local authority units.
Executive Summary

This *guide aims at enhancing the understanding of decentralization in Kenya* and seeks to introduce the concept as provided for in the new Constitution of Kenya and some of the various funds that the government of Kenya has, over the years, created to channel funds from the consolidated fund to the local community level. The common goal of these funds is to alleviate poverty by enhancing community participation in project identification, management, monitoring and evaluation. The participation of the community members in governance at their local levels will cascade into a culture where good governance becomes the norm in the nation.

The manual is divided into four chapters, which are summarised here below:

Chapter One introduces the concept of governance, characteristics of good governance, the effects of bad governance, and the challenges that hinder good governance. The roles of different actors in governance are also noted.

Chapter Two introduces the concept of decentralization its dimensions, types, benefits and pitfalls.

Chapter Three presents the decentralization in Kenya and summarizes its History and how it has evolved over the years, the different systems that have been applied and its structure as indicated in the Constitution of Kenya.

Chapter four introduces ten funds, seeking to explain their structures, funding mechanisms, rationale and how they are managed, monitored and evaluated. In summary, the ten funds are:

i. The Local Authorities Transfer Fund, through which the government transfers 5 per cent of the central income tax collections to local authorities to supplement their revenues (which are raised through land taxes (rates), single business permits and other sources).

ii. The Constituency Development Fund, through which not less than 2.5 per cent of all ordinary government revenue collected in every financial year is equally divided among the 210 constituencies (with a small weighting to poorer constituencies).

iii. The Bursary Funds, which are managed at the district and constituency levels and are aimed at enabling deserving poor students to receive secondary school education.

iv. The Poverty Eradication Fund, which seeks to support development projects at the community level with the aim of reducing poverty by 2015 in line with the Millennium Development Goals.

v. The Roads Maintenance Levy Fund, through which 40 per cent of the Fuel Levy collected by the government is disbursed to all districts for maintenance of roads. Of this amount, 24 per cent is earmarked for the district as a whole while 16 per cent is to be divided between the parliamentary constituencies within the district. 22% of this is also channeled through the constituency structure through the recently introduced Constituency Roads Fund.

vi. The Constituency HIV and AIDS Fund, which under the management of the National Aids Control Council (NACC) supports initiatives at the constituency and district levels.
vii. Free Primary Education, though which scheme the government sends to all primary schools KShs.1,020 per child to support their education and reduce the levies charged on parents.
viii. Free Secondary Education, through which the government pays KShs.10,265 per student in secondary schools to reduce the levies charged on parents.
ix. National Youth Enterprise Development Fund, which was allocated KShs 1 billion in 2007 to be used for supporting business initiatives owned by youths by giving them loans.
x. National Women Enterprise Fund, which was allocated KShs 1 billion in 2007 to promote business ventures by women by giving them loans.
xi. The Economic Stimulus Program

February 2011
CHAPTER ONE

1.0 Governance and Good Governance

Various groups have attempted to define governance. These include:

UNESCAP: Governance is the process of decision making and the process by which decisions are implemented or not implemented.

Corporate Sector Initiative for Corporate Governance: “The manner in which power is exercised in the management of economic and social resources for sustainable human development”. Governance, says the initiative, is crucial in the maintenance of peace, order, and stability in the society.

Heinrich and Laurence E. Lynn, 2005: “A process where elements in society wield power, authority, and influence and enact policies and decisions concerning public life and social elevation”.

The Collins Dictionary: “Government is the exercise of political authority over the actions, affairs, etc of a political unit, people”.

Politically, Governance is a conceptual approach which when fully elaborated, presents a comparative analysis of macro politics. It concerns “big” questions of a “constitutional” nature that establish the rules of political conduct. It involves creative intervention by political actors to change structures that inhibit the expression of human potential.

1.1 Levels of Governance
Governance takes place at three levels: Family, Corporate and Societal. At all these levels, governance addresses the leadership role. Its aim is to enhance efficient, effective and sustainable leadership that promotes the welfare of the families, corporations and societies. In this endeavour, there is a determination to stick by the rules of good governance arising from the awareness that to survive in a global world, there must be responsive, accountable, and managed with integrity, probity and transparency.
1.2 Good Governance
Because of the key role that governance plays in the lives of the people, it is important that authority / power is exercised in such a way that it is for the benefit of the people. This is referred to as Good Governance.

Good Governance is a vital ingredient in the efficient production and delivery of goods and services, accountability in the use of power, protection of human rights and freedoms, and the maintenance of an organized framework within which every citizen can contribute fully towards finding solutions to common problems.

1.3 Characteristics of Good Governance
Good governance is an ideal which is difficult to achieve in totality. Very few counties and societies have even come close to attaining it. However, to ensure sustainable human development, societies and communities must continually work towards this ideal with the aim of making it a reality. On their part, UNESCA have identified 8 characteristics of good governance:

i. Participation
Participation by both men and women is a key cornerstone of good governance. Participation could be either direct or through legitimate intermediate institutions or representatives. It is important to point out that representative democracy facilitates though it does not guarantee that the concerns of the most vulnerable in society would be taken into consideration in decision making. As such, participation needs to be informed and organized, and needs to be predicated on freedom of and capacity for association and expression.

ii. Rule of law
Good governance fair legal framework that are enforced impartially. It also requires full protection of human rights, particularly those of minorities. Impartial enforcement of laws requires an independent judiciary, an impartial and incorruptible police force, and an informed citizenry that keeps these institutions in check.

iii. Transparency
Transparency means that decisions taken and their enforcement are done in a manner that follows rules and regulations. It also means that information is freely available and directly accessible to those who will be affected by such decisions and their enforcement. It also means that enough information is provided and that it is provided in easily understandable forms and media.

iv. Responsiveness
Good governance requires that institutions and processes adequately serve all stakeholders within reasonable timeframes.

v. Consensus oriented
Since good governance requires mediation of the different interests in society so as to reach a broad consensus in society on what is best for the whole community and how it can be achieved, there is a strong need for broad and long term perspective on sustainable human development. This can only
result from an understanding of the historical, cultural and social context of a given society or community.

vi. **Equity and inclusiveness**
A society’s well being depends on ensuring that all its members feel that they have a stake in it and do not feel excluded. This requires all groups, particularly the most vulnerable, to have opportunities to improve or maintain their well being.

vii. **Effectiveness and efficiency**
Good governance means that processes and institutions produce results that meet the needs of society while making the best use of resources at their disposal. The concept of efficiency in the context of good governance also covers the sustainable use of natural resources and the protection of the environment.

viii. **Accountability**
Accountability is a key requirement of good governance. Not only governmental institutions but also the private sector and civil society organizations must be accountable to the public and to their institutional stakeholders. The general principle is that an organization or institution is accountable to those who will be affected by its decisions or actions. Accountability cannot be enforced without transparency and the rule of law.

1.4 The clamour for good governance
Globally, there has been a sustained clamour for good governance at all levels. As such, corporate bodies, civil societies, religious bodies and even governments often seek to be seen to be working hard to engender principles of good governance in their affairs.

1.5 Challenges to Good Governance
Kenya has had a long history of bad governance, from the oppression of the British Colonial government, to the Kenyatta and Moi dictatorship and currently the Kibaki ineffective, undisciplined and un-responsive administration. Bad governance in Kenya is caused by a number of factors, which include:

i. **Constitutional limitations**
Historically, Kenyans were bedeviled by a constitution that ignored good governance fundamentals such as the principle of separation of powers, checks and balances, the independence of the judiciary and just and equitable distribution of resources. These are some of the ills that Kenyans sought to address by enacting a new constitution. The nation is now at the transition stage between the two constitutions, and some of these factors continue to affect governance. It is expected that with good and fair implementation of the new constitution, good governance will have a firm foundation in the nation.

ii. **Failure to implement National Policies**
The National Economic and Development Policies are rarely followed as a framework for economic growth. They are largely ignored and replaced with directives from political leaders which are often given without due regard to the needs of the community or national priorities. Indeed the Poverty
Reduction Policy Papers of the 1990s were prepared with little or no participation of the people of Kenya making them nothing more than proposals for donor funding. Very few people know of noble initiatives such as the vision 2030 and as a result do not take it into consideration when developing or implementing development plans.

iii. Lethargy in the civil service
Inertia and lethargy has resulted in many public officers going through their routine work with little enthusiasm. Millions of shillings go to waste as civil servants indulge in the theft of time and sluggish conduct. Work that should take hours ends up taking weeks and even months or years, if it is ever done. In 2002, the National Rainbow Coalition introduced the Results for Kenya initiative that led to signing of performance contracts. However, the initiative appears to have been abandoned as nepotism, impunity and corruption continued to infest the civil service particularly at the national level.

iv. Corruption
The pervasion of corruption in Kenya is one of the biggest contributors to negative development and extensive poverty. Corruption has not only hindered access to essential services by most people but has also increased the cost of public procurement through inflation of tenders and government projects. Further, corruption has promoted judicial injustice since some people use bribes to win cases while those who could not afford to pay hefty sums ended up languishing in jails or losing cases unfairly. Corruption has been so rampant that over the years Kenya is continually ranked among the top ten most corrupt nations by the Transparency International. Talking about the impact of corruption, S. C. Bansal in his book “Invisible Wound” says:

*Corruption threatens people and their governments. It makes societies unfair. It is argued that bribery is a negotiated rent, as the beginning of all illegalities and tyranny. There is no more powerful engine of injustice and cruelty, for bribery destroys both faith and state. The serious consequence of corruption thus is not only State Capture but also Mind Capture. Rent seeking behavior occupies the human mind and removes it from useful task.*

v. Tribalism
Tribalism is defined as “loyalty to a tribe or social group”, and becomes a negative force on governance when it replaces merit in the decision making process. Decision makers practice tribalism when seeking to build political and social foundations upon which to safeguard their political and leadership positions. As such, tribalism distorts decisions, denies deserving persons, groups and projects resources, and produces divergence from plans and policies. Many a time tribalism has resulted in violence between communities after incitement by political and other leaders.

vi. Impunity
Impunity, defined as “exemption from punishment, harm or recrimination”, is the single-most critical factor in lack of good governance in Kenya. This is because many people hold the belief that they are exempted from accountability for their actions and therefore engage in all manner of illegalities with abandon.
Indeed it has been pointed out that Impunity, Tribalism and Corruption are the greatest threats to stability, peace and prosperity in Kenya. One can call them the Axis of Evil. It is notable that in her book which expounded on high level corruption in Kenya, Ms Michella Wrong averred that the post election violence of 2007 had a direct link to corruption and tribal hatred and bigotry that has been sowed and nurtured among the people since independence.

During his visit to Kenya in 2006, President Barrack Obama (then Senator) said during a speech: “While corruption is a problem we all share, here in Kenya it is a crisis – a crisis that’s robbing an honest people of the opportunities they have fought for – the opportunities they deserve… corruption can also provide opportunities for those who would harness the fear and hatred of others to their agenda and ambitions”.

Despite the enactment of the new constitution, Kenyans must deliberately and firmly deal with this Axis of Evil if they are to save the nation from becoming a totally failed state.

1.6 The Role of the Government in Governance
The government is the glue that holds the various components of society together and is the primary actor in national level governance. It has numerous and complex roles which it plays through legal and structural organs, planning and budgeting, revenue collection and expenditure and service delivery.

The government performs the following duties:
- Maintains law and order
- Enacts policies and legislation to facilitate administration
- Enforces policies and legislation
- Protects the rights of citizens
- Champions the wishes, values and aspirations of citizens
- Promotes individual and private enterprise
- Aggregates and redistributes resources for the benefit and welfare of all

1.7 Other Actors in Governance

<table>
<thead>
<tr>
<th>Unit/ Player</th>
<th>Role</th>
</tr>
</thead>
<tbody>
<tr>
<td>i. People/Citizens</td>
<td>• The people form the basis of government. There can be no state or government without people&lt;br&gt;• The taxes people pay ensure the functioning of the organs of government&lt;br&gt;• Constitute the wealth of a country: People are a country’s biggest resource&lt;br&gt;• Justification for policies, laws and procedures: Without citizens there would be no need for policies and laws&lt;br&gt;• Check, monitor and petition: The government should not overrun its people, and the citizens must constantly demand accountability and transparency from their government</td>
</tr>
</tbody>
</table>
In a decentralized environment, the people participate in the management of public resources

ii. Natural resources
   • Part of the country’s wealth

iii. Neighbors/External relations
   • Source of and market for goods and service
CHAPTER TWO

2.0 Introduction to Decentralization

Decentralisation / Devolution is the situation where the central government cedes powers to sub national units such as regional or local governments which have some geographical jurisdiction (Katsiaouni, 2003). Decentralization is one way in which people’s right to participate in governance is attained (Muia 2008a).

2.1 Dimensions of Decentralisation

Decentralization mainly takes four key dimensions.

i. **Administrative decentralization** which refers to the transfer of responsibility for the planning, financing and management of certain public functions.

ii. **Political Decentralization** involves horizontal sharing of political power between the three arms of government – executive, legislature and judiciary – as well as vertical sharing of powers between the national government and sub-national governments (Mwenda, 2010).

iii. **Fiscal decentralization** involves the transfer of financial resources from the central government to autonomous local agencies. This entails direct transfers from the national level to the local agencies or assignment of taxation powers to the sub-national units.

iv. **Economic/Market decentralization** where the national or sub-national government assigns responsibilities to private entities which offer the services and levy user charges for the same. In this regard the private entity works for and on behalf of the government. However the government still bears the legal responsibility to ensure that the service is delivered. In certain cases the government may have shares in the private entity and thus sits in the decision making bodies. Such services would include water supply, electricity supply, garbage collection, toll services fees collection among others.

NOTES:

a) Fiscal decentralization mostly accompanies administrative and political decentralization

b) Economic/market decentralization can be implemented by the national government or the sub-national governments depending on the task at hand.
2.2 Types of Decentralisation

There are four main types of decentralization. These types are determined by the dimension or combination of dimensions adopted by a country or in a given circumstance. Appreciably, it is very rare for a country to implement only one type of decentralization.

i. De-concentration happens when a national government office transfers responsibilities to a field officer who is fully accountable to the said national office. This is common in unitary states and the field officer has no powers to act on their own but must comply with the terms of reference set at the centre. In this type of decentralization, accountability is upward and “the orders from above” always prevail.

ii. Delegation entails transfer of both administrative and fiscal powers to sub-national units or semi-autonomous bodies such as parastatals, private sector and Non Governmental Organisations (Mwenda quoting Muia, 2008). These bodies manage provision of goods and services on behalf of the government. Accountability in this case is largely upward to the “mother” authority. An example is the delegation of agricultural research operations by the Ministry of Agriculture to the Kenya Agricultural Research Institute.

iii. Devolution happens when the sub-national units have political, administrative and fiscal powers. Devolution “transfers responsibilities for services to local governments that elect their own officials, raise their own revenue and have independent authority to make investment decisions”. Such devolved units have recognized boundaries within which to operate. However, the national and sub-national units are not separate entities but rather work in cooperation. Devolution is thus the strongest type of decentralization and the most preferred by developing countries.

iv. Privatisation encompasses the complete transfer or provision of goods and services to the free market operations (Wikipedia, 2010) or to Public-Private Partnerships where the government and private sector actors cooperate to provide the service.

The table below shows the interaction between the dimensions and types of Decentralisation:

<table>
<thead>
<tr>
<th>Dimension</th>
<th>Type</th>
<th>De-concentration</th>
<th>Delegation</th>
<th>Devolution</th>
<th>Privatization</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative</td>
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<td></td>
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<td></td>
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<tr>
<td>Fiscal</td>
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<tr>
<td>Political</td>
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</tr>
<tr>
<td>Economic/Market</td>
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</table>

Source: Adopted from Steiner, 2005
2.3 Benefits of Devolution

According to a research done by the Institute of Economic Affairs (Mwenda, 2010), there are several reasons advanced for devolution:

One, by distributing authority over public goods and revenues, devolution makes it difficult for individuals or groups of official actors to collude and engage in corrupt practices.

Two, where devolution of authority takes place along territorial and communal lines, it can foster effective cooperation within the devolved units. As a result, local communities are able to mobilize social pressure against rent seeking and corruption.

Three, by creating a number of governments below the national level, devolution multiplies the opportunities for political participation and therefore enhancement of democratic culture (Ndulo, 2006).

Four, by empowering communities to manage their own resources more effectively, devolution simultaneously strengthens local institutions.

Five, by affording the local community opportunity to participate in the planning and implementation of development projects, devolution enhances their sense of ownership of the projects (Barrett et al., 2007; Oloo, 2006).

Six, a key political advantage a devolved system of government has over centralised systems is that it is more inclusive and provides channels for the expression of regional sentiments and encourages national policies to become more sensitive to regional variations.

Seven, devolved levels of government have their raison d’etre (reason for existence) in the provision of goods and services whose consumption is limited to their own jurisdictions.

Eight, its ability to effectively promote productive efficiency in the provision and use of public services and the allocation of resources.

Nine, in terms of poverty alleviation, Barrett et al. (2007) argue that devolution provides a more effective governance framework for advancing pro-poor policies since the sub-national institutions are likely to be more familiar with the local circumstances and cost conditions and so are better equipped to distribute resources more equitably.

Ten, devolution encourages innovation in the delivery of services as individuals have greater incentive to participate in all aspects of community life and to seek solutions to individual and collective choices (Kimenyi, 2002).

2.4 Pitfalls of Devolution

The above noted benefits notwithstanding, devolution may not always lead to improved governance and economic performance. The IEA study observed, for example, that devolution may reduce the ability of the national government to redistribute resources and therefore the capacity to assist the less developed sub-national units. In addition, devolution may lead to the capture of local governments by the political elites, especially if devolution rules and systems are not well designed, and hence allow the local politicians to use the local resources to consolidate their hold on to political power through patronage. If not properly designed and implemented, devolution leads to the replication of central government bureaucracies, inefficient utilization of resources and lack of accountability at the sub-national level (Barrett et al., 2007).
CHAPTER THREE

3.0 Decentralization in Kenya

3.1 History

Since independence, Kenya has attempted various mechanisms of decentralization most of which have oscillated between de-concentration, delegation and privatization. These initiatives have included the following:

i. The Local Government System through Local Authorities

It is only through the establishment of local authorities that Kenya adopted true devolution. Characteristically, the 175 Local Authorities have:

a) Political Powers (they elect their own leaders such as mayors, chairmen, councilors who provide oversight in the management of the councils)
b) Administrative powers (they employ their own staff who are charged with the delivery of certain public goods and services)
c) Fiscal powers (they have own budgets that are read and approve by the council assembly and also raise their own revenues through collection of assigned taxes and fees)

However, over time the local authorities have been reduced to delegated units as they are heavily dependent the national government for revenue making them vertically accountable. This has majorly resulted from misuse of locally generated finances.

Further, the Ministry of Local Government has the power to quash decisions, including nominations of Council Members, and thus they lack sufficient political power.

Thirdly, the chief executive officer of the local authority is the Clerk who is appointed by the central government and can be transferred at will. This means that true administrative powers are with the central government.

Nonetheless, the new constitution restructured the structure of government by establishing counties. By the time of writing this guide, consultations were ongoing to establish how the existing local authorities would interact with county governments, and how the latter would be managed. It is anticipated that these challenges that have faced the local authorizes will be avoided with regard to the county governments.
ii. The Regional (Majimbo) System
The independence constitution of Kenya provided for regional governments that sought to give all parts of the country self governance. However, the central government starved the regions of resources in a bid to control them, in addition to exerting political pressure on the KADU (Kenya African Democratic Union) to dissolve. KADU was the agitator for regionalism, and with its dissolution the vision for the same died. In 1964, the constitution was amended to scrap the regional governments and instead the Provincial Administration was re-established and empowered, which went to strengthen the central government. Regrettably, concentration of power at the centre and poor delivery of services at the local levels caused a re-thinking of development in later years.

iii. The District Focus for Rural Development (DFRD)
In 1971, a national conference in Kericho suggested there was need to have a bottom up approach to development planning and service delivery so as to spur development in the rural areas. This led to the conceptualization of the Special Rural Development Programme (SRDP) in 1974. However, the SRDP was not operationalised due to limitations of resources.

In 1983, the District Focus for Rural Development (DFRD) was initiated with the goal of institutionalizing participatory bottom-up approach development. District Development Committees (DDCs) were established under the chairmanship of the District Commissioners (DC) and secretariats of the District Development Officer (DDO). The goal of the DDC was to serve as the focal forum for all stakeholders in the district engaged in development. Locally developed plans were consolidated into 5-year District Development Plans (DDPs). The DDPs, while expressing the aspirations of the local areas, were also guided by the National Development Plan. Given the dominance of DFRD by the provincial administration, the initiative lacked the participation of citizens and thus did not represent the views of local areas. Further, resource constraints curtailed the effective implementation of the DDPs. The DFRD strategy was revised in June 2008 to conform to the Vision 2030 and its First Medium Term Plan (2008-2012) which has a strong emphasis on political decentralization.

iv. Decentralized Financing
Kenya has at various times put in place initiatives to devolve management of financial resources to the local levels. The funds covered under this are discussed in detail in Chapter 4 of this guide.

3.2 Decentralization in the New Constitution

At the heart of the clamour for a new constitution was a determination by the people of Kenya to devolve governance and decision making so as to give them a greater say in how they and their resources are governed.

It therefore followed that the structure of government was changed radically in the new constitution so as to position devolution / decentralization to be at the core of national life. The devolution adopted in the new constitution is intended to achieve the following:

i. Promote democratic and accountable use of power

ii. Foster national unity by recognizing diversity
iii. Give self governance powers to the people
iv. Enhance the participation of people in the exercise of powers of state and in making decisions that affect them
v. Enable communities to manage their own affairs further their development
vi. To protect and promote the interests of minorities and marginalized communities
vii. To provide easily accessible services throughout Kenya
viii. Ensure equitable sharing of national resources

To achieve these objectives, the constitution established 47 county governments in addition to the national government as well as the following guidelines:

- Adoption of the principles of democracy and separation of powers, reliability of sources of revenue, and equitable representation where one gender cannot comprise more than two-thirds of the members of governance and management bodies
- Requirement that the national government ensures reasonable access to its services in all parts of the republic (Article 6(3))
- Requirement that the county governments on their part decentralize their services to the extent that it is efficient and practicable to do so (Article 176(2))

To ensure efficiency and avoid the pitfalls that faced the previous attempts at decentralization, the constitution has clearly defined the structures, mandates and rights of both the national as well as the county governments. These distinctions are clearly spelled out in Schedule 4 of the constitution.

The figure below summarises the structure of government under the new dispensation:
i. The National Government

The National Government comprises of the Legislature, the Judiciary and the Executive.

a) The Legislature (Parliament)
Kenya shall, after the next elections, have a bi-cameral house comprising of the Senate and the National Assembly.

The Senate:
This is the upper house of Parliament. The duty of the Senate will be to serve the interests of the county governments by debating and approving the bills that will touch on the same, as well as determining the allocation of national revenue among the counties. The Senate will also have oversight over state officers by considering and determining resolutions to impeach the President or Deputy President.

The Senate shall have the following members:
- 47 Senators elected by voters in the counties (one senator per county)
- Sixteen women will be nominated as members of the senate by political parties according to their proportion of the elected Senate members
- Two members, a man and a woman, representing persons with disabilities
- Two members, a man and a woman, representing the youth
- The speaker

The National Assembly:
This is the Lower House of Parliament. Its duty is to represent the people from the constituencies by debating and resolving issues of concern to them. The National Assembly will enact legislation. In addition, the National Assembly shall exercise oversight of state organs as well as national revenue and expenditure, and shall approve declarations of war and states of emergency.

The National Assembly shall have the following members:
- 290 members elected from the constituencies
- 47 women, one elected from each county
- 12 members nominated by parliamentary political parties according to the proportion of their elected members
- The Speaker

b) The Judiciary
The Judiciary is the primary arbitrator of disputes between Kenyans being guided by the determination to ensure that justice shall be done to all and shall not be delayed. The Judiciary is also the primary interpreter of the constitution and the laws of Kenya.

Headed by the Chief Justice, the Judiciary shall have the following components:
- The Supreme Court which is the highest court in Kenya (which shall have the Chief Justice, the Deputy Chief Justice and five other judges)
c) The Executive

The Executive shall exercise the executive authority on behalf of the people of Kenya. The Executive shall be comprised of:

- The President
- The Deputy President
- The Cabinet, which is made up of:
  - The President
  - The Deputy President
  - The Attorney General
  - Cabinet Secretaries (not less than 14 and not more than 22)

Functions of the National Government

As defined by Schedule 4 of the constitution, the national government shall have the following general functions:

1. National Policy and Standards
2. Economic Planning
3. Monetary Policy
4. Agricultural Policy
5. Health Policy
6. Energy Policy
7. Transport and Communications
8. National Public Works
9. Housing Policy
10. Tourism Policy
11. Education Policy, Standards and Primary upwards
12. Courts
13. Security

The detailed functions of the national government will include:

1. Foreign affairs, foreign policy and international trade.
2. The use of international waters and water resources.
3. Immigration and citizenship.
4. The relationship between religion and state.
5. Language policy and the promotion of official and local languages.
6. National defence and the use of the national defence services.
7. Police services, including—
   a. the setting of standards of recruitment, training of police and use of police services;
   b. criminal law; and
   c. correctional services
8. Courts
9. National economic policy and planning
10. Monetary policy, currency, banking (including central banking), the incorporation and regulation of banking, insurance and financial corporations
11. National statistics and data on population, the economy and society generally
12. Intellectual property rights
13. Labour standards
14. Consumer protection, including standards for social security and professional pension plans
15. Education policy, standards, curricula, examinations and the granting of university charters
16. Universities, tertiary educational institutions and other institutions of research and higher learning and primary schools, special education, secondary schools and special education institutions
17. Promotion of sports and sports education
18. Transport and communications, including, in particular—
   a. road traffic;
   b. the construction and operation of national trunk roads;
   c. standards for the construction and maintenance of other roads by counties;
   d. railways;
   e. pipelines;
   f. marine navigation;
   g. civil aviation;
   h. space travel;
   i. postal services;
   j. telecommunications; and
   k. radio and television broadcasting
19. National public works
20. Housing policy
21. General principles of land planning and the co-ordination of planning by the counties
22. Protection of the environment and natural resources with a view to establishing a durable and sustainable system of development, including, in particular—
   a. fishing, hunting and gathering;
   b. protection of animals and wildlife;
   c. water protection, securing sufficient residual water, hydraulic engineering and the safety of dams; and
   d. energy policy
23. National referral health facilities
24. Disaster management
25. Ancient and historical monuments of national importance
26. National elections
28. Health policy
29. Agricultural policy
30. Veterinary policy
31. Energy policy including electricity and gas reticulation and energy regulation
32. Capacity building and technical assistance to the counties
33. Public investment
34. National betting, casinos and other forms of gambling
35. Tourism policy and development

**ii. The County Government**

The constitution has established 47 county governments in line with the districts that were defined by the Provinces and Districts Act of 1992. The primary objective of county governments is to decentralize state organs, their functions and services from the capital of Kenya.

Each county government shall comprise of The County Assembly and the County Executive Committee.

a) The County Assembly
   Mandated to serve as the legislative body for the county, the Assembly shall have the following members:
   - Members elected to represent wards
   - Special seats meant to ensure that no more than two thirds of the members of the Assembly are of the same gender (to be nominated by political parties)
   - The number of members of marginalized groups, including persons with disabilities and youth, as shall be prescribed by an Act of Parliament (to be nominated by political parties)
   - The Speaker

b) The County Executive Committee
   Each county shall have a governor who shall serve as the chief executive officer of that county. The governor shall be elected by the residents of the county. To give support to the governor, each county shall have an Executive Committee that shall comprise of:
   - The County Governor
   - The Deputy County Governor
   - Members appointed by the County Governor who shall not be more than ten

The staff of the counties will be recruited through a mechanism that will be determined by Parliament.

**Functions of the County Government**

As defined by Schedule 4 of the constitution, the county governments shall have the following functions:
1. Agriculture
2. Health Services
3. Control of Pollution
4. Cultural Activities, Public Entertainment and Amenities
5. Transport
6. Animal Control and Welfare
7. Trade Development and Regulation
8. County Planning and Development
9. Pre-primary, polytechnics, home craft and childcare centers
10. County Public Works
11. Fire Fighting Services

The details of the various functions are as follows:

1. Agriculture, including—
   (a) crop and animal husbandry;
   (b) livestock sale yards;
   (c) county abattoirs;
   (d) plant and animal disease control; and
   (e) fisheries.

2. County health services, including, in particular—
   (a) county health facilities and pharmacies;
   (b) ambulance services;
   (c) promotion of primary health care;
   (d) licensing and control of undertakings that sell food to the public;
   (e) veterinary services (excluding regulation of the profession);
   (f) cemeteries, funeral parlours and crematoria; and
   (g) refuse removal, refuse dumps and solid waste disposal.

3. Control of air pollution, noise pollution, other public nuisances and outdoor advertising.

4. Cultural activities, public entertainment and public including—
   (a) betting, casinos and other forms of gambling;
   (b) racing;
   (c) liquor licensing;
   (d) cinemas;
   (e) video shows and hiring;
   (f) libraries;
   (g) museums;
   (h) amenities,
   (i) sports and cultural activities and facilities; and
   (j) county parks, beaches and recreation facilities.

5. County transport, including—
   (a) county roads;
   (b) street lighting;
   (c) traffic and parking;
   (d) public road transport; and
   (e) ferries and harbours, excluding the regulation of international and national shipping and matters related thereto.

6. Animal control and welfare, including—
   (a) licensing of dogs; and
(b) facilities for the accommodation, care and burial of animals.

7. Trade development and regulation, including—
   (a) markets;
   (b) trade licences (excluding regulation of professions);
   (c) fair trading practices;
   (d) local tourism; and
   (e) cooperative societies.

8. County planning and development, including—
   (a) statistics;
   (b) land survey and mapping;
   (c) boundaries and fencing;
   (d) housing; and
   (e) electricity and gas reticulation and energy regulation.

9. Pre-primary education, village polytechnics, homecraft centres and childcare facilities.

10. Implementation of specific national government policies on natural resources and environmental conservation, including—
    (a) soil and water conservation; and
    (b) forestry.

11. County public works and services, including—
    (a) storm water management systems in built-up areas; and
    (b) water and sanitation services.

12. Fire fighting services and disaster management.

13. Control of drugs and pornography.

14. Ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level.
CHAPTER FOUR

4.0 Existing Mechanisms of Decentralized Financing

Seeking to engender participation of the people in management of public resources and to ensure that more funds reach the grassroots, the Government prior to the adoption of the new constitution initiated various funds through which grassroots projects were financed.

It is anticipated that the structures and operations of quite a number of these funds will change so as to adapt them to the new constitutional dispensation. In this regard, trainings will be organized in future when the devolution structure is fully crystallised and the place of the decentralized funds is affirmed.

In this guide, we shall consider the following decentralized funds:

- Free Primary Education (FPE)
- Free Secondary Education (FSE)
- Constituency Secondary Education Bursary Fund
- Constituency HIV and AIDS Fund
- Youth Enterprise Development Fund
- Women Enterprise Development Fund
- Road Maintenance Levy Fund and the Constituency Roads Fund
- Local Authority Transfer Fund
- Constituency Development Fund
- Economic Stimulus Programme

4.1 Free Primary Education (FPE)

Introduced in 2003, the Free Primary Education project aims at giving access to basic education for all school-going age children. The government was aiming at removing the obstacles that hinder children from accessing and completing primary school education. Provision of free primary education is a core part of the poverty reduction strategy of the government.

The FPE is meant to benefit school-going age children, these being boys and girls who are 6 – 12 years old. The FPE is however not limited to children but is also open to anyone else who has not had primary school level education.
i. **Structure of the Free Primary Education**

The responsibility for providing Free Primary Education is shared between the government and the parents.

The government caters for the levies and fees for tuition by paying KShs 1,020 per child to the school. In addition, the government provides subsidies for low cost boarding schools as well as supporting school feeding programmes in the Arid and Semi Arid Lands.

On their part, the parents are responsible for:

- Examination fees for STD 8
- School uniforms
- School meals
- Transport to and from schools
- Boarding facilities
- Health care

To ensure successful implementation of Free Primary Education, schools are required to admit and enroll all children of school-going age without discrimination regardless of their backgrounds or special needs. This notwithstanding, rehabilitation is provided first for street children who have been exposed to drugs or have emotional stress to enable them fit in regular schools. Schools are also required to establish classes to serve over-age children and adults. Classes can be established to cater for over-age pupils from clusters of schools.

Where necessary, schools can introduce morning and afternoon shifts for children in classes One to Three so as to accommodate all those who seek to enroll.

ii. **Charging of Additional Levies**

Schools must obtain approval from the Ministry of Education before charging additional levies. To get the authorization, the parents with children in the school must have consensus to pay the amount; thereafter, the Area Education Officer tables a request with the District Education Board. The District Education Board then submits the request the Provincial Education Office for forwarding to the Ministry of Education headquarters for consideration. The additional levies can only be charged after the approval is received from the Ministry.

iii. **Construction and Maintenance of Facilities**

The introduction of Free Primary Education does not require parents to build news schools. Rather, the government encourages parents to improve, refurbish and use alternative existing facilities such as community and religious buildings.

iv. **Roles of Various Stakeholders**

The successful attainment of Free Primary Education requires the efforts and contribution of all stakeholders at both national and local levels. The government thus seeks to build partnerships with the stakeholders and also define the role each of them is to play. The roles of some of the stakeholders are:
a) Ministry of Education
As the lead implementer of the Free Primary Education, the Ministry of Education carries the main responsibility. The Ministry is therefore required to undertake the following as part of its mandate:

• Appoint credible trustees for the Universal Primary Education Fund and ensure funds from the related bank accounts are properly used and managed
• Strengthen the capacities of local institutions, school management committees and District Education Boards in planning and implementation of Free Primary Education
• Supervise schools to ensure proper management and efficient use of existing school resources
• Support continuous capacity building for school committees and teachers in resource management
• Support the purchase and provision of basic teaching and learning materials (chalk, books, rulers, pens and games items)
• Ensure quality education provision by improving the teacher/pupil ratio
• Encouraging community income generating projects meant to support the Free Primary Education
• Support complementary Non-Formal Education for out of school children
• Ensure on-going monitoring and evaluation of the quality of education provided
• Develop long-term plans for training, employing, deploying and paying of teachers

b) District Education Office
The District Education Office is the local unit of the Ministry of Education at the district level. District Education Officers work closely with all stakeholders at that level. In support of the Free Primary Education, the District Education Office is responsible for:

• Spearheading the development of Free Primary Education implementation plans for the district
• Mobilising and recording the contributions of all duty bearers in the Free Primary Education implementation process
• Ensuring that the Free Primary Education policies and guidelines are followed
• Organising district-wide sensitization forums on the Free Primary Education
• Supervising heads of schools to ensure they adhere to the Free Primary Education principles
• Supervising schools to ensure that: learning / teaching materials are available, schools follow approved curricula, and up-to-date records of pupil’s attendance and performance are maintained
• Ensuring regular production of progress reports on the implementation of Free Primary Education
• Ensuring that material contributions received in support of the Free Primary Education are recorded and accounted for
• Receiving and processing petitions from schools requesting to charge additional levies
• Ensuring that action is taken against school heads and school committees that do not adhere with the Free Primary Education policies and guidelines
c) Primary Schools
Schools are the theatre where the Free Primary Education is implemented. As such, primary schools have the following roles to play:

- Follow the Free Primary Education policies and guidelines
- Work closely with the Ministry of Education and other partners in advocacy as well as creating awareness on the Free Primary Education
- Set up and operationalise School Management Committees. Each committee comprises of:
  - The Head Teacher (Chairperson)
  - The Deputy Head Teacher (Secretary)
  - Chairperson of the Parent-Teacher Association (PTA)
  - Two parents who are not members of the PTA
  - One teacher to represent each school grade class
  - Set up the required bank accounts
  - Purchase instructional materials
  - Involve parents and communities in making decisions on school expenditure
  - Provide each pupil with minimum specified supplies of stationery
  - Maintain records of the pupils’ payments for audit purposes
  - Seek approval from the Ministry of Education before effecting any additional levies

d) Parents
Primarily, it is the duty of parents to take their children to school and encourage and support them to remain there till completion. While at home, parents have a duty to clothe, feed and provide health care for the children. On the implementation of the Free Primary Education, parents have the following roles to play:

- Have and display a positive attitude towards education
- Facilitate each child’s access to primary school without discrimination
- Ensure that the school environment is free from crime, drugs and alcohol
- Protect school land and property from grabbers
- Monitor the school management to ensure proper use of funds and resources
- Contribute to build and maintain learning facilities
- Form school management committees to support teachers in the running of the schools
- Monitor their children’s progress and performance and support teachers in the endeavours to deliver education
- Assist children with homework
- Allow time for children to study and play after school without discrimination between boys and girls
- Ensure boys and girls have equal share of household chores
- Support non-formal education and also the Early Childhood Development programmes by paying teachers’ salaries
- Participate in community initiatives aimed at supporting the Free Primary Education
e) Religious Organisations
The government recognizes that religious organizations have over the years played a very important role in education in Kenya. The government therefore urges religious organizations to support the Free Primary Education initiative by:
- Promoting moral education through support for teaching of religious education
- Assisting in the expansion of primary schools where need arises
- Assisting in provision and supply of basic teaching and learning materials
- Providing counseling and character formation for the pupils
- Promoting alternative channels of delivering education such as mobile schools, feeder schools and multi-shifts
- Mobilizing and sensitizing parents and communities on the Free Primary Education

v. Bank Accounts for the Free Primary Education

Each primary school is required to open two bank accounts:

a) School Instructional Materials Bank Account (SIMBA)
Funds sent to this account cater for the purchase of text books, pens, exercise books, charts and maps, chalk, supplementary readers and reference materials, registers and other learning / teaching supplies.

The government deposits KShs 650 per year per enrolled pupil into this account.

b) General Purpose Account
This account caters for the payment of wages for support staff, repairs and maintenance, phone and electricity and water and garbage collection bills, postage and general expenses.

The government deposits KShs 370 per year per enrolled pupil into this account.

4.2 Free Secondary Education (FSE)

A major challenge that has faced the education sector in Kenya was the low transition rate from primary to secondary school. To address this challenge, the government in 2008 introduced Free Secondary Education so as to increase the number of students continuing with their education. Through the Free Secondary Education initiative, the government pays for the tuition of the students while parents cater for boarding and other expenses.

i. Structure of the Free Secondary Education
Like the Free Primary Education, FSE is collaboration between the government and the parents. The government pays for the tuition while the parents pay for other expenses.

Towards this, the government provides KShs 10,265 per student per year for tuition. The maximum that a school can charge for boarding is KShs 18,627 which is paid by the parent.
The breakdown of these figures indicates the following:

<table>
<thead>
<tr>
<th>Vote head</th>
<th>Day schools GoK subsidy</th>
<th>Boarding schools GoK Subsidy</th>
<th>Parent Fees</th>
<th>Total Fees</th>
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</thead>
<tbody>
<tr>
<td>Tuition</td>
<td>3,600</td>
<td>3,600</td>
<td>-</td>
<td>3,600</td>
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<tr>
<td>Boarding, Equipment and Stores</td>
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<td>-</td>
<td>13,034</td>
<td>13,034</td>
</tr>
<tr>
<td>Repairs, Maintenance and Improvement</td>
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<td>400</td>
<td>400</td>
<td>800</td>
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<tr>
<td>Local Travel and Transport</td>
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<td>500</td>
<td>900</td>
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<td>Administration Costs</td>
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<td>350</td>
<td>850</td>
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<tr>
<td>Electricity, Water and Conservancy</td>
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<td>500</td>
<td>1,500</td>
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<tr>
<td>Activity</td>
<td>600</td>
<td>600</td>
<td>-</td>
<td>600</td>
</tr>
<tr>
<td>Personnel Emoluments</td>
<td>3,965</td>
<td>3,965</td>
<td>2,743</td>
<td>6,708</td>
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<tr>
<td>Medical</td>
<td>300</td>
<td>300</td>
<td>100</td>
<td>400</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>10,265</strong></td>
<td><strong>10,265</strong></td>
<td><strong>18,627</strong></td>
<td><strong>28,892</strong></td>
</tr>
</tbody>
</table>

**ii. Rules to guide the Free Secondary Education**

The operations of the Free Secondary Education are guided by the following rules:

a) A school cannot change the budget lines without authority of the District Education Board

b) To qualify to receive the Free Secondary Education money, as school must:
   - Be duly registered
   - Have a minimum of 40 students and a maximum of 45 students in each eligible class
   - Submit accurate and up-to-date enrolment data
   - Submit relevant bank accounts to the Ministry of Education

c) District, Provincial and National schools will be expected to charge boarding fees that reflect the cost of living in their respective areas, provided that they do not exceed the maximum amount

d) The school’s Board of Governors must present the boarding fees proposal to the Annual General Meeting of the school for approval before effecting it

e) The government supports Non Teaching Staff using a formula that relates the number of streams to the number of non teaching staff expected

**iii. Bank Accounts for the Free Secondary Education**

Each qualified school is required to open three bank accounts:

a) Tuition account
   This is the account into which the Ministry deposits the tuition money. The funds are utilized in the procurement of teaching and learning materials only, and all payments out of this account must be by cheque.

b) Operations Account
   This is the account into which the Ministry deposits all other subsidies apart from the tuition support.
c) Boarding Account
   This is the account into which funds received for boarding from parents are deposited. The money is used for boarding related expenses.

iv. Bank Account Operations
The following rules guide the operations of the bank accounts:
- Each account shall have a separate cash book
- The school shall acknowledge receiving the subsidy funds through a letter sent to the Ministry
- The school has the freedom to operate a fourth bank account that handles development funds
- The school must have a Tender Committee in place and is required to follow the laid down procurement and tender regulations

v. Costs met by Parents in the Free Secondary Education
To ensure successful implementation of the Free Secondary Education, the parents are required to meet the following costs:
- School uniforms
- Boarding related costs
- Lunch and transport for day scholars
- Other projects such as expansion of infrastructure upon approval of the same by the District Education Board

vi. The Role of Citizens (How you can participate)
As a citizen, you can contribute to the success of the Free Secondary Education even when you are not a parent by:
- Seek and acquire information on Free Secondary Education from the School Principals, NGOs and Ministry of Education officials near you
- Participate in secondary school management committees including the Parent-Teachers Association, the Board of Governors and the Tender Committee
- Seek to be elected or appointed as a member of the Parent Teachers Association, the Board of Governors, or the Tender Committee
- Encourage local organizations, churches and mosques to educate their members on the Free Secondary Education
- Write letters and memoranda to Parent Teachers Associations, Boards of Governors, Tender Committees, District Education Boards, Ministry of Education officials, or Members of Parents on any issue that concerns implementation of the Free Secondary Education

4.3 Constituency Secondary Education Bursary Fund (SEBF)
In 2003, the government transformed a bursary fund that had since 1993 been managed by the Ministry of Education and devolved it to the constituency level. Constituency Bursary Committees were established to administer the funds.
The Constituency Secondary Education Bursary Fund is intended to achieve the following objectives:

- To increase access to secondary school education
- To ensure that students remain in secondary school till completion
- To reduce disparities and inequalities in the provision of secondary school education among diverse regions, communities, social and economic strata

**i. Allocations and Disbursement**

Each constituency is allocated a standard KShs 1 million and thereafter a second amount that is determined by a formula that takes into consideration various factors including: Population size, District poverty index and Student enrollment in secondary schools. Disbursement of the money is ordinarily completed by the month of May and the constituency is expected to account for it within two months.

To receive the money, the constituency is required to open a Constituency Bursary Fund Account and submit the details of the account to the Ministry of Education headquarters with a copy to the District Education Board.

As a general rule, the Bursary Fund accounts have three signatories:

- The District Education Officer who is a mandatory signatory
- Two other persons proposed by the Constituency Bursary Committee and approved by the Ministry of Education

**ii. The Constituency Bursary Committee**

Each constituency is required to form a Constituency Bursary Committee that has the following people as members:

- Area Education Officer (Secretary to the Committee)
- Area Member of Parliament
- Kenya National Union of Teachers (KNUT) representative
- Three representatives of religious organizations
- One chairperson of a Board of Governors
- Two chairpersons of Parent-Teachers Associations of secondary schools
- One representative of the Kenya Secondary Schools Heads Association
- One representative from an education based NGO or CBO
- Two co-opted members (committee co-opt them if necessary)

The Chairperson and Treasurer are elected from among the members in elections presided over by the District Education Officer. The committee is required to have a minimum of 13 and a maximum of 15 members, of whom no more than two thirds can be of the same gender.

**iii. Application and Awarding of Bursaries**

The following procedure is followed when allocating bursaries:

a) Parents and/or students obtain bursary application forms from the Education Offices in the area free of charge

b) The forms are submitted to the Area Education Officer by the parent
c) The Area Education Officer submits the forms to the Constituency Bursary Committee

d) The Constituency Bursary Committee scrutinizes the forms, deliberates and agrees upon who is qualified to be supported. To aid the deliberations, the Committee puts the students into different categories depending on their level of need:
   - Family status (ranked as total orphan, partial orphan, single parent or needy parents)
   - Affirmative action or special cases (children from the slums, marginalized communities, special needs, children with disabilities, girl-child, boy-child)
   - Discipline (ranked as excellent, very good, good, fair, or poor)
   - Academic performance (ranked as excellent, very good, good, average, or below average)

e) Marks are awarded for each of these categories and scores given out of a possible 100. The children with the highest scores are awarded the bursaries.

f) The list of beneficiaries and the minutes of the Constituency Bursary Committee signed by the Chairman, Secretary and Treasurer are forwarded to the District Education Officer who prepares the payments and signs the cheque within one week

g) The cheques are sent to the Area Education Officer’s office where the other two signatories sign them

h) Cheques are then disbursed to the respective schools. Notably, it is the responsibility of the Constituency Bursary Committee to verify all the cheques and ensure they are properly dispatched

i) The names of students awarded the bursaries and amounts given to each are then displayed on the notice boards of all schools, the Area Education Office, District Education Office and constituency offices

j) The internal audit department of the Ministry of Education monitors the operations of the fund

iv. The Role of Citizens (What you can do)

To support the Constituency Secondary Education Bursary Fund, you can:

- Seek and acquire more information relating to the bursary funds from government officials and NGOs
- Request for particular information from public offices particularly the District Commissioner, District Officers, District Education Officers, and District Social Development Officers
- Participate in secondary school management committees including the Parent Teachers Association, Board of Governors and Constituency Bursary Committees. It is in these meetings that matters relating to the bursary funds are or ought to be discussed
- Seek to be elected or appointed to various bursary committees. Where this is not possible, request the bursary committees to allow you to attend as a guest
- Encourage local organizations, churches, groups, mosques and other formal and informal meetings to educate their members about the bursary funds
- Write letters and memoranda to the committees, provincial administration officials, Ministry of Education, Area Education Officer, Member of Parliament, NGOs, and any other stakeholders asking questions or informing them on any issue you may have on the bursary funds
4.4 Constituency HIV and AIDS Fund

After reviewing the spread and impact of the HIV and AIDS in the country, the government in 2001 declared the pandemic a national disaster and set up the National Aids Control Council (NACC) as a policy formulation, strategic framework development and implementation coordination body. The NACC would also manage funds earmarked for the fight against HIV and AIDS at both national and constituency levels. One of the key areas of focus of NACC was to be the empowerment of communities to combat HIV and AIDS.

To enhance the operations of NACC, the government created the Constituency HIV and AIDS Fund, through which interventions at the local level are funded and actualized.

i. Objective of the Fund

The objective of the Constituency HIV and AIDS Fund is to provide financial support for projects aimed at controlling the spread of HIV and AIDS, preventing new infections, mitigating the adverse social, political and economic effects of the HIV and AIDS, and promoting the livelihoods of the infected and affected people.

ii. Fund Management

The Constituency HIV and AIDS Fund is managed at two levels, national and constituency, through:

a) National Aids Control Council (NACC)

The NACC is a national body that oversees the government’s interventions in the fight against HIV and AIDS. It operates under the Office of the President, and is led by a Director and a non-Executive Chairman. A representative governing Council provides policy guidance to the NACC. A NACC Secretariat has been established in every constituency, with a coordinator who is usually a civil servant on secondment to the Council.

Mandate

“To provide policy and strategic framework for mobilizing and coordinating resources for prevention of HIV transmission and provision of care and support to the infected and the affected in Kenya”

The Functions of the National AIDS Control Council are:

- To develop policies, strategies and guidelines relevant to the prevention and control of Acquired Immune Deficiency Syndrome (AIDS)
- To mobilize resources for AIDS control and prevention
- To coordinate and provide framework for supervision of implementation of AIDS programmes in the country
- To collaborate with local and international agencies which focus on AIDS control
- To facilitate the setting up of sectoral programmes on AIDS
- To develop national management information systems for AIDS control for monitoring control of HIV and AIDS interventions
- To identify sector specific training needs and devise appropriate manpower development strategies
- To develop appropriate mechanisms for the monitoring
• To take a leadership role in advocacy and public relations for the AIDS control programme
• To mobilize government ministries and institutions, non-governmental organizations, community based organizations, research bodies, the private sector and universities to participate in AIDS control and prevention.

b) Constituency AIDS Control Committee (CACC)
The Constituency AIDS Control Committee (CACC) is made up of:
• Divisional and District Officers
• Public Health Officer and his/her Assistant
• Divisional heads of departments of the Ministries of health, education, agriculture and rural development, and gender, sports and culture
• Private sector representative
• Faith Based organisations representative
• Civil society representative
• Persons Living with HIV and AIDS representative
• 3 women representatives
• 3 youth representatives
• Kenya National Union of Teachers representative
• All Town and County Council Chairmen
• The local Member of Parliament (Patron)
• The Constituency NACC Coordinator (Secretary)

Criteria for Membership
Members are required to possess demonstrable commitment to HIV and AIDS work. All members must be non-partisan and at least 50 per cent should be women. The members of the CACC are not on a salary (except for the coordinator) but are usually reimbursed travel and subsistence costs.

CACC Officials
During the first meeting, the Chairman and Treasurer are elected from among the members, and they serve for a term of two years. The Chairman is a member of the CACC Technical Committee, and represents the CACC in the District Development Committee.

Duties of the CACC
The main role of the CACC is to encourage communities to develop initiatives for their engagement in the fight against HIV and AIDS. The Committee also:
• Considers and approves proposals for funding
• Coordinates and manages HIV and AIDS activities in the constituency
• Sets up networks of stakeholders that implement HIV and AIDS interventions
• Supervises and monitors the implementation of funded projects
• Conducts community mobilisation to respond to the HIV and AIDS pandemic, and,
• Disseminates relevant policies and guidelines

The Oversight Board
An oversight board comprising of the MP, the District Officer, and the four ministerial officers oversees the formation of the CACC.
The Technical Committee
The CACC forms a Technical Committee of 5 members whose main responsibility is to review and approve of proposals and provide support to the implementing agencies.

Secretariat Offices
Each constituency has an NACC secretariat which is made up of:

- Constituency Aids Control Coordinator
- An accounts assistant
- A statistical clerk / records clerk
- Typist
- Support staff

These are paid by the government with a top-up by the NACC where necessary.

Constituency Account
The CACC operates an account whose signatories include the CACC coordinator (secretary) and the Chairman or Treasurer. The initial funds for opening the account are provided by the NACC upon submission of the minutes of the first meeting. The minutes should be signed by the Chair and Secretary of the CACC.

The CACC is authorised to disburse funds of up to KShs 350,000 to eligible applicants.

iii. Conditions
The operations of the Constituency HIV and AIDS Fund are guided by the following conditions:

a) Source of Funds
The Fund receives monies from the consolidated fund and donors.

b) Eligibility for funding
To qualify for the funds, communities are advised to form and register groups, which then submit proposals to NACC. A certified copy of the group’s registration certificate is enclosed in the proposal. Community based organizations, non-governmental organizations and / or research organization may also apply.

c) Documentation Required for Funding
The following documents must be completed when applying for funding for the first time:

- A Standard Grant Agreement which shows the full and correct name and addresses of the organization seeking funding. Three authorized officials of the organization and the NACC sign the Agreement
- A Standard Declaration Form is completed and signed by the organization’s authorized officials confirming the authorized officials, details of bank accounts, authorized signatories and their specimen signatures
- A Request for Disbursement of Funds (RDF) form for quarterly withdrawal of funds is then completed indicating the name of the organization, constituency, district and province in which the organization is located. The approved amount and the current quarter’s request for disbursement are indicated. At least three signatories should sign the
disbursement documentation, and a letter from the organization’s bank confirming account name, account number, signatories and signing mandate is also attached

- The organization must maintain a separate bank account specifically for the Community Initiative Account Funds

d) Subsequent Disbursement Requirements
For subsequent disbursements, there must be:
- Two bound copies of field activities narrative report
- Statement of Expenditure (SOE) form duly completed and signed by two officials. The SOE details are extracted from expenditure analysis forms
- Copy of cash book account summary
- Copies of serial – numbered cheque payment vouchers
- Copies of documents supporting cheque payment vouchers
- Copies of relevant bank statements
- Copy of petty cash book account summary
- Copies of serial numbered petty cash payment vouchers
- Copies of relevant expenditure analysis forms extracted from the cash book account summaries
- Detailed comparison of the actual expenditure and the budget supported by explanations of any variances above 10 per cent

iv. Disbursement
Funds are disbursed in two installments for constituency-based organizations and in four installments for national projects. Funds are electronically transferred directly to the bank accounts of the organizations in any of the mainstream banks. Remittance advices are sent to the organizations for signatures. Copies of signed remittance advices should be returned to NACC immediately.

v. Performance
All funded organizations are expected to act in accordance with their work plans, activity plans and budgets submitted at the commencement of each quarter. The organizations are expected to account for the funds advanced to them within 90 days of being funded.

vi. The Role of the MP
The local MP acts as the patron of Constituency AIDS Control Committee, and is not necessarily the chair. His / her task is to oversee the activities of the committee and implementation of HIV and AIDS programmes. The MP gives leadership in mobilizing communities in their war against AIDS.

vii. Role of the citizens (How you can participate)
- Seek and acquire more information relating to the HIV and AIDS funds from government officials, particularly the District Health Officer and Public Health Officers
- Participate in Chief’s Barazas and other community meetings. It is in these meetings that matters relating to the HIV and AIDS funds are or ought to be discussed
- Seek to be elected or appointed to various HIV and AIDS funds committees. If this fails, you can request the committee to allow you to be in attendance as a guest of the committee
• Encourage local organizations, churches, groups, mosques and other formal and informal meetings to educate their members about the funds available for the fight against HIV and AIDS. They may also apply for funds to fight HIV and AIDS and help those infected and affected.

• Organize your community into a self help groups or NGOs that can apply for funds to implement projects that seek to control HIV and AIDS from NACC. NACC invites the public to make proposals annually through such initiatives as Total War on Aids (TOWA) or the Global Fund.

• Additionally, organise and mobilise the local community to form community based organisations and write proposals to the constituency or district or provincial HIV and AIDS funds committees requesting for funding of HIV and AIDS projects.

• Write letters and memoranda to the HIV and AIDS committees, Member of Parliament, Councillors, provincial administration officials, Ministries, NGOs, and any other stakeholders asking questions or informing them on any issue you may have on the HIV and AIDS funds.

4.5 Youth Enterprise Development Fund (YEDF)

The National Youth Enterprise Development Fund was established in 2006 with the objective of reducing unemployment among the youth who constitute 61% of the population. It is implemented by the Ministry of State for Sports and Youth Affairs in line with the National Youth Policy.

The National Youth Policy has as its strategic focus the following: employment creation, health, education and training, sports and recreation, environment, art and culture, media, empowerment and participation in national life.

The Youth Enterprise Development Fund was allocated KShs 1 billion when established.

The Fund facilitates youth employment through enterprise development and structured labour export. An 11 - member Advisory Board for the Fund was gazetted on 31st January 2007, 60% of the members being drawn from the private sector.

The Youth Enterprise Development Fund was officially launched on 1st February 2007 by His Excellency President Mwai Kibaki. This launch marked the beginning of the Fund disbursement process to the youth enterprises through the Financial Intermediaries and the Constituency Youth Enterprise Scheme.

The objectives of the fund

• Provide loans to existing micro-finance institutions (MFIs), registered non-governmental organizations (NGOs) involved in micro financing, and savings and credit co-operative societies (SACCOs) for on-lending to youth enterprises

• Attract and facilitate investment in micro, small and medium enterprises oriented commercial infrastructure such as business or industrial parks, markets or business incubators that will be beneficial to youth enterprises

• Support youth oriented micro, small and medium enterprises to develop linkages with large enterprises
- Facilitate marketing of products and services of youth enterprises in both domestic and international markets, and
- Facilitate employment of youth in the international labour market

**Fund Allocation**

The one billion shillings allocated to the fund was budgeted for as follows:

- KShs 210 million was allocated to parliamentary constituencies to finance youth groups, with each constituency getting KShs 1 million
- KShs 690 million was channeled through Financial Intermediaries to finance all legally recognized youth-owned enterprises
- KShs 100 million was set aside to cater for the other objectives of the Fund that entail commercial infrastructure development, linkage schemes, marketing of products/services of youth enterprises, labour export scheme, and also finance some administrative expenses

**Qualification for funding by the YEDF**

Minimum conditions for accessing the Fund:

- One must be a Kenyan
- One must fall in the age bracket of 18 to 35 years
- One must have the intention of investing the Fund in a business venture
- One must be in a legally registered organization or firm operating in Kenya

The Fund is a loan and must be repaid.

**Fund Management**

The YEDF is managed at three levels – National, District and Divisional – by the following bodies:

**YEDF Advisory Board**

This is an 11 – member body that comprises of:

a) A non-executive chairman appointed by the President;
b) A chief executive of the Board who shall also be the secretary to the Board;
c) The Permanent Secretary of the Ministry for the time being responsible for youth affairs;
d) The Permanent Secretary in the Ministry for the time being responsible for finance;
e) Four persons, not being public officers, appointed by the Minister in consultation with the Minister for the time being responsible for matters relating to finance, by virtue of their knowledge or experience in matters relating financial management, venture capital fund management or youth development;
f) One person nominated by the National Youth Council and appointed by the Minister.

The Board shall engage the chief executive of the Board and such other staff as the Board may consider necessary on such terms and conditions of service as the Board may, with the approval of the Minister, determine.

The board’s main roles will be to:

a) Manage and administer the Fund in such a manner as to realize the objects and purposes for which the Fund is established;
b) Enter into association with other persons, bodies or organizations within or outside Kenya as the Board may consider appropriate in furtherance of the objects and purposes for which the Board the Fund is established;

c) Carry out any other activity as, in the Board’s opinion, will promote and facilitate the objects and purposes for which the Fund is established.

**District YEDF Committee**

**Composition**

The committee is comprised of:

- District Commissioner (Chairman)
- District Youth Development Officer (Secretary)
- District Youth Training Officer
- District Social Development Officer
- Chairlady of Maendeleo ya Wanawake
- Two youth representatives (male and female) not serving the divisional committees
- Two representatives of main religious faiths in the district
- Representative of a major civil society organization operating in the area

**Divisional YEDF Committee**

**Composition**

The committee is composed of:

- District Officer (Chairman)
- Divisional Youth Officer (Secretary)
- Social Development Assistants
- Two youth representatives (male and female) from non-applicant groups
- Two representatives from the dominant faith-based organizations in the division
- Local area Member of Parliament as an *ex-officio*

**Duties of the Divisional YEDF Committee**

The Divisional Youth Enterprise Development Fund Committee (Divisional YEDFC) has been formed to effectively identify, and recommend viable youth group enterprises for loans.

**National Youth Enterprise Development Fund Disbursement**

In order to ensure equity in the distribution of the Youth Enterprises Development Fund is attained, the following criterion was used to allocate the fund:

- The first half of the Fund (KShs 345 million) was divided equally to all districts
- The second half of the Fund (KShs 345 million) was divided using a formula that is based on the population of the district as a factor, thus allowing districts with higher populations to receive higher allocations

**Features**

- The loan targets all forms of youth owned enterprises whether owned individually, as a company, as a group, in cooperatives or any other legal forms of business ownership
• Loan is accessible to any youth owned enterprise operating within the district
• The loan is managed by selected Financial Intermediaries
• The loan attracts an interest rate of 8% per annum on a reducing balance
• Very little, if any, collateral required
• The loan amount is dependent on the nature of business proposed and the lending terms of the Financial Intermediary
• No maximum amount is set. However, Financial Intermediary seeks approval for loan amount exceeding Kshs. 500,000.00

**Loan Access Procedure / requirements**

- Applicant must have identification details such as business registration certificates or personal identification papers such as National Identity Card or passport
- The applicant must have a bank account acceptable to the preferred Financial Intermediary
- The applicant collects loan application form from his or her preferred Financial Intermediary
- The applicant must submit the loan application form or self-prepared business proposal to the preferred Financial Intermediary
- The preferred Financial Intermediary undertakes an assessment of the proposed business to establish financial viability and other relevant technical matters
- The applicant attends training programmes if required
- The application undergoes a verification by the District Youth Officer when sought for by Financial Intermediary
- The Financial Intermediary transfers the money to the bank account of the applicant
- The applicant repays the loan with interest rate of 8% to the Financial Intermediary
- The repayment period and amount is as agreed with the Financial Intermediary

**Constituency Youth Enterprise Scheme (C-YES)**

Each constituency received KShs 1 million for this scheme. The C-YES is intended to ensure that all young people especially those living in remote areas not well served by Financial Intermediaries are not disadvantaged in accessing the Fund.

**Features**

- The loan is accessible only to youth groups operating within the constituency
- The group must have been operational for at least 3 months prior to submitting their application
- The group must have a bank account
- Maximum loan amount per group is Kshs. 50,000.00
- The loan is not accessible to individually owned youth enterprises
- The loan attracts no interest but has an administration fee of 5% deductible upfront from the approved loan
- Proposal screening, recommendation and approval is done by the Youth Enterprise Development Fund (YEDF) committees at divisional and district levels
• The groups funded get a 3-month grace period before repayment begins
• Full repayment must be made within 12 months after the grace period
• Mixed age groups must have at least 70% youth membership and 100% of their leadership in the youth bracket
• A standard proposal format is available to all potential applicants

Loan Access Procedure / requirement
• The group prepares a business proposal using the standard format provided
• The applicant submits the proposal form to Divisional Youth Enterprise Development Fund Committee through Youth Officers, Social Development Assistants, or the Constituency Office
• The Divisional Youth Enterprise Development Fund Committee evaluates the proposal using the evaluation guide provided by the Ministry of Youth Affairs and Sports.
• Recommended proposals are submitted to the District Youth Enterprise Development Fund Committee for validation and approval
• The District YEDF Committee submits the approved proposals to the Youth Enterprise Development Fund (YEDF) Secretariat
• The YEDF Secretariat disburses the funds directly to the bank accounts of the approved groups

Performance of the YEDF
The total funds disbursement to youth enterprises stood at Kshs. 1.9 billion as at 31st March, 2009.

Table 1: Total Disbursement through Financial Intermediaries as at 31st March 2009

<table>
<thead>
<tr>
<th>Province</th>
<th>Female</th>
<th>Amount</th>
<th>Male</th>
<th>Amount</th>
<th>Total</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Female and</td>
<td></td>
<td>Male</td>
<td>Total Amount</td>
<td>Total Amount</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Male</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Central</td>
<td>5,629</td>
<td>141,224,750</td>
<td>6,016</td>
<td>197,161,894</td>
<td>11,645</td>
<td>338,386,644</td>
</tr>
<tr>
<td>Coast</td>
<td>4,241</td>
<td>87,711,863</td>
<td>1,475</td>
<td>50,520,781</td>
<td>5,716</td>
<td>138,232,644</td>
</tr>
<tr>
<td>Eastern</td>
<td>6,000</td>
<td>116,226,397</td>
<td>5,561</td>
<td>163,027,957</td>
<td>11,561</td>
<td>279,254,354</td>
</tr>
<tr>
<td>Nairobi</td>
<td>2,437</td>
<td>98,817,535</td>
<td>3,032</td>
<td>137,826,321</td>
<td>5,469</td>
<td>236,643,856</td>
</tr>
<tr>
<td>North Eastern</td>
<td>186</td>
<td>6,767,472</td>
<td>465</td>
<td>18,387,477</td>
<td>651</td>
<td>25,154,949</td>
</tr>
<tr>
<td>Nyanza</td>
<td>3,434</td>
<td>74,109,791</td>
<td>2,141</td>
<td>57,145,798</td>
<td>5,575</td>
<td>131,255,589</td>
</tr>
<tr>
<td>Rift valley</td>
<td>8,791</td>
<td>149,875,266</td>
<td>3,985</td>
<td>148,057,313</td>
<td>12,776</td>
<td>297,932,579</td>
</tr>
<tr>
<td>Western</td>
<td>2,376</td>
<td>47,110,645</td>
<td>1,306</td>
<td>39,776,436</td>
<td>3,682</td>
<td>86,887,081</td>
</tr>
<tr>
<td>Grand total</td>
<td>33,094</td>
<td>721,843,719</td>
<td>23,981</td>
<td>811,903,977</td>
<td>57,075</td>
<td>1,533,747,696</td>
</tr>
</tbody>
</table>
### Table 2: Total disbursement through the Constituency channel as at 31st March 2009

<table>
<thead>
<tr>
<th>Province</th>
<th>Number of groups</th>
<th>Amount disbursed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nairobi</td>
<td>331</td>
<td>14,398,999.50</td>
</tr>
<tr>
<td>Central</td>
<td>1068</td>
<td>47,532,796.00</td>
</tr>
<tr>
<td>Coast</td>
<td>802</td>
<td>36,844,327.00</td>
</tr>
<tr>
<td>Eastern</td>
<td>1470</td>
<td>66,228,647.00</td>
</tr>
<tr>
<td>North eastern</td>
<td>450</td>
<td>18,945,000.00</td>
</tr>
<tr>
<td>Nyanza</td>
<td>1284</td>
<td>58,072,909.40</td>
</tr>
<tr>
<td>Rift valley</td>
<td>1981</td>
<td>85,257,529.00</td>
</tr>
<tr>
<td>Western</td>
<td>1094</td>
<td>42,746,865.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>8480</strong></td>
<td><strong>370,027,072.90</strong></td>
</tr>
</tbody>
</table>

In order to encourage uptake and improve impact, new products have been developed including; *Easy Youth Enterprise Scheme, Bid/performance bonds, Establishment of Venture Capital Fund, Entrepreneurship/Business Development Services, Partnership development, Market and linkages support and Public Sensitization and Information.*

The Fund’s board reports that progress has been made in capacity building of youths, facilitating employment abroad among others in addition to the disbursement information highlighted above.

**Role of the citizens (how you can participate)**

- Seek and acquire more information on YEDF from the District Officer, the Divisional Youth Officer, the Social Development Assistants, Divisional Youth Officers, NGOs and Churches councilors and youth leaders in your area
- Participate in youth activities in your area, form or join existing youth groups and self help groups
- Encourage local organizations, churches, mosques and parents to educate their members on the YEDF
- Educate and inform your community about the YEDF in your locality.
- Write letters and memoranda to members of the District and Divisional YEDF Committees as well as the Permanent Secretary Ministry of State for Youth Affairs for clarification of any issue of concern to you

### 4.6 Women Enterprise Development Fund (WEDF)

**Background**

In December 2006, the Government initiated the Women Enterprise Development Fund as a way of alleviating poverty and empowering women. KShs 1 Billion was set aside for this purpose. Women Enterprise Fund loans reach the target beneficiaries through financial intermediaries and directly through Constituency Women Enterprise Scheme (C-WES). As at February, 2009 a total of Kshs.586 Million had been loaned to women, broken down as kshs.449 Million through Financial
Institutions (FIs) and Ksh. 137 Million through C-WES. A total of 67,180 women have benefited from the WEF through both the financial intermediaries and the C-WES.

**Purpose of the Fund**
The WEDF exists to:-
- Provide loans to existing financial institutions and NGOs for onward lending to women
- Attract and facilitate investment in micro, small and medium enterprises oriented commercial infrastructure such as markets and business incubators that will benefit women enterprises
- Support women oriented micro, small and medium enterprise to develop linkages with large enterprises
- Facilitate marketing of products and services from women enterprises
- Support capacity building for women and women enterprise

**Loan Fund Distribution**

<table>
<thead>
<tr>
<th>Amount in KShs</th>
<th>Channel</th>
</tr>
</thead>
<tbody>
<tr>
<td>640,000,000</td>
<td>Micro Finance Institutions</td>
</tr>
<tr>
<td>210,000,000</td>
<td>Constituency Women Enterprise Scheme</td>
</tr>
<tr>
<td>30,000,000</td>
<td>Capacity Building of women groups</td>
</tr>
<tr>
<td>100,000,000</td>
<td>Fund Secretariat expenses</td>
</tr>
<tr>
<td>20,000,000</td>
<td>Department of Gender for community mobilization</td>
</tr>
</tbody>
</table>

**Minimum Conditions for accessing the Women Enterprises Fund**
To access the fund, a woman or women enterprise must fulfill the following conditions:
- Must be aged 18 years and above
- Must be female Kenyan
- Must have an intention of investing in Income Generating Activities
- The women group must be registered by appropriate authorities and must have been in existence for at least 3 months
- The fund is a loan and therefore shall be repaid

**Fund Management**
The fund has 3 institutions: Advisory Board, Divisional Women Enterprise Fund Committee and Micro Finance Institutions.

**Advisory Board**
The Advisory Board oversees the management of the fund. It is headed by a non – executive Chairperson and has and Chief Executive Officer and staff. The Board is composed of:
- A non executive Chairperson
- Permanent Secretary, Ministry of Gender, Sports, Culture and Social Services
- Permanent Secretary, Ministry of Finance
- Permanent Secretary, Ministry of Trade and Industry
- Permanent Secretary, Ministry of Agriculture
- Permanent Secretary, Ministry of Planning and National Development
- Five persons with expertise and experience in enterprise development and financial management
Divisional Women Enterprise Development Fund Committee

The Divisional Women Enterprise Fund Development Committee is composed of:

- The Chairperson who must be a female public servant elected by the committee members
- Secretary who is the District Gender and Social Development Officer
- The Treasurer who is elected by the committee
- A representative of the Local Authority in the Division/District (CDA)
- The Division Officer (DO) to represent the Provincial Administration
- A representative of one active local NGO in the Division/District
- A representative of women with disability
- A representative of a faith based organization
- A representative of the provincial administration
- Ex-official sitting Member of Parliament
- A prominent woman entrepreneur

Role of the Divisional WEDF Committee

The role of the Committee is:

- To support the capacity building of the beneficiaries of the Fund and their institutions
- Create awareness on the funds disbursement procedures and requirements
- Assist in the mobilization, selection, identification and vetting of the women groups seeking loans

Role of the District Gender and Social Development Officer

The role of the District Gender and Social Development Officer is:

- To be the secretary to the Divisional Women Enterprise Development Fund Committee
- Monitor the disbursement of the funds through financial intermediaries
- Monitor how beneficiaries are utilizing the loan
- Facilitate loan recovery process
- Participate in the capacity building of the groups who get the loan
- Recommend to the ministry the groups which have been trained

Fund Disbursement to Women

Access through financial intermediaries

For individuals/registered groups, companies, cooperatives, it can be accessed by applying for the loan from a preferred financial intermediary which then conducts their normal credit appraisal/evaluation. Women can borrow the funds as individuals, companies, cooperatives or women groups. Ksh 640 million has been set aside for this component.

The 34 financial intermediaries through which the money under this scheme have been disbursed are: Taifa Sacco, BIMPAS, Co-operative Bank, Family Bank, Kenya Industrial Estates (KIE), Wakenya Pamoja (formerly Gussi Rural Sacco), K-REP Development Agency, Jitegemea Credit Scheme, Mathira Farmers Sacco, Pamoja Women Development Programme, Small & Micro Enterprise Programme (SMEP), Jamii Bora Trust, Chase Bank, First Community Bank, Bright Enriched Empowerment Programme, Umoja Women Entrepreneur Programme, Adok Timo, Village Women Organization, South Imenti Micro Finance, Social Initiative and Development for Enterprise

Main features of the component

• In districts which are not served by the contracted financial institutions, the Ministry of Gender will identify institutions that would be engaged as intermediaries
• The loans are available to all forms of women enterprises whether owned by individuals, groups or cooperatives operating in Kenya
• The loan will attract an interest rate of 8 percent per annum on a reducing balance
• Soft (little or no) collateral required
• Loan amount will depend on the nature of business proposed and the lending terms of the financial intermediary
• For loans exceeding Kshs. 500,000, the financial intermediary shall seek approval from the Funds Advisory Board

Procedures for accessing the loans

• Applicant must have identification documents such as Identity card and registration certificates for enterprise
• Applicant must have a bank account
• The applicant will request for a loan application form from the financial intermediary of their choice
• The applicant submits a business proposal or completed form to the financial intermediary
• The financial intermediary undertakes assessment of the viability of the proposed business
• The divisional Women Enterprise Development Fund Committee should verify the existence of the groups
• The applicant participates in the loan orientation programme
• The financial intermediary deposits the money in the applicant’s bank account
• Applicant will repay the loan with an 8 percent interest to financial intermediary
• Repayment period and amount will be agreed with the financial intermediary but should not exceed 3 years

Constituency Women Enterprises Scheme

Under the Constituency Women Enterprise Scheme each constituency was allocated KShs 1 million for lending to registered women groups. The component is managed by the Divisional Constituency Women Enterprise Development Fund Committee (DWEDFC) is designed to ensure women in remote areas not served by financial intermediaries are not disadvantaged. As a revolving Fund, the repayments are used to lend to other groups in need. This amount has been increased to two million per constituency starting 2009/2010 financial year. If women borrowers in a Constituency default, they deny fellow women in the same constituency from accessing the loans (i.e. funds belong to a particular constituency and cannot be transferred). It is accessed by filling a standard loan application
form available for free from the offices of the District Gender and Social Development Officers (DG& SDOs). This product is called “TUINUKE LOAN”.

Main features of this component

- Loan targets women enterprises in the constituency
- The maximum amount per group is Kshs 50,000
- It is not accessible to women enterprises owned by individuals
- Targets registered groups of more than 10 persons.
- The loan attracts no interest at all. However, one is charged an administration fees of 5 percent deducted up front from the approved loan
- The Divisional Women Enterprise Development Fund Committee screens and approves the loan
- Repayment is done in 12 equal installments after a 3 months grace period
- Groups with both men and women members must have at least 70 percent women membership and 100 per cent of women in leadership positions
- Simple security requirements that include; group guarantee, household items, business stocks, quoted shares, etc.
- A standard application form is available without any charge

Procedures for accessing the loans

- The group must be registered with a relevant government department as a company, self help group or cooperative
- The group must have been in existence for at least 3 months
- The group must have a bank account
- The group prepares a business proposal in line with the standard application form
- The proposal is submitted to the secretariat of the Divisional Women Enterprise Development Fund Committee
- The Committee recommends to the Advisory Board for the disbursements of the fund to the group
- The Advisory Board’s Secretariat disburses the fund directly to the women group’s bank account
- The group repays the loan in installments in 12 equal installments after the grace period into the bank account of the Women Enterprise Fund collection account.

For this loan a maximum of Kshs.50, 000 repaid for 12 months is given for the 1st loan. A 2nd loan of Kshs.50, 000 is automatically available if 1st loan is repaid within 6 months. 3rd and 4th loans of Kshs.75, 000 and Kshs.100, 000 respectively follow for the group and after the successful repayment of the 4th loan, a “letter of Good Credit Worthiness” is issued to a group.

Performance of the Women Enterprise Fund
Table: summary of the women enterprise fund disbursement through the Constituency women enterprise (Oct 2009)
The total amount disbursed through the Constituency Women Enterprise fund to constituencies as at September 2009 is Ksh 209,503,130 Wajir North and Wajir south had not utilized their allocation of 2 Million by this time while Garsen, Turkana South, Eldoret South and Rarieda had fully utilized their allocation.

Understanding the various factors leading to some constituencies utilizing their allocations and others not doing so would be essential in determining necessary interventions to enhance utilization.

4.7 Road Maintenance Levy Fund (RMLF)

Due to budgetary constraints, the government for a period of time had a shortage of money for maintenance of the road network. So in 1984/85, the government introduced public tolls on selected Kenyan roads to raise additional funds. However, as the maintenance needs grew, alternative ways were sought to supplement the budget and so in 1993, the Roads Maintenance Levy Fund Act was passed by Parliament.

The Act created the Roads Maintenance Levy Fund (Fuel Levy) which is used at the national and district levels to maintain the road network. The Fund is managed by the Kenya Road Board.

Objectives of the Fuel Levy

The objective of the Fuel Levy is to collect and provide funds for road maintenance in Kenya, though it has also been used for rehabilitation and reconstruction works.

Conditions

The following conditions are observed in the management of the Fuel Levy:

Source of the Funding

The Fuel Levy is a charge collected against every litre of petroleum fuel at the port of entry from persons who import oil. The Kenya Revenue Authority (KRA) collects the Levy on behalf of the Kenya Roads Board (KRB) and banks it in an account at the Central Bank of Kenya.
**Allocation and Disbursement of the Fuel Levy**
From the collected revenue, 57 per cent goes to the Roads Department for maintenance and repair of major roads; 24 per cent goes to Kenya Wildlife Service (KWS) and Local Authorities for repair of roads within their areas of jurisdiction; 16 per cent is distributed among all the District Roads Committees; and 3 per cent is left with the KRB to facilitate its operational costs and recurrent expenditures.

The Roads Department (within the Ministry of Roads and Public Works) is responsible for all Class A, B, and C roads.

**Preparation of the Annual Road Works Programme**
For each financial year, the Kenya Roads Board gives the agencies and sub agencies a ceiling for expenditure against which they submit work plans and budgets of their projects. KRB harmonises the work plans to come up with the Annual Road Works Programme (ARWP), which is to be implemented during that year using the Fuel Levy.

**Activity Cycle of the Annual Road Works Programmes**
The budget expenditure ceilings are issued by the KRB to all road agencies and sub agencies by June 30th. They then identify particular road projects to work on and prepare proposals and budgetary estimates which reflect the ceilings issued. These work plans must be submitted to KRB by December 31st.

On receiving all the plans, KRB reviews each and harmonizes them into one draft Annual Public Roads Programme (APRP) by January 31. The draft APRP is then submitted by KRB to the Ministers in charge of Roads and Finance by February 28 of each year.

After deliberations and further harmonization, the APRP is ready for printing by March 31st and by April 30 of each year it is published ready for implementation.

**Management and Monitoring Committees**
The Fuel Levy is administered by the following bodies:

**I. Kenya Roads Board (KRB)**
The Kenya Roads Board was created through the Kenya Roads Board Act of 1999. It is made up of:
- 8 representatives of the private sector representing a large number of road users
- 5 members from the public sector

The Board members are appointed by the Minister in charge of roads. Its main mandate is to ensure the effective and efficient management of the roads in Kenya and proper utilization of funds earmarked for maintenance of roads. The KRB coordinates the development, rehabilitation and maintenance of roads and serves as the government’s advisor on road matters.

**II. District Roads Committees**
Each district has a District Roads Committee which is comprised of:
- Chair or mayor of every local authority
• MPs from the district
• District Commissioner
• District Roads Engineer (as the secretary)
• Two other members may be co-opted by the committee to represent special interest groups
The committee appoints a chairperson from among the MPs, Local Authority Chairs or Mayors.

The Role of the DRC
The main role of a DRC is to maintain, rehabilitate and develop roads within the district. Other duties include approval of the ARPR, advising the district roads engineer, overseeing roads sector management, voicing concern on behalf of the citizens, and monitoring the performance of those responsible for roads maintenance and rehabilitation. The committee submits to the KRB an Annual Roads Programme, with a comprehensive plan of action and the estimated costs of every activity.

Being based at the district level, the committee is expected to consult with local community members to identify all the bottlenecks in local level road issues and translate these into action plans. It is at this level that the local citizens can participate.
The Priorities of DRCs include the following maintenance projects:
• New and rehabilitated roads to protect the investment
• Security roads and those connecting administrative and social centers
• Roads connecting and providing access to main road network
• Roads providing access to market centers
• Providing basic access to rural communities (culverts, crossing points etc)

Funding of the DRC
The KRB equally divides 16 per cent of all the monies raised through the Fuel Levy to all the DRCs. These are then divided among all the constituencies in the district equally, at which level the road maintenance takes place. The implementation of road works in the constituencies is carried out by the Roads Department, through the district road engineers, on behalf of the DRC.

The District Roads Committee operates a bank account different from that of the district treasury.

III. Agencies and Sub Agencies
a) Ministry of Local Government
Being one of the recognized agencies through which the KRB works, the Ministry of Local Government receives money from the Fuel Levy to finance its road maintenance budget.

b) Kenya Wildlife Service
The Kenya Wildlife Service is responsible for the maintenance of all roads in the national parks and game reserves and those accessing them. However, the KWS is currently only involved with the roads within the national parks and five national reserves: Shimba Hills, Mwea, Tana River Primate, Marsabit and Kakamega Forest National Reserves. The roads in other parks and reserves are managed under diverse arrangements that vary from central government, to local authorities, and conservancies.
Role of MPs
At the local level, the MPs act as members of the DRCs. However, they are not allowed to participate in the tendering or awarding of contracts, which are considered executive functions.

Role of the citizens (How you can participate)

- Seek and acquire more information relating to the poverty funds from government officials, particularly the District Public Works Officer and the District Social Development Officer.
- Purchase and study the Roads Board Act, the Local Authority Act, the Local Authority Transfer Fund, the Road Maintenance (Fuel) Levy Act, District Development Plans, policy documents and reports from various government offices managing the funds. All these documents are available for sale at the Government Book Shop along Haile Selasie Road, Nairobi and may be available at the nearest NCCK regional office.
- Participate in Chief’s Barazas and other community meetings. It is in these meetings that matters relating to roads are or ought to be discussed.
- Seek to be elected or appointed to various roads committees. If this fails, you can request the committees to allow you to be in attendance as a guest of the committee.
- Encourage local organizations, churches, groups, mosques and other formal and informal meetings to educate their members about the roads funds.
- Mobilize others to seek information on how the funds are being utilised.
- Write letters and memoranda to the Local Authorities, Kenya Wildlife Services, Kenya Road Board, provincial administration, Ministry of Roads, NGOs, and any other stakeholders asking questions or informing them on any issue you may need addressed by them on the funds.
- In conjunction with other community members, form Community Based Organisations or Self Help Groups, organise and mobilise the local community to write proposals to the funds committee requesting for support.

CHANNELLING OF ROADS FUNDS THROUGH THE CONSTITUENCY

- All Constituency Development Fund (CDF) committees are, according to the amended Kenya Roads Board Act, to set up Constituency Road Committees to be in charge of road projects in their areas. This effectively devolved the use of the road development cash to constituencies.
- The amendments are contained in the Finance Bill 2009 and the road committees are to work with the Kenya Rural Roads Authority (Kerra) to advise on the roads to be given priority for development each financial year.
- The law also provides for the establishment of a constituency roads fund account into which the allocation for each constituency will be deposited.
- The constituency road committees will then appoint two signatories to the account, with the ministry providing the third signatory — a civil servant working at Kerra.
- Under the changes approved by parliament the Roads Maintenance Levy and the Kenya Roads Board Act was amended to allow 22 per cent, or Sh4.7 billion, of the Road Maintenance Fund to be channeled through the CDF.
According to the amendment the structure of implementation is as follows

1. Every constituency to have a Constituency roads committee composed of five members from the CDF committee. The other members will be; the area MP, District commissioner, District development officer and an official of the Kenya Rural Roads Authority.
2. The roads committee will have two signatories to constituency roads fund account
3. the constituency roads tender committee

4.8 Local Authority Transfer Fund (LATF)

In 1998, the Kenya Local Government Reform Programme (KLGRP), based at the Ministry of Local Government, set up the Local Authorities Transfer Fund (LATF). Through this fund, 5 per cent of the central government income tax revenue is transferred to all the 175 local authorities using a simple and objective formula to supplement the income they raise locally through land taxes (rates), business permits and other sources. In Kenya, Local Authorities include:

- City Councils (1)
- Municipal Councils (44)
- Town Councils (63)
- County Councils (67)

This was after an evaluation of the operations of the local authorities, whose administrative structure was inherited from the colonial period, showed that they were not providing the services required by the residents in their areas. The failure to provide services has been caused by various factors including rapid population growth leading to a fast increasing demand for services, a weak culture of public service, corruption of elected councilors and appointed officials, patronage, poor management and political interference.

Structurally, though the local authorities are democratically elected bodies accountable to their electorates, their powers to perform are limited because of the control exerted by the Ministry of Local Government (under the Local Government Act [Cap 265]). Changes in the Act, which are expected to increase the capacity of the local authorities to act, are being considered but have had to wait for the constitution review process to be concluded.

In 2001, LATF’s general objectives were revised to ensure that the fund enabled the Authorities to improve service delivery to the public, financial management, and accountability. It was expected that Councils would eliminate debts within five years. Regrettably, this has not happened. Most of the Councils have plunged themselves into deeper debt.

As such, to a large extent, LATF has not achieved its objectives.

Objectives of the LATF

- To improve service delivery to the public
- To improve financial management and accountability
- To enable Councils eliminate debt within five years
Projects / Activities targeted
To qualify for LATF, each Council is required to develop a 3-year LASDAP (Local Authority Service Delivery Action Plan). The LASDAP details activities and programmes meant to deliver new, extended or improved services. It addresses direct service delivery to citizens focusing on health, education, roads, street lighting, water, sanitation, waste disposal, garbage collection, parks, and recreation and sports facilities.

The services do not have to be provided directly by the local authorities, for the Councils can engage the private sector and community organizations.

Conditions
The release of LATF monies is based on the following conditions:
• 60 percent is released if Council follows the laid down public fund rules
• 40 percent is released on submission of documents which include
  - A statement of actual revenues and expenditures
  - A statement of debtors and creditors
  - A debt repayment plan
  - An abstract of accounts / cash balances
  - A revenue enhancement plan, and
  - A Local Authority Service Delivery Action Plan (LASDAP)

Deadlines for submissions
The following strict deadlines have to be complied with. Each Council is required to prepare and submit:
• A statement of revenues, expenditures, cash and balances must be ready by every September 30
• A statement of creditors and debtors and debt reduction plan must be availed by September 30
• An abstract of accounts for every previous Financial Year must be ready by December 31
• A revenue enhancement plan every February 28
• The LASDAP by February 28

Disbursement
LATF money is disbursed directly from the fund to the Local Authorities’ bank account through a direct bank deposit, with notification given by the officer administering the fund. The money is disbursed thrice a year, that is, on 30 September, 31 January and 30 April.

Penalties
Local authorities can be penalized for non compliance indicated by:
• If a Council lacks annual estimates, it can be denied LATF
• Late submissions of up to 30 days attract a 15 percent penalty, 30-60 days, 40 percent and over 60 days 100 percent
• In cases of inaccurate, false or misleading information on Annual Estimate or performance related documents, amounts would be recovered from the following year’s allocation.
Monitoring
The Local Government Act and related financial regulations provide structures for financial management, monitoring and financial inspections, and disciplinary action. Councils, which must have internal auditing arrangements, are subject to audit by Controller and Auditor General.

Audit Reports
Over the years, the Controller and Auditor General’s office has audited the Councils and made reports. These reports raise queries over some transactions and in some cases show there was misappropriation of funds. However, action has not been taken against the officials implicated, and the Treasury continues to release money to the Councils.

Citizens’ Participation
On their part, the Councils should ensure that they involve the citizens in identifying projects, their management, monitoring and evaluation.
In this, each Council is required to prepare a list of community based organizations within their area of jurisdiction, make public the preparation of LASDAP and the resources available and invite inputs and proposals from residents.

Has this happened in your area?

How You Can Participate
- Seek and acquire more information relating to the LATF from government officials and local NGOs
- Purchase and study the Local Government Act, Local Authority Services Delivery Action Plans, and the Local Authority Transfer Fund Act. All these documents are available for sale at the Government Book Shop along Haile Selasie Road, Nairobi. You can also obtain them at the nearest NCCK regional office
- Request for particular information from public offices particularly the District Commissioner, District Officers, District Education Officers, District Social Development Officers, Chiefs and Clerks of the Local Authorities
- Participate in Chief’s Barazas and other public meetings. These meetings provide an opportunity for the people to inform the local authorities what their needs are, though it’s the Full Council that makes the final decision
- Seek to be elected or appointed as a Councillor. If this fails, you can request the Clerk to allow you attend the Council meetings as a guest
- Encourage local organizations, churches, groups, mosques and other formal and informal meetings to educate their members about the LATF
- Avail any information you have on the funds to the media and other persons who may need it
- Mobilize others to seek information on how the funds are being utilised
- Write letters and memoranda to the Council, provincial administration officials, Ministry of local Government, NGOs, and any other stakeholders asking questions or informing them on any issue you may have on the LATF
- In conjunction with the community, form Community Based Organisations or Self Help Groups that can work as lobby groups seeking allocation of funds to projects identified by your community

4.9 Constituency Development Fund

The Constituency Development Fund was established following an Act of Parliament No 11 of 2003 in 2003. The Act was amended through the CDF (Amendment) Act, 2007 in the Kenya Gazette Supplement No. 112 (Act No. 16) of 22nd October 2007. The Act provided that there shall be paid into the Fund “an amount of money equal to not less than 2.5 percent of all Government ordinary revenue collected in every financial year; and any monies accruing to or received by the national committee from any other source”. A motion seeking to increase this allocation to 7.5% of government’s revenue was later on passed in parliament. The fund is divided equally among the 210 constituencies (with a small weighting to poorer constituencies).

Objectives of the CDF
The Constituency Development Fund is established to facilitate equitable development in every part of the country

Types of Projects supported by the CDF
For a project to be eligible for CDF, it must meet the following conditions:
   i. Must be community based to ensure benefits are spread out
   ii. The fund should not be used to support any political or religious activities
   iii. The funds may be used to set up and equip a constituency project office
   iv. Education bursary scheme, mock and continuous assessment tests as long as it does not exceed 15 percent of the total annual allocation
   v. Administration expenses as long as it does not exceed 3 percent of the total annual allocation
   vi. Acquisition of motor vehicles, machinery and other equipment
   vii. Recurrent expenses of the motor vehicles as long as it does not exceed 3 percent of the total annual allocation
   viii. Sports activities except for cash awards as long as it does not exceed 2 percent of the total annual allocation
   ix. Monitoring and evaluation of ongoing projects as long as it does not exceed 2 percent of the total annual allocation
   x. Activities relating to the environment as long as it does not exceed 2 percent of the total annual allocation
   xi. Emergency reserve equivalent to 5 percent of the total annual allocation

Fund Management
The fund is managed and controlled by two local and two national committees. These are:

I. Constituency Development Fund Committee
A newly elected Member of Parliament convenes the Constituency Development Fund Committee within the first 60 days of a new parliament or a by-election. The committee shall consist of a maximum membership of 15 persons.
**Composition**
The committee comprises of the MP, two councillors, a District Officer, two representatives of religious organizations, two male and two female representatives, one youth and one NGO nominee, a maximum of three other persons from that constituency, and an officer of the CDF Board seconded to the committee. The area MP shall be the Chairperson of the committee unless he or she opts out in which case the Committee shall elect a Chairman among themselves and the MP becomes the Patron. The law allows the MP to pick any one within a sector to represent that sector. There is no requirement for elections at all. The unwieldy influence of the MP over the appointment makes the CDF committee a cabal of the MPs friends, relatives and close associates – a result that negates the very objectives of the fund.

**Term of office and meetings**
Members of the CDF Committee hold office for a term of three years renewable once. Once a new MP convenes a new Committee, the term of the previous committee members in office is automatically terminated. This rule applies in case a by-election is held ushering a new MP. Whenever a vacancy occurs in the Committee the MP has power to fill that position with another person from that sector. The CDF Committee is required to hold 12 – 24 meetings each financial year including subcommittee meetings.

**Functions of the CDF Committee**
The functions of the CDF Committee is to
- Deliberate and prioritize short and long term projects and submit them to the Board
- Consult with relevant government departments to ensure realistic project estimates
- Prepare and submit report to the Board
- Supervise the Project Management Committees

**Location Development Meetings**
The MP is expected to convene Location Development Meetings once every two years to develop a priority project lists to be submitted to the constituency committee. All the inhabitants of a location are supposed to attend the Locational Development Meetings. However, these meeting are convened in an *ad hoc* basis making it hard for most people to attend.

**II. District Projects Committee**
A District Project Committee (DPC) is established in every district. The Act does not state who should convene the district committees. However, the Members of Parliament and the District Commissioners appear to be the ones that convene most District project Committee.

**Membership**
The DPC is comprised of:
- All MPs in that district whether elected or nominated
- Chairpersons / Mayors of local authorities in the district
- District Commissioner
- District Development Officer who acts as secretary to the committee
- Chairpersons of the Constituency Development Committees
• District Accountant
• District departmental heads may attend the meeting as ex-officio members upon invitation

The chairperson is elected from among the elected MPs or Councillors for a 3 year term or until the end of the parliamentary period.

Functions
The District Development Committee coordinates the implementation of projects financed through the Fund and handles functions allocated by the national committee. It also makes impromptu visits to projects as deemed appropriate. During the DPC meeting, the MP tables a list of projects in his or her constituency before forwarding the same to the CDF Board. This ensures that there is no duplication of projects. The DPC also compiles a list of projects in the district funded by the government for each financial year, and circulates the same to the CDF committees to guide their planning for that year. The DPC are constituted within 60 days after the parliament is sworn in and are dissolved upon the dissolution of parliament. Each financial year, the DPC is required to hold only one meeting. However, it is allowed to hold a maximum of 6 meetings in the year. The DPC do not have clear supervisory powers over the constituency committees. They do not have powers to approve or reject a project proposed by the constituency committees.

III. Parliamentary Select Committee for the CDF
The PSC on CDF is established under the Standing Orders. It has a chair and not more than ten Members of Parliament who are not ministers or assistant ministers. Membership must ensure proportional representation of the parliamentary political parties.

Functions
The PSC on CDF has the following functions:
• To determine the allocation for each constituency
• To consider and report to parliament any matter requiring action by parliament with regard to the CDF
• Overseeing the implementation of the CDF Act and proposing necessary amendments
• Submitting bi-annual reports to parliament
• Overseeing the policy framework for efficient delivery of development programs financed through the Fund

IV. Constituency Development Fund Board
The Constituency Development Fund Board is a body corporate with perpetual succession and a common seal with power to sue and be sued, borrow money and make investments. The Board is governed by a Board of Management consisting of the following: The PS of the Ministry in charge of economic planning; PS of the Ministry in charge of finance; Clerk of the National Assembly; Attorney General; eight persons qualified in matters of economics, finance, laws, community development appointed by the Minister in charge of Planning and National Development; four persons appointed by the Minister in charge of Planning and National Development to ensure regional balance and the Chief Executive Officer who shall be ex-officio member. The chairperson is appointed by the Minister from among the members.
The Minister shall appoint members nominated by the following organisations: Kenya National Federation of Agricultural Producers; Institute of Engineers of Kenya; Kenya National Chamber of Commerce and Industry; Kenya Episcopal Conference; Kenya Union of Teachers; National Council of Churches of Kenya; Supreme Council of Kenya Muslims; and the Institute of Certified Public Accountants of Kenya. Each organization submits names and curriculum vitae of four nominees.

The Chief Executive Officer is appointed by the Board on competitive basis for a term of three years. No person can be appointed for more than two consecutive terms. The CEOs terms and condition of service are determined by the Board. He or she shall be the secretary to the Board and shall be responsible for the day to day management of the affairs and staff of the Board. The Board is supposed to hold not less than 6 and not more than 18 months. The Boards quorum is 8 the presence of 8 members.

**Functions CDF Board**

The functions of the Board are:

- Consider project proposals submitted from various constituencies
- Ensure timely and efficient disbursement of funds to every constituency
- Ensure allocation, disbursement and prudent management of the fund by every constituency
- Receive and discuss annual reports and returns from the CDF Committees
- Compile records, returns and reports from the constituencies and submit them to parliament, and,
- Receive and address complaints and disputes from Kenyans that concern the CDF and take appropriate actions

**Procedures and Submission of Project Proposals**

The MP submits a list of the proposed projects to the Board before the month of February each year or any other month as may be determined by the minister. The lists are to include projects and their cost estimates. These are reviewed by the Board within 14 days. The Board gives each listed project a serial number to ensure that a project retains that number till its completion. Every financial year, a constituency can undertake 5 – 25 projects.

**Implementation of Projects**

Projects are to be implemented with assistance from the relevant government departments in the districts. For projects which cut across several government departments, the department indicated in the proposed budget heads the project.

All fixed and movable asserts, including equipments bought using CDF money shall be the property of the Board.

The officer of the Board in every constituency compiles and maintains records of all receipts and disbursements on a monthly basis for each project, and then submits the accounts to the CDF Committee. Communities can on request nominate representatives to represent their interests in any project undertaken in their area.
Finance and administration
The Board has power to appoint its officer and staff. Each constituency shall open and maintain a bank account separate from the District Treasury. Every payment or instruction for payment out of the account shall be strictly on the basis of a minute resolution of the CDF Committee.

The funds allocated to each constituency are disbursed in four instalments. The first disbursement is made at the beginning of the first quarter of the financial year (July-August), and the remainder at the beginning of each quarter. The Government financial year starts from July and end in June the next year.

All unutilized funds usually remain in the constituency account and cannot be invested anywhere else.

Any person who misappropriates or assists in the misappropriation of funds/assets is guilty of committing an offence carrying a maximum term of 5 years or a fine of KShs 200,000 or both.

Conditions
Funds allocated for a particular project cannot be re-allocated during the financial year to any other purpose. If a project is cancelled during the financial year the funds, shall be returned to the Treasury. However, they will be credited to the account of the constituency from where they are withdrawn.

Signatories
Three persons of the CDF Committee must sign the payments or withdrawals. The three should include at least one signature of a nominee from the District Projects Committee and one nominee of the Constituency Development Fund Committee. As a rule, MPs and Councillors cannot be signatories to the Fund account.

Role of the citizens (How you can participate)
Although the law requires that all the constituents participate in the management of the CDF, most people remain ignorant of the operations of the Fund. Therefore, people are not involved at all. Below are some ways in which you can get involved:

• Seek and acquire more information relating to the CDF from government officials and local NGOs
• Purchase and study the relevant Act of Parliament, policy documents and reports from various government offices managing the CDF. Most of these documents are available for sale at the Government Book Shop along Haile Selasie Road, Nairobi, and may also be available in the NCCK regional offices
• Request for particular information from public offices particularly the District Commissioner, District Officers, District Education officers, District Social Development Officers, Chiefs and Clerks of the Local Authorities
• Participate in Chief’s Barazas and other public meetings. It is in these meetings that matters relating to the CDF are or ought to be discussed
• Participate in all other meetings called to discuss the CDF particularly the location meetings
• Mobilize your church, self help group, and community based organisation or neighbors to identify problems and their solutions. Present these solutions to the CDF committees and lobby them to provide funds for their realization
• Seek to be elected or appointed to various CDF committees. If this fails, you can request the committee to allow you to be in attendance as a guest of the committee
• Encourage local organizations, churches, groups, mosques and other formal and informal meetings to educate their members about the CDF
• Avail any information you have on the CDF to the media and other persons who may need it
• Mobilize others to seek information on how the CDF funds are being utilized
• Write letters and memoranda to the committees, provincial administration officials, Ministries, NGOs, and any other stakeholders asking questions or informing them on any issue you may have on the CDF
• Organize and mobilize the local community to write proposals to the CDF committee requesting for support of projects in your area

4.10 Economic Stimulus Programme (ESP)

On 11 June 2009, the Deputy Prime Minister and Minister of Finance, Hon. Uhuru Kenyatta presented to parliament the 2009/10 budget proposals. Under the theme “Overcoming today’s Challenges for a Better Kenya Tomorrow”, the minister outlined a host of budgetary proposals aimed at restoring the country to the initial growth path that was experienced in the period 2003-2007. Owing to the Post Election Violence and Global economic downturn the Kenyan economic growth slowed down from 7.1 per cent at end of 2007 to a paltry 1.7 per cent as of June 2009. Key areas that were affected include agriculture production, tourism and construction. Against this background the finance minister made ambitious proposals for stimulating growth in the local community areas. This is what has been established as the Economic Stimulus Programme (ESP 2009-2010). The Kshs. 22 Billion programme is being implemented during the period 1 July - 31 December 2009. This translates to an average of Kshs. 105 Million per constituency.

Objectives and allocations
According to the guidelines provided by treasury through the Economic Stimulus Programme Secretariat, the ESP will focus on ‘sectors that will generate maximum benefit, restore confidence of Kenyans and assist the business community to weather the storm while also protecting the livelihood of the poor and creating employment for the youths’. The objectives of the programme include; boosting the country’s economic recovery and return the economy back to the envisioned medium term growth path as outlined in Kenya Vision 2030; to invest in long term solutions to the challenges of food security; to expand economic opportunities in rural areas for employment creation; to promote regional development for equity and social stability; to improve infrastructure and the quality of education and healthcare for all Kenyans; to invest in the conservation of the environment; and to expand the access to, and build the ICT capacity of citizens so as to expand and accelerate economic growth. By all means these are good aims for such a noble programme, but will they be delivered by the choice of projects earmarked?
Table 1 above shows the various projects that are to be undertaken, the number of constituencies covered, the cost per project and total cost allocated.

**Table 1: Economic Stimulus Programme (ESP) allocations for 2009/2010**

<table>
<thead>
<tr>
<th>Activity/Project</th>
<th>Cost Per Unit Kshs (000,000)</th>
<th>No. of Constituencies Covered</th>
<th>Total Cost Kshs (000,000)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction of Fresh Produce &amp; Wholesale Market</td>
<td>10</td>
<td>180</td>
<td>1800</td>
</tr>
<tr>
<td>Fish-farming Ponds in 140 Constituencies</td>
<td>0.04</td>
<td>140</td>
<td>1120</td>
</tr>
<tr>
<td>Construction of Jua Kali Sheds</td>
<td>2.5</td>
<td>210</td>
<td>525</td>
</tr>
<tr>
<td>Equipping those Sheds</td>
<td>1</td>
<td>210</td>
<td>210</td>
</tr>
<tr>
<td>Construction &amp; Equipping of 1 H/C in each Constituency</td>
<td>20</td>
<td>200</td>
<td>4000</td>
</tr>
<tr>
<td>5 Motor Cycles &amp; 20 Bicycles for CHW</td>
<td>0.083</td>
<td>210</td>
<td>96.6</td>
</tr>
<tr>
<td>Employ 20 Nurses per Constituency on Contract</td>
<td>0.156</td>
<td>210</td>
<td>655.2</td>
</tr>
<tr>
<td>Constituency Medical Supplies Kitty</td>
<td>5</td>
<td>200</td>
<td>1000</td>
</tr>
<tr>
<td>Upgrading of 2 Primary Schools</td>
<td>7</td>
<td>210</td>
<td>1470</td>
</tr>
<tr>
<td>Construction of one Centre of Excellence in Secondary</td>
<td>30</td>
<td>200</td>
<td>6000</td>
</tr>
<tr>
<td>Recruiting 50 Primary Teachers on Contract</td>
<td>0.12</td>
<td>210</td>
<td>1260</td>
</tr>
<tr>
<td>Recruiting 10 Sec Teachers on Contract</td>
<td>0.168</td>
<td>210</td>
<td>352.8</td>
</tr>
<tr>
<td>Mobile Computer Lab</td>
<td>6</td>
<td>210</td>
<td>1260</td>
</tr>
<tr>
<td>Tree Planting in 20 primary school per Constituency</td>
<td>1.2</td>
<td>210</td>
<td>252</td>
</tr>
<tr>
<td>Rehabilitation &amp; Expansion of Irrigable Land</td>
<td>2000</td>
<td></td>
<td>2000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td><strong>22,001.60</strong></td>
</tr>
</tbody>
</table>

*Source: Economic Stimulus Programme 2009-2010*
5.0 Conclusion

Decentralization mechanisms are pursued to ensure that delivery of public goods and services is enhanced and that citizen participation in decision making is institutionalized. It is thus imperative that the citizens are well aware of their rights and responsibilities in decentralized mechanisms. More so in the new constitutional framework there will be need for citizens to engage through participation in elections, making recommendations on the architecture of the County governments, petitions and memorandums to their elected officials, attending town hall meetings where key decisions are made. The citizens need to be vigilant in this engagement.
6.0 References


\[^{1}\text{This section heavily borrows from IEA Kenya Research Paper No. 24 of 2010 on Devolution in Kenya: Prospects, Challenges and the Future edited by Albert Mwenda done with the support of Department}

\[^{2}\text{This section is based on the NCCK Decentralised Funds Manual: How to Participate in the Management, Monitoring and Evaluation of Decentralised Funds (revised edition of 2009) developed with the support of Norwegian Church Aid.} \]
Empowering Communities for Self Governance and Development (ECSGD)

“Empowerment and Accountability: The Pillar for a Better Tomorrow”

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