

THE **CDF** SOCIAL AUDIT GUIDE

A Handbook for Communities



OSIEA

Open Society Initiative for East Africa

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Developed by
Wanjiru Gikonyo



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RESOURCE BOOK

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ACRONYMS AND ABBREVIATIONS

Board	Board of Management of the Constituencies Development Fund
BQ	Bill of Quantities
CBO	Community Based Organisation
CDF	Constituency Development Fund
CDFC	Constituency Development Fund Committee
CFC	Constituency Fund Committee
CSO	Civil Society Organisation
DA	District Accountant
DDO	District Development Officer
DPC	District Project Committee
DWO	District Works Officer
GoK	Government of Kenya
MKSS	Mazdoor Kisan Shakti Sangathan
MP	Member of Parliament
LA	Local Authority
LATF	Local Authority Transfer Fund
LDC	Local Development Committee
LPO	Local Purchase Order
Minister	Minister of Planning and National Development
MoF	Ministry of Finance
M&E	Monitoring and Evaluation
NGO	Non-Governmental Organisation
NMC	National Management Committee
PC	Project Management Committee
SA	Social Auditor

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Most of all, this handbook is inspired by and dedicated to the many individuals who shared their experiences and concerns about the working of the CDF, and to the

many others like them who strive for justice and courageously ask important social audit questions, to often intimidating and indifferent officers and institutions, to ensure that CDF money improves livelihoods in their community.

Binaifer Nowrojee
OSIEA Director

FOREWORD

In 2005, Muslims for Human Rights (MUHURI), a Mombasa-based non-governmental organisation working to promote human rights, began a project to monitor expenditures made under the Constituency Development Fund (CDF) in Kenya's Coast Province. As a first step in their investigation, MUHURI tried to access copies of CDF bank statements and other CDF project expenditure reports for one particular constituency. However, they were denied access to these documents because Kenya does not have a law guaranteeing citizens the right to see government documents.

Subsequently, MUHURI used their contacts with the local community to identify where and how much of the CDF money had been spent in the constituency. In one instance, MUHURI staff members were informed by the local community that a water well constructed by a private company had been suspiciously included on the list of CDF-funded projects. The community alleged that the well had actually been dug using funds from a private company and not the CDF. After further interrogation of the contractor of the well, MUHURI concluded that the statement on the list provided to them claiming that the well was dug using CDF monies was untrue, as the money spent on this project had not come from the CDF. This was a clear case of double funding, a practice used in many constituencies to embezzle CDF funds.

MUHURI organised a public meeting to discuss CDF expenditures in the constituency. At that meeting, a representative of the local Member of Parliament was confronted with the evidence. The MP's representative finally admitted that the well had not been constructed with CDF monies but that the money allocated for the well by the CDF was still in the CDF bank account. Further enquiries, however, proved futile as once the case was out of the limelight, the CDFC officers never provided evidence that the funds were still in the account or how they were subsequently used. The experience of MUHURI echoes the frustrations of civil society groups around the country who experience excessive secrecy and a bureaucratic run around, all designed to keep fund operations in the dark to the benefit of an unscrupulous few.

The example of MUHURI also echoes the experiences of numerous other civil society groups and individuals around the country who have been able to uncover cases of mismanagement and misappropriation of CDF. In this Guide, the Open Society Institute of East Africa (OSIEA) will describe the management of the CDF and explain techniques that can be adopted by non-governmental organisations and the general public to monitor CDF expenditures. It is hoped that this Guide will assist its users to understand the CDF process and procedures and the techniques to monitor CDF expenditures more effectively. It is the right and responsibility of every Kenyan to ensure that public resources are properly allocated by monitoring their expenditure at every available opportunity.

OVERVIEW

This handbook is intended to be used for the training of groups as well as individuals with an interest in monitoring CDF expenditure in their community. The handbook is designed to assist communities understand the way CDF works, and how they can participate effectively in the various stages of the CDF project cycle. It also discusses how members of the public can effectively monitor CDF expenditure through a social audit. If using this handbook for training purposes, trainers are encouraged to obtain a sample of the key CDF documents relevant to that constituency, as detailed later within the text.

Each chapter is accompanied by a few discussion questions to evaluate as well as reinforce the information gained on each topic, and to prompt further thinking and dialogue by users of the handbook.

This handbook is divided into key sections:

Section 1 of the handbook gives a detailed introduction to the CDF, including a brief outline of the concept of the Social Audit, including the objectives of a Social Audit and what a Social Audit aims to achieve. This section also discusses how CDF money is allocated and takes a detailed look at the key institutions involved in CDF administration and their roles and responsibilities.

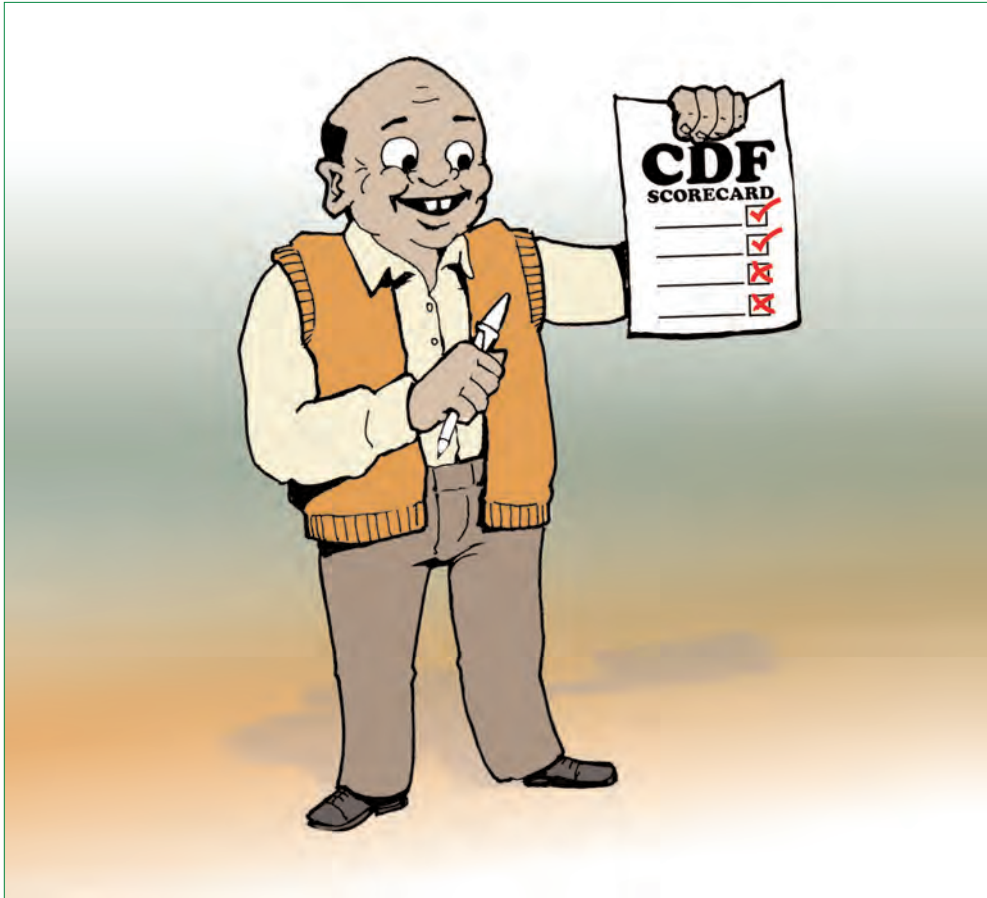
Section 2 deals with the CDF process and goes into detail about how the CDF works from inception up to the completion of a project. It looks at the key stages of the CDF project cycle and explains key documents and institutions involved at every stage.

Section 3 discusses the aspect of monitoring and evaluation, and specifically the social audit in detail, including the stages involved. It also introduces some practical CDF social audit tools. Section 4 deals with the numerous advocacy issues raised in CDF implementation and gives recommendations. It also briefly examines some principles of best practice in CDF management. It introduces a CDF accountability charter, a tool that is gaining increased popularity amongst CSOs engaged in monitoring local development funds in the country.

Section 5 contains various annexes, including the CDF Act 2003, the CDF (Amendment) Act 2007, the CDF Implementation Guidelines from 2006/7, etc.

SECTION 1

INTRODUCTION



CHAPTER 1

Introduction to Social Audit

The Constituency Development Fund (CDF) was introduced in Kenya in 2003 as a homegrown initiative to address inequalities in development around the country. Since it was introduced, CDF has made a great impact, with numerous CDF projects coming up throughout the country. However, there are concerns that CDF monies are not managed in a transparent manner; that many CDF projects are not useful to local communities; and that local communities are not sufficiently involved in its management. This handbook is designed to assist community groups and individuals to understand the CDF process and provide information and skills on how to monitor CDF expenditure through a process known as social auditing.

First, let us get a basic understanding of what the social audit is. Later, we shall take a detailed look at social audits in Chapter 9.

In this handbook, we will draw on the social audit model of the Mazdoor Kisan Shakti Sangathan (MKSS)—a peasants' and workers' union in India—which pioneered a simple but highly effective method for conducting social audits through public forums. During these social audits, local communities check accounting and other records of public works programmes in their areas. In the experience of MKSS they have come across numerous cases of falsified accounts and fraudulent records, including, false records of construction works that have not been undertaken at all (ghost works), fraudulent billing for project activities, and falsified labour rolls, among others.

What is Social Auditing?

A social audit is the process through which all details of a public project are scrutinised at a public meeting. A social audit examines all aspects of a public project, including the management of finances, officers responsible, recordkeeping, access to information, accountability, levels of public involvement, and so forth. A social audit seeks to evaluate how well public resources are being used and how to improve performance. It also aims to ensure maximum community



participation. The aim of this handbook is to help communities understand how to conduct CDF social audits in their location and constituency.

A social audit seeks to evaluate how well public resources are being used and how to improve performance.

A public project may be defined as any project that utilises public funds. This includes money spent by government on health, roads, education and so on through its ministries, and it also includes decentralised funds such as the Constituency Development Fund (CDF), the Local Authority Transfer Fund (LATF), the Secondary School Education Bursary (SSEB), the Roads Maintenance Levy Fund (RMLF), the AIDS Fund, Free Primary Education (FPE), the newly introduced Youth Fund

and so forth.

If members of the public can master the skills to effectively track CDF expenditure, they can then employ the same skills to track government expenditure in other local development funds.

Who Conducts the Social Audit?

A social audit is conducted by a social auditor. The social auditor is best drawn from the community, and should be a community member committed to uplifting its welfare. For practical purposes, social audits are best carried out by groups of community members (social audit teams) as the work involved is quite demanding. Most social audit teams operate on a volunteer basis.

The social audit teams may be assisted by local development groups such as CBOs and NGOs but ultimately the social audit is best done by those who benefit from the project/s.

Why a Social Audit?

The social audit aims at:

- Ensuring that implementation of the project is transparent and known to everybody
- Increasing public participation at all stages of the project cycle
- Increasing accountability
- Ensuring projects are not left incomplete
- Identifying, controlling and reporting irregularities
- Preventing abuse of funds and corruption
- Measuring the impact of the projects
- Enabling people to exercise their rights



Questions Asked by the Social Audit

A CDF social audit should be carried out to ensure the CDF project is being implemented properly. It seeks to answer questions such as:

- Did money allocated to specific projects actually get to those projects?
- What are the specifications of the project? Have they been met?
- Is the quality and quantity of materials used as per the specifications?
- Did all workers receive their payments as indicated?
- Was the project completed within the specified time?
- Who are the managers of the project?
- Was the cash allocated for the project used for the purposes for which it was intended?
- Has the community been sufficiently involved in the project?
- Have project managers kept good records?
- Have project managers given the public the necessary information to help the public monitor the project?
- Has there been any abuse of funds in the project?

Steps in the Social Audit

1. Organisation of social audit teams
2. Information gathering
3. Analysis of information
4. Awareness raising and notification of the social audit public meeting
5. The public meeting
6. The follow-up

P Points for Discussion

1. How can the public monitor CDF expenditure?
2. Why is it important to monitor CDF expenditure?
3. What questions does the social audit ask?

CHAPTER 2

Brief Background to CDF

1. Brief Background

Decentralised funds are established based on the belief that government at the local level has a better understanding of community needs. Decentralised funds are established to increase community participation in local decision making, enhance government transparency, speed up government responsiveness and improve quality of service delivery.¹ Kenya has several operational decentralised funds such as the Secondary School Education Bursary (SSEB, established in 1993/4), Local Authority Transfer Fund (LATF, established in 1998), Roads Maintenance Levy Fund (RMLF, established in 1993), Rural Electrification Program Levy Fund (REPLF, established in 1997), and Free Primary Education (FPE, established in 2003).

The CDF Bill was devised by opposition Members of Parliament (MPs) during the 8th Parliament who felt that opposition areas did not receive development funds, resulting in poor infrastructure, inadequate medical and educational facilities in some areas. MPs sought to establish CDF to create an equitable distribution of resources to promote equitable growth around the country.

When the CDF Bill was first introduced in Parliament, it received support but was never made into law. The CDF Bill was re-introduced in Parliament in 2003 and passed with an overwhelming majority. The fund aims to promote equitable development and alleviate poverty at the constituency level.

The implementation of the fund is guided by the CDF Act 2003 as well as regulations and circulars released by the Ministry of Finance from time to time in order to streamline the operations of the fund. These include:

- The CDF Act 2003
- The CDF (Amendment) Act 2007



¹ Kenya Institute for Public Policy Research & Analysis (Kippra)-Decentralised Funds report for EU/DGSP Project 2006.

- CDF Regulations
- Circulars
- Public Procurement and Disposal Act 2005
- Public Procurement and Disposal Regulations 2006
- CDF Implementation Guidelines, prepared by the Board of Management of CDF

It is important to note that CDF implementation is constantly evolving through the issuance of new circulars, regulations and revisions to the implementation guidelines and law.

2. Where does CDF money come from?

CDF is collected from ordinary government revenue. Ordinary government revenue comes from value added tax on foodstuffs, clothing, books and other items, PAYE tax which is collected from all salaried employees, taxation on manufactured and imported goods, licences and so forth. In this way, each and every Kenyan contributes towards CDF. It is therefore the responsibility of every Kenyan to make sure that CDF is well spent.

The CDF Act provides that at least 2.5% of the ordinary revenue collected by the government is allocated to CDF. Members of Parliament have repeatedly sought to have the minimum CDF allocation increased by amending the CDF Act but have not succeeded. In 2006/7, the government under pressure from Parliament allocated 3.5% to CDF. In 2007/8 the government allocated about 2.7% of ordinary revenue. Due to the growth of the economy and the Kenya Revenue Authority's improved efficiency at tax collection, the total amount allocated to CDF has grown each successive year.

Each and every Kenyan contributes towards CDF. It is therefore the responsibility of every Kenyan to make sure CDF is well spent.

CDF comes from ordinary government revenue

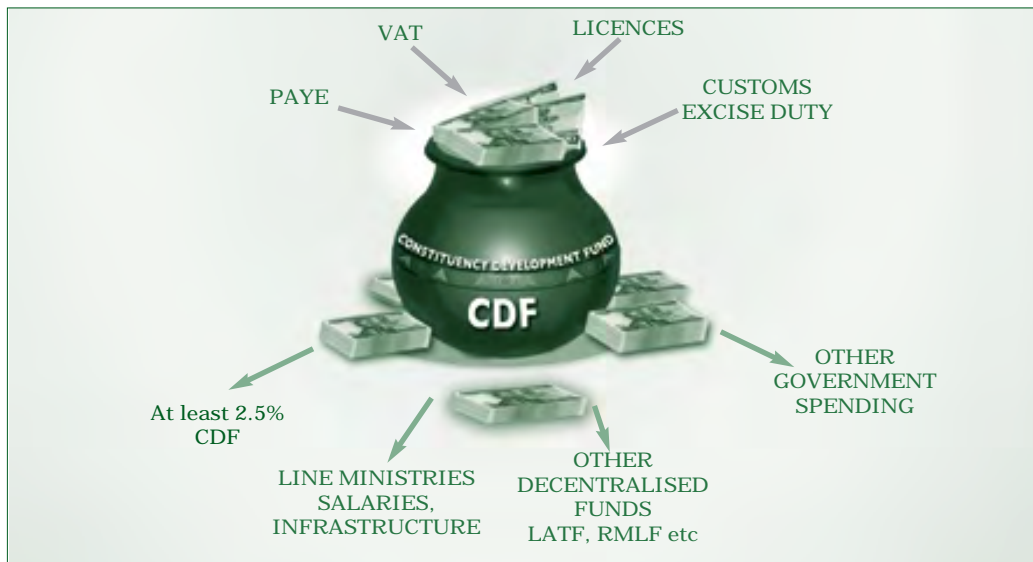


Table 1: CDF Allocations 2003-8 as percentage of ordinary government revenue

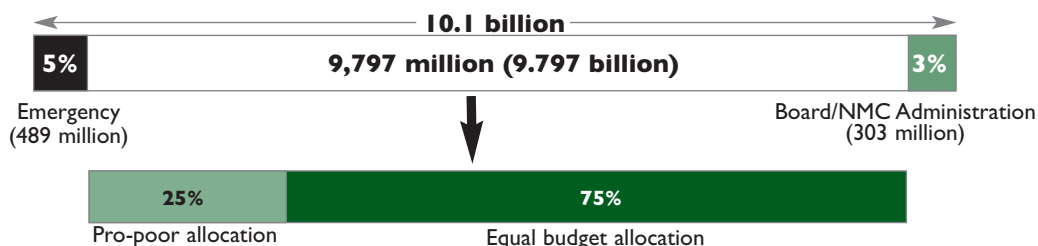
	Total annual allocation (Ksh)	% of ordinary government revenue
2003/4	1.26 billion	(2.5%)
2004/5	5.6 billion	(2.5%)
2005/6	7.2 billion	(2.5%)
2006/7	10.1 billion	(3.5%)
2007/8	10.1 billion	(2.7%)

3. How is CDF Allocated?

CDF aims to promote equity and therefore each of Kenya’s 210 constituencies receives CDF. To understand how this works lets take a look at the allocation of CDF to three constituencies in the year 2007/8.

In the year 2007/2008, Ksh 10.1 billion was allocated to the fund in total. 3% (Ksh 303 million) of the total amount was set aside for administration of the CDF Management Board (formerly the National Management Committee) leaving Ksh 9.797 billion. 5% of the Ksh 9.797 billion was set aside for emergencies and allocated equally to each constituency. Of the remaining balance, 75% was allocated equally to all the 210 constituencies, and the other 25% allocated to constituencies based on their poverty ranking using a formula to ensure that poorer constituencies get more money. The CDF poverty index considers factors such as the total number of people living below the poverty line in a constituency, the total population, and so forth to give additional funds to those constituencies that have the highest numbers living in poverty.

This can be illustrated diagrammatically below;



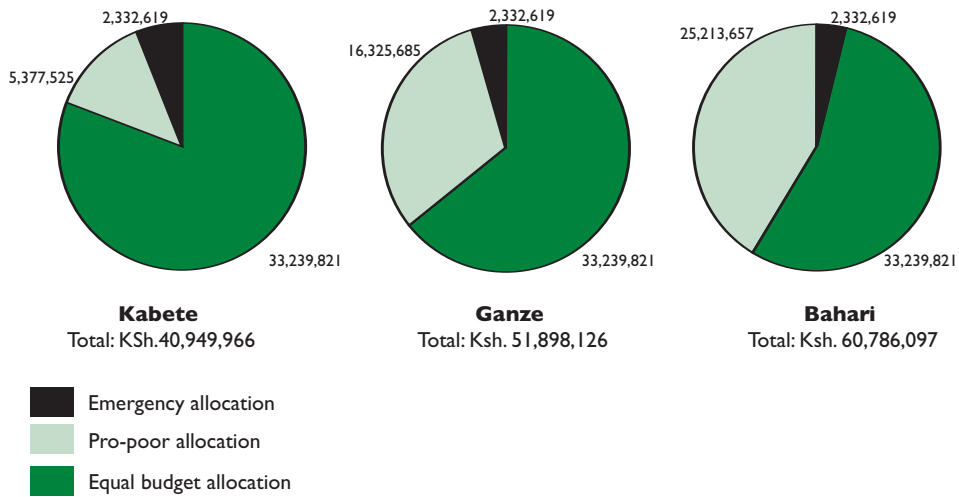
Let us look, for example, at the 2007/8 allocation for three constituencies:

Kabete, Ganze and Bahari. Kabete has the lowest poverty count of any constituency in Kenya (16%), Ganze has the highest poverty head count (84%). Bahari in turn receives the highest CDF allocation due to its large population and relatively high poverty count (63%).

Table 2: CDF Allocations 2007/8

Name of constituency	Constituency population	Constituency poverty head count	Contribution to national poverty	Equal budget allocation (75%)	Pro-poor budget allocation (25%)	Constituency Administration (3%)	Emergency allocation (5% of gross)	Total CDF Allocation
Bahari	227,554	63%	.99%	33,239,821	25,213,657	1,753,604	2,332,619	60,786,097
Ganze	110,536	84%	0.64%	33,239,821	16,325,685	1,486,965	2,332,619	51,898,126
Kabete	185,570	16%	0.21%	33,239,821	5,377,525	1,158,520	2,332,619	40,949,966

Therefore, for the constituencies in our example, the allocation for each would be;



P Points for Discussion

1. What is CDF?
2. What is the purpose of CDF?
3. Where does CDF money come from?
4. How is CDF allocated?
5. Do you know how much money was allocated to your constituency during the current financial year? During past years?

CHAPTER 3

Who is Involved in CDF?

CDF has several stakeholders including the public and community groups, official bodies created under the CDF Act 2003, existing government institutions, and Member of Parliament for each constituency. In October 2007, Parliament passed the CDF (Amendment) 2007 Act, which made significant changes to the existing law. Those changes are captured in the text, and are discussed in more detail in chapter 13.

1. The Public and Community Groups

CDF is a participatory fund. Therefore, for it to succeed, the public must be involved in all its stages. It is the responsibility and right of every Kenyan to ensure CDF money is well spent by:

- Being informed
- Participating in CDF meetings in your location and constituency
- Supporting CDF projects
- Monitoring CDF projects
- Reporting cases of abuse

The public should get involved in CDF through the CDF project committees that implement CDF projects, or through self-initiated local development committees that monitor the implementation of CDF and other development projects in the constituency, or by simply attending CDF meetings. A well organised, representative and active local development committee helps residents coordinate their development efforts effectively, even though such local committees are not officially recognised under the CDF Act.

Other stakeholders in the CDF process are Non-Governmental Organisations (NGOs), Community Based Organisations (CBOs), women's groups, youth groups, faith-based institutions, etc, all of which play an active role in project identification and monitoring of CDF.



2. Institutions Created Under the CDF Act 2003

The CDF Act has created several official bodies to carry out specific functions to ensure the smooth running of the CDF, as shown below:

Chart 1: Institutions created under CDF Act 2003 and CDF Revised Act 2007



2.1 The Constituency Fund Committee

The Constituency Fund Committee (CFC) is a parliamentary select committee appointed by the Kenya National Assembly (parliament) in accordance with parliamentary standing orders. It comprises 11 MPs, one of whom is the chair. Members cannot be ministers or assistant ministers. The membership must ensure proportionate representation of political parties. Members serve for a 3 year renewable duration, or until the dissolution of parliament.

Functions of the Constituency Fund Committee include:

- Determining the allocation and distribution of CDF
- Determining the utilisation of any unspent funds intended for use by the Board of Management of the CDF
- Making a report to parliament every two years, and any other reports to appraise parliament and obtain approvals
- Considering and making recommendations on persons appointed under the Act, e.g. appointments to the Board

- Overseeing the policy and legislative framework to ensure efficient CDF implementation

2.2 Board of Management of the Constituencies Development Fund

Under the revised CDF Act 2007, The National Management Committee (NMC) was renamed the Board of Management of CDF (Board) and its powers and responsibilities changed slightly. The Board is a body corporate capable of being sued, with perpetual succession and common seal. All CDF property belongs to the board. It is allowed to borrow and make investments. The Minister of Finance is also replaced by the Minister of Planning. Signatories to the national fund account are the Chief Executive Officer (mandatory) and two other Board members appointed by the Board.

The Composition of the Board

The Board comprises 17 persons in total, one third of whom must be women. It comprises four government officials: the Permanent Secretaries of the ministries of Planning and National Development, and Ministry of Finance, the Clerk of the National Assembly, and the Attorney General. It also comprises 8 qualified persons nominated according to the First Schedule. The organisations listed in the first schedule submit four names each, of which half must be women².

The Minister then nominates one person from each organisation. The nominee's names must be approved by Parliament. They must represent diverse professions: finance, accounting, engineering, economics, community development and law. The Minister appoints the Chairman from the eight nominated according to the First Schedule.

The Minister may appoint four persons to achieve regional representation, and they too must be approved by Parliament and have relevant expertise. The Board also comprises of the Chief Executive Officer (CEO), who is ex officio and secretary to the Board. The CEO is appointed on a competitive basis and must be approved by Parliament. The CEO must have a relevant university degree and 10 years relevant work experience.

The Board shall meet 6-18 times per year, and may hold special meetings of up to five persons. All fixed and moveable assets are the property of the Board and will be insured under its name. However, any funds realised from the sale of assets go to the Constituency Fund account.

Functions of the Board

- It administers the fund. It must approve each and every payment from the fund. It numbers the projects using the number of constituency as delineated by the Electoral Commission of Kenya (ECK)

² The Kenya Farmers Union, The Institute of Engineers of Kenya, The Kenya National Chamber of Commerce, The Catholic Church, The Kenya National Union of Teachers of Kenya, The National Council of Churches of Kenya (NCCK), The Supreme Council of the Kenya Muslim (SUPKEM), The Institute of Certified Public Accountants of Kenya.

- It ensures timely and efficient disbursement of funds to each constituency
- It ensures the efficient management of the fund
- It receives and addresses complaints and disputes and takes appropriate action
- It receives and considers proposals from various constituencies
- It appoints the needed officers and other staff for management of the fund
- It determines the sitting allowances for the District Project Committee and Constituency Development Fund Committee, which are then approved by the Constituency Fund Committee
- It submits on a monthly basis to the Constituency Fund Committee a summary of project proposals received in the previous month, indicating approval status, a summary of status of disbursements to constituencies, and summary of status of disbursements from treasury to the National Account
- At the end of the financial year, the Board with approval from the Constituency Fund Committee will determine how any excess funds or shortfalls will be handled

Functions of the Minister

The Minister for Planning and National Development tables an annual report on the activities, operations and expenditure of the fund at the end of the financial year. The Minister may make regulations and amendments necessary for the smooth running of the fund, although parliament must approve them before implementation.

2.3 District Projects Committee

The District Projects Committee comprises all MPs in the district, all chairpersons and mayors of local authorities, the District Commissioner, the District Development Officer who is secretary of the District Projects Committee, all the chairpersons of the Constituency Development Fund Committee, and the District Accountant. The relevant district departmental heads may also attend District Projects Committee meetings in an ex-officio capacity. The chairperson is elected from either the MPs or Councillors. The District Project Committee must meet annually and up to a maximum of 6 times a year. The District Project Committee is dissolved upon the dissolution of Parliament. The new District Project Committee shall be constituted 60 days after a new Parliament is inaugurated.

Functions of the District Projects Committee

The Members of Parliament shall table the list of projects to the District Project Committee (DPC), which shall ensure there is no duplication of projects. The DPC shall at the beginning of every financial year circulate a list of ongoing government and council projects to all Constituency Development Fund Committees. However, this does not mean that existence of a similar project can be used to deny funding for a proposed project.

District-wide Projects

The District Project Committee is responsible for procurement where contracts

exceed Ksh 10 million. It is also responsible for implementation of projects that span two or more constituencies.

2.4 Constituency Development Fund Committee

Under the Revised CDF Act of 2007, the Constituency Development Committee (CDC) was renamed the Constituency Development Fund Committee (CDFC). The CDF Act empowers the MP to appoint members of the Constituency Development Fund Committee. Members shall be appointed on three year renewable terms for a maximum of two consecutive terms. The Constituency Development Fund Committee shall meet 12-24 times per year, including the sub-committee meetings. The Constituency Development Fund Committee must meet at least 12 times but not more than 24 times (including sub-committee meetings). Quorum is one half of the total membership.

The Constituency Development Fund Committee remains in office until elections/by-elections whereby the new MP appoints a new CDFC. The MP shall convene a new Constituency Development Fund Committee within 60 days after taking office.

Composition of the CDFC

The Constituency Development Fund Committee will have a maximum of 16 persons. The Member of Parliament, Councillors, One District Officer, 2 religious representatives, 2 men representatives, 2 women representatives, 1 youth representative, 1 NGO representative, 3 other persons appointed by the MP, and a Fund Manager.

Functions of the Constituency Development Fund Committee

The Constituency Development Fund Committee is responsible for the allocation of funds to various projects and does so as it sees fit. Within its discretion, it determines the instalments with which to release monies to projects. It shall ensure that appropriate consultations with relevant government departments is done to ensure realistic cost estimates. It ranks projects in order of priority.

Fund Manager

The Fund Manager is seconded to the Constituency Development Fund Committee by the Board. The Fund Manager is ex officio (i.e. sits in meetings but is not allowed to vote).

Responsibilities of the Fund Manager

The Fund Manager is the custodian of all records and equipment during the term of office and during transition. This person will compile and maintain a record showing all receipts and disbursements on a monthly basis for every project and sub-project in the constituency. He/she will submit a monthly and annual report to the

Constituency Development Fund Committee, not later than 60 days after end of financial year.

2.5 Project Committee

The Project Committee is recognised in the CDF Amendment Act 2007 as the committee responsible for implementation of a project. It may be nominated or elected, or may be pre-existing, such as school boards.

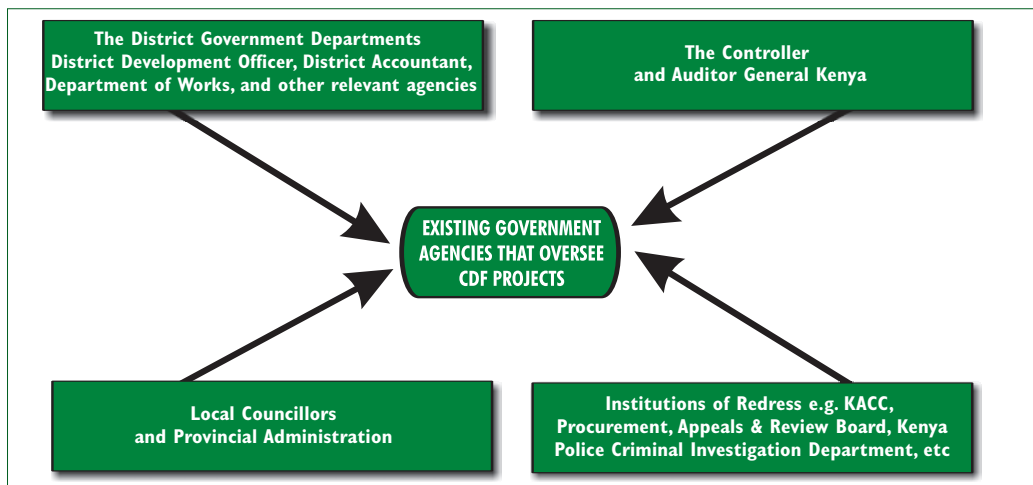
Functions of the Project Committee

- The Project Committee should implement projects with the assistance of the relevant government department
- It should coordinate with the relevant government departments to ensure cost estimates are as accurate as possible
- It prepares a work plan for the project
- It carries out procurement for the project. In places where the Project Committee does not have the capacity to undertake procurement, it should be undertaken by the relevant government department
- It keeps records of all documents, including receipts, LPOs, invoices, records of delivered materials, etc
- It prepares a financial expenditure report
- It monitors progress of work

The CDF Act recognises the Constituency Development Fund Committee, Project Committee and District Project Committee as public entities and, therefore, they are bound by government procurement rules and regulations, meaning they must employ government procurement methods as we shall see later in Chapter 6.

3. Other government institutions involved in CDF

Chart 2: **Existing Government Agencies that Oversee CDF³**



3 Designed by Vivek Ramkumar - International Budget Program (IBP).

3.1 District Government Departments

The CDF law states clearly that the district government has an important role to play in the implementation of CDF projects. According to the Act, the departmental head of the relevant ministry should oversee CDF projects under his/her docket and maintain records of disbursements and progress of projects.

The involvement of the district government departments is necessary to ensure that realistic cost estimates are prepared. The relevant department also needs to ensure that the project is sustainable through government or public support. It also ensures the quality of projects through regular checks and should eventually issue certificates of completion for finished projects. Government technical support is especially important for large projects, and projects whose specifications are not standardised.

District Development Officer—The District Development Officer (DDO) is the development officer under the Ministry of Planning and National Development. The DDO issues the Authority to Incur Expenditure (AIE). No payments can be made out of the constituency account without the authority of the District Development Officer. Previously, the District Development Officer also kept a record showing all receipts and disbursements on a monthly basis for each project. According to CDF guidelines, the District Development Officer submits monthly and annual returns to the NMC. Under the 2007 Amendments, this responsibility is taken up by the Fund Manager. It is not clear if the District Development Officer will also continue to prepare monthly returns.

District Accountant—The District Accountant (DA) is the district officer under the Ministry of Finance. The District Accountant is a mandatory signatory on all CDF cheques. The District Accountant must maintain separate CDF books of accounts in accordance with government audit regulations. The District Accountant must also ensure compliance with procurement guidelines. He/she must also ensure that all projects have a Project Committee and that they have the capacity to handle procurement and maintain proper records.

3.2 Role of Local Administration and Councillors

Provincial Administration—The CDF law has sought to integrate the existing government structure into its implementation. At least one District Officer (DO) is a mandatory member of the Constituency Development Fund Committee, and the District Commissioner (DC) is a mandatory member of the District Projects Committee. The DCs may use their powers to intervene where abuse of funds has become evident.

Chief—The local Chief does not have an explicit role in the CDF Act. However, in practice, many MPs and their Constituency Development Fund Committee have realised that the Chief can be effective in information dissemination and public mobilisation and in ensuring that CDF bursary disbursements reach the intended

beneficiaries. Many Constituency Development Fund Committees have even built the local Chief an office using CDF funds to ensure that he/she is able to work properly.

Local Government—The CDF Act requires that two Councillors from the constituency are chosen to sit on the Constituency Development Fund Committee to represent the development needs of the people. The Act assumes that the local Councillor is best placed to understand the needs of the community, and to ensure that there is no double funding of projects between local council expenditure such as the Local Authority Transfer Fund (LATF) and CDF. Responsible Councillors around the country are able to monitor CDF on behalf of the community and demand accountability.

In areas where the local Chief and Councillor have a good working relationship with the community and the CDFC, they can greatly assist in CDF implementation. However, in practice, the local Chief and Councillor can also be a stumbling block if they decide to collude with corrupt CDFC members, or if they decide to undermine the sitting MP for political reasons.

3.3 Controller and Auditor General

Section 34 of the CDF Act provides that all funds under the Act must be audited and reported upon by the Controller and Auditor General to ensure that funds have been used for the intended purpose. Under the CDF Act 2003, it was the duty of the officer administering the fund (then the Deputy Clerk of Parliament) to ensure that full accounts are kept. He was also supposed to prepare, sign and forward accounts to the Controller and Auditor General.

However, since the introduction of CDF, there has not been a nationwide audit of CDF. The 2007 amendments also seem to have removed the Board's role in auditing CDF, so it is not clear who is responsible for auditing CDF projects. It is doubtful if the Controller and Auditor General (CAG) has the requisite capacity to audit CDF projects, which may number over 100 a year in some constituencies. In 2007 the National Management Committee (NMC) embarked on an audit exercise to ensure funds were audited before the general election in December 2007. It is not clear how far this initiative went.

4. Institutions of Redress

Other government bodies such as the Procurement Appeals, Complaints and Review Board, the Kenya Anti-Corruption Commission, and the Criminal Investigation Department of the Police are available to take up complaints and cases where CDF funds have been abused. These are discussed in more detail in Chapter 10.

5. Role of the Member of Parliament

The duplication of the roles of the Member of Parliament (MP) in CDF has become one of the most controversial aspects of the fund.

The role of the MP as well as composition and roles of the CDF institutions raise fundamental challenges in the implementation of the Fund. These are discussed in more detail in Chapter 13.

Section 2 of this handbook will elaborate on the stages of the CDF project cycle and how the different stakeholders engage at each stage.

P Points for Discussion

1. Who is involved in CDF?
2. Which are the key CDF institutions and what do they do?
3. Which other government institutions are involved in CDF?

SECTION 2

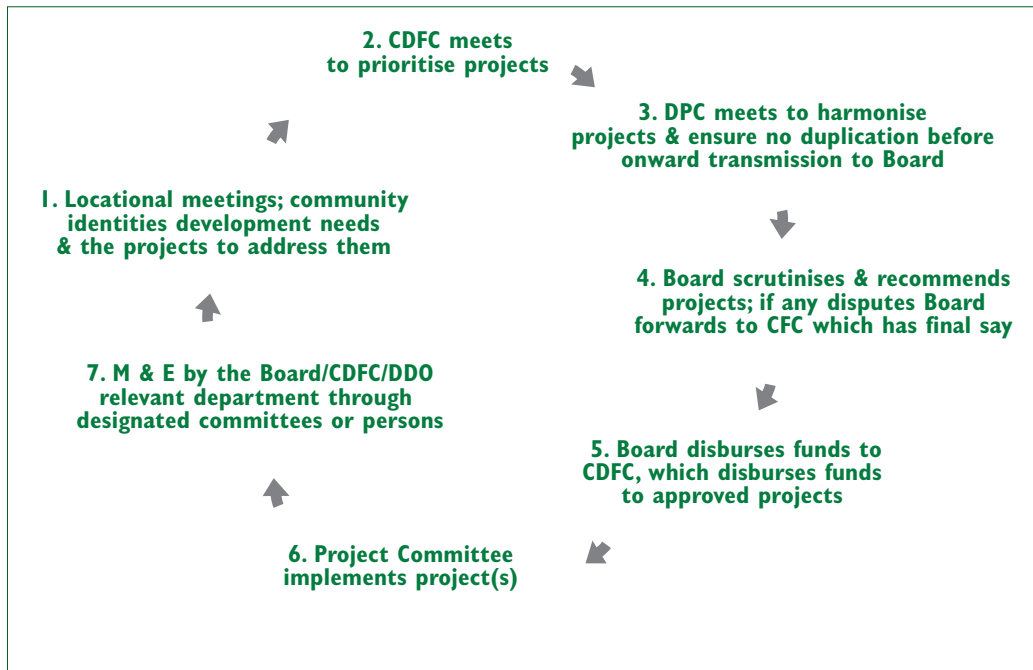
THE CDF PROCESS



The CDF Project Cycle

The CDF project cycle consists of several stages as shown in the diagram below. Chapter 4 will address the first stage, which is project selection. Project selection deals with issues such as what types of projects CDF funds, how projects are selected and approved, and the important documents and records at this stage. Chapters 5 and 7 will discuss procurement and implementation respectively. Whereas chapter 5 will discuss community participation in CDF.

Chart 3: **The CDF Project Cycle**⁴



⁴ Adapted from the CDF Implementation Guidelines prepared by the National Management Committee.

CHAPTER 4

Project Selection

Project selection is the first step in the CDF process through which the community identifies the needs of their location or area, and chooses appropriate projects to address those needs.

What projects does CDF fund?

CDF only funds projects that benefit the community at large. The most common types of CDF projects are school and health centre buildings, water projects, roads, chief's offices, and police posts. The training of members of the Constituency Development Fund Committee and Project Committee to help them understand and manage CDF better can also be supported by CDF. CDF does NOT fund: private enterprises, merry go rounds, Religious organisations and activities, political organisations and activities, recurrent costs, i.e. salaries, electricity, water, administration costs of a project, etc.

How is CDF money allocated?

The CDF Amendments Act 2007 also allows the CDF to undertake projects not previously allowed. Under the new changes, the Constituency Development Fund Committee can now acquire land and buildings. The revised CDF Act also allocates more money for the administration of the Constituency Development Fund Committee. Of the funds given in a single year, the CDF Act sets aside money for the following;

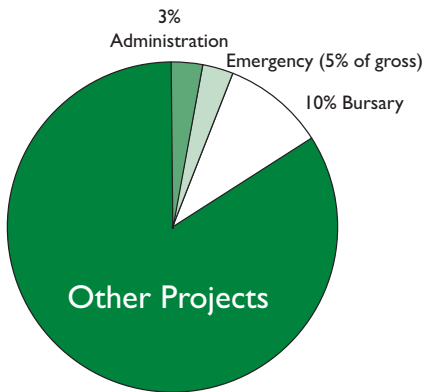
- 3% Constituency Development Fund Committee administration, including rent, salaries of full time staff, Constituency Development Fund Committee allowances, office expenses, etc
- 3% for Constituency Development Fund Committee vehicles and equipment
- Up to 2% for sports activities (does not include cash awards but includes recurrent expenses)
- Up to 2% on Monitoring and Evaluation expenses
- Up to 2% on environmental activities



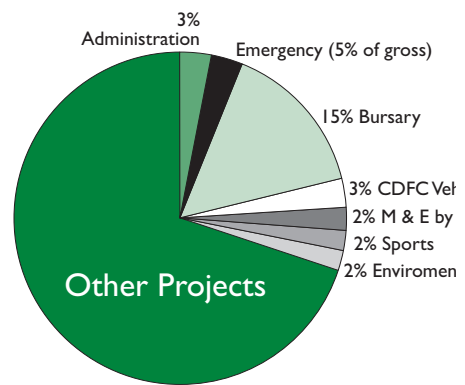
- 5% emergency—This money remains unallocated in the constituency account and is only to be used for emergencies such as building or repairing bridges after floods, repairing school buildings that have collapsed due to extreme weather, buying food during times of drought, etc
- Up to 15% may be allocated to bursary (includes fees for mocks and continuous assessment exams)

All allocations must be reflected on the Second Schedule, and detailed in the Third Schedule as shall be discussed later in this chapter. The total number of projects in any given year must be more than 10 and must not exceed 25, up from a maximum of 20.

The Breakdown of CDF allocations illustrated below;



Prior to the CDF Amendments Act 2007



After the CDF Amendments 2007

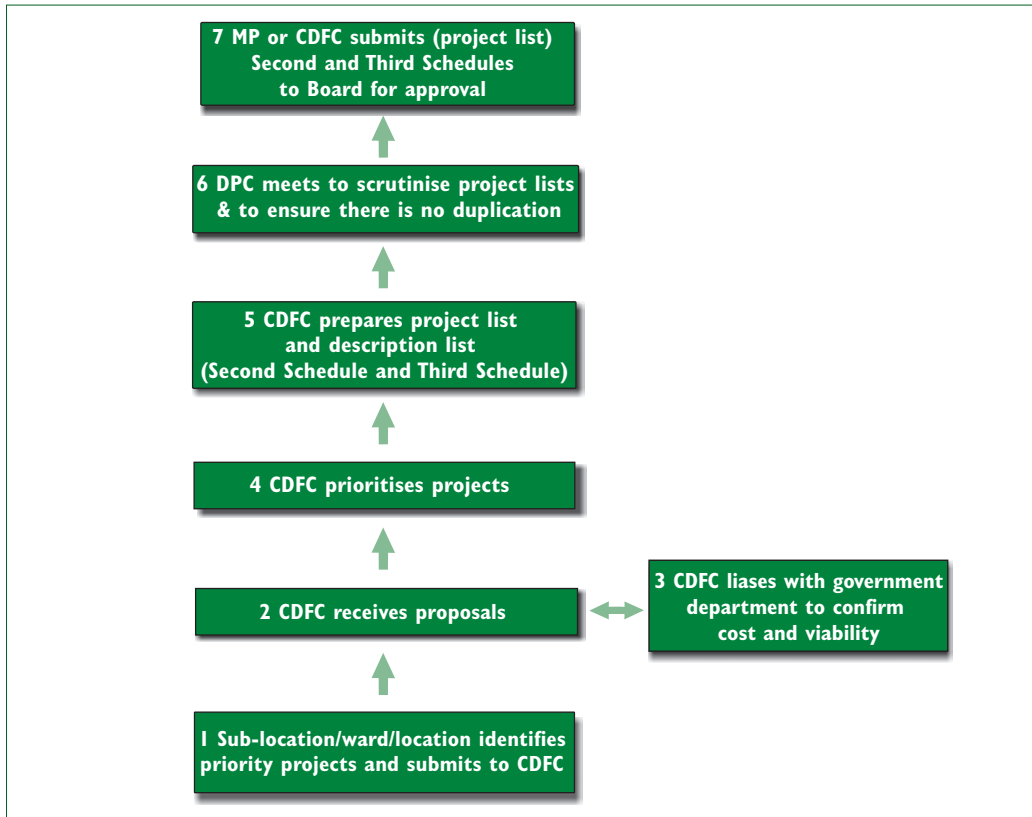
Joint Projects: CDF allows joint projects, in which it finances part of a project while funds from a different source finance the rest. These supplementary sources of funding are commonly churches, the Local Authority Transfer Fund (LATF), NGOs and so forth. In such a case, the CDF must cover a defined unit or complete phase to ensure it is completed with the allocated funds.

District-Wide Projects: CDF also allows district-wide projects that span more than one constituency, where the different constituencies contribute towards a single project of common benefit to all. These are implemented by the District Project Committee.

As mentioned before, CDF must always cover a complete phase or section of a project to ensure it is completed. For example, CDF must fund a full classroom, and not half a classroom.

We now look at the stages of project selection.

Chart 4: **Stages of the CDF project selection process**



Step 1: Project identification

This is the first important stage in project selection. The CDF Act assumes that the community is able to organise itself to identify the location’s needs, and to prepare a priority list of projects. This can be done at village/sub-location level, location level, or ward level. The community should hold an informal meeting to discuss the needs of their area and identify projects to meet these needs. They then prioritise and list these projects in writing in order of importance.

Step 2: Application for funds

Many Constituency Development Fund Committees have set certain requirements in order for a proposal to be successful. A responsible Constituency Development Fund Committee will make clear what they expect from the community. Most commonly, they require:

- A list of prioritised projects or an application for a single project, including the physical location of the project
- Minutes signed by the community representatives to prove that there was a meeting to discuss the project proposal
- A quotation and/or estimate for the project. For big projects, a BQ (Bill of

Quantity), drawings and even a work plan may be demanded

- In some cases, the title deed to the land for a proposed project is required to make sure that the land is indeed available

Step 3: Constituency Development Fund Committee discusses and approves proposals

The Constituency Development Fund Committee receives the proposals, and then deliberates on them, after which it should select the most viable projects in line with what it has identified as the long term needs of the area. In this way, the Constituency Development Fund Committee has the power to select the final list of projects. However, a responsible Constituency Development Fund Committee will consult the community as much as possible and will not allow political interests to interfere in the selection of projects.

Step 4: Constituency Development Fund Committee prioritises projects

The CDFC is empowered to prioritise projects. This means that out of all project proposals received, the CDFC makes the final decision on which ones will receive funding in the coming year. The CDFC has to hold a meeting to discuss those projects and must keep minutes of that meeting. For the sake of transparency, some CDFCs ensure that community representatives attend this important project selection meeting.

Collaboration with relevant government department

The CDF Act 2003 requires that all project proposals be accompanied by a cost estimate, and places the responsibility upon the Constituency Development Fund Committee to liaise with the relevant government department for cost verification. However, the Revised CDF Act 2007 places this responsibility upon the Project Committee. It is hoped that the CDF Board will clarify such contradictions in CDF implementation.

Nonetheless, it is important that the district government is involved at this early stage for accurate costing of a project, and to approve it as viable. Many CDF projects have turned out to be 'white elephants' because they were started without due consultation with the relevant district government department.

Most CDF projects will eventually rely on the line ministries to provide staff and other facilities, e.g. teachers for the new classrooms or medical staff for a health centre. Some other projects such as water projects may be fully run by the community itself.

The table below gives an indication of the role of various government departments in CDF projects.

Table 3: **Role of government departments in CDF**

Project type	Relevant Government Departments & Functions	
Classroom Construction	Ministry of Public works (District Works Officer)	Design of Building Bill of Quantity Inspection at every stage Completion Certificate
	Ministry of Education (District Education Officer)	Specifications for classroom Posting of teachers, Provision of books and equipment
	Ministry of Planning District Development Officer	Authority to incur Expenditure Approval of Work plan Monitoring & Evaluation
	Ministry of Finance-District Treasury District Accountant	Mandatory signatory Ensure proper records are maintained
	District Procurement officer District Internal Auditor	Prepare Payment Voucher Empowered to investigate transactions
	Provincial Administration District Commissioner (DC) District Officer (DO) Chief	DC sits on the District Project Committee (DPC) At least one DO sits on CDPC Chief's barazas often used for information dissemination and local mobilisation
Water Projects	The Ministry of Works, Planning, Finance and Provincial Administration are involved as above	
Road Construction	The Ministry of Water needs to obtain approvals from the following agencies. National Management Authority (NEMA) Department of Public health The Department of Water needs to give an Environmental Impact Assessment Report	
	The Ministry of Works, Planning, Finance and Provincial Administration are involved as above	
Health Centre	Ministry of Roads	Engineer gives the specifications Prepares Bill of Quantities Carries out verification at all stages
	The Ministry of Works, Planning, Finance and Provincial Administration are involved as above	
	Ministry of Health (District Medical Officer)	Specifications for health centre Posting of medical staff Provision of medicines and equipment

Because the CDF law is vague on the role and responsibilities of the various government departments some MPs have entered into a formal agreement or MOU with district heads of the various departments to ensure transparency and service delivery. In these agreements, they address issues such as what allowances will be paid to government officers, and the responsibility of individual officers to ensure accurate costing and quality standards.

Step 5: The Constituency Development Fund Committee prepares the Second and Third Schedules in line with official requirements

The Second Schedule or list of projects shows all the projects that are allocated funding in the constituency in a single year. It indicates the name of the constituency, year of funding, and the specific serial number of each project. The second schedule also indicates the amount allocated to each project. The Second Schedule for any constituency must have the signatures of the area MP, and the secretary of the Constituency Development Fund Committee. These projects must be between 10 and 25 in number.

In the Second Schedule, each project is assigned a unique Serial Number that will be used to identify the project in all other documentation. This number is important because it can be used to track the project. Previously, this code was given by the National Management Committee (NMC) but following the 2007 Amendments, projects will be coded using the Electoral Commission of Kenya constituency codes.

The serial number for each project is listed in the first column of the table and can be found next to its name. The last column of the table gives the total amount allocated to each project. The example used next is taken from a fictitious constituency called Bustani in Umoja province

In our fictitious example the Bustani constituency code number is 0030. The project number also gives the the sequence of the projects, eg. Toto Open Air Market is project number 011, and the school sector project is project number 200. This shows that the Toto project was started in a previous year.

0030/011	Toto Open Air Market	2,000,000
0030/200	SCHOOL SECTOR	20,000,000

The Second Schedule also gives the project name. As far as possible, the project name should indicate the location of the project. For instance a CDC should not list a project simply as Road Rehabilitation, they should indicate Rehabilitation of Adili Road, to prevent ambiguity.

The Third Schedule was changed significantly by the CDF Amendments Act 2007. The format below was previously used and gave a detailed breakdown of all the projects named in the Second Schedule, including the status of the project, allocations of previous years and the government department under which the project falls. The schedule did not give an allowance for sub-projects as has been done on the revised schedule.

Format of the Third Schedule prior to the 2007 Amendment

The Constituencies Development Fund (Amendment) Bill, 2007

THIRD SCHEDULE

(section 15)

STANDARD PROJECTS DESCRIPTION FORM

(To be completed in consultation with District departmental head)

Constituency: ... BUSTANI..... **District** ...AMANI... **Province** ...UMOJA.....

Project Number ...011... **Project Title** ...TOTO OPEN AIR MARKET.....

Relevant Government Department ...Ministry of WORKS.....

Status of projects (tick one) New Extension On-goingX.....

Rehabilitation

Brief statement on progress at time of submission

THE FRAME OF THE MARKET HAS BEEN BUILT SATISFACTORILY,

AND DRAINAGE COMPLETED.

AWAITING LAYING OF ROOFING SHEETS, AND CONSTRUCTION OF NEW TOILETS.....

Financial year under reference *1st July 2007*..... To *30th June* ...2008.....

Original Cost estimates, in Ksh5,000,000..... **Dated** ...2004/2005.....

Amount allocated last financial yearNIL.....

Person completing form:

Signature

Name

Position

Date

CDF Sub-Projects

The CDF Act allows similar projects to be lumped together as a single project for the purposes of funding. This is a common practice in many constituencies in key sectors

such as education, health, roads and water. The individual projects are known as sub-projects. Each sub-project must be listed individually on the Third Schedule.

This breakdown is very important because it is the only way to get an accurate picture of the exact disbursement to each sub-project. The revised Third Schedule seeks to capture these sub-projects. Previously the CDF had to attach a special list detailing all sub-projects.

New format of the Third Schedule after 2007 CDF Amendments

The Constituencies Development Fund (Amendment) Bill, 2007

THIRD SCHEDULE (section 15)

STANDARD PROJECTS DESCRIPTION FORM
(To be completed in consultation with District departmental head)

Constituency Name*BUSTANI*.....**Financial Year**.....*2007/8*.....

Project Number ...*030/200*..... **Project Title** ...*SCHOOL SECTOR*.....

Amount allocated this financial year.....*20,000,000*.....

Brief description of the project

.....

.....

Sub projects

Number	Title	Amount
... 1 ...	...<i>Vifaranga Nursery School</i>.....	...<i>1,500,000</i>
... 2 ...	...<i>Faida Secondary School</i>.....	...<i>3,000,000</i>
... 3 ...	...<i>Mosmos Primary School</i> .....	...<i>1,500,000</i>
... 4 ...	...<i>Waihenya School Hall</i>.....	...<i>4,000,000</i>
... 5 ...	...<i>Kimathi School Hall</i> .....	...<i>3,000,000</i>
... 6 ...	...<i>Changa Secondary School</i>.....	...<i>7,000,000</i>
	TOTAL	... <i>20,000,000</i>

(attach continuation if necessary)

Signature Date

Name Position.....

The revised Third Schedule does not indicate the district department under which the project falls. It still does not indicate previous funding and if the project is

ongoing or new. However, it does capture sub-projects, but does not give space on the form to capture the status of individual sub-projects.

Step 6: The District Project Committee meets to harmonise projects to ensure there is no duplication

The Constituency Development Fund Committee is required to submit the Second and Third Schedules to the District Project Committee. The District Project Committee should meet at least once a year, upto a maximum of 6 times a year. The District Project Committee is supposed to ensure that there is no duplication of projects and to ensure the harmonisation of similar projects. The ammended CDF Act is not clear on what powers the District Project Committee has to enforce the rationalisation of projects.

Step 7: CDFC submits the list of projects to the CDF Board

When submitting the list of projects to the Board, the Constituency Development Fund Committee attaches the Second Schedule and the Third Schedule and the minutes of the project selection meeting. The minutes should reflect the deliberations of the Constituency Development Fund Committee and a list of those who were in attendance. The minutes must be signed.

If projects on the list do not comply with the provisions in the Act, they are deleted from the list. If the projects exceed the allocated amount, they will be taken up in order of priority up to the designated amount.

Step 8: The Board receives the proposals

The Board receives and compiles the list of all proposed projects from the 210 constituencies around the country. It then tables them at a meeting of the Board, which reviews and recommends the proposals. If there is a dispute over a particular project, it is forwarded to the Constituency Fund Committee, which has a final say on whether it will receive funding or not.

Step 9: The Board numbers all the projects using the constituency codes given by the Electoral Commission of Kenya

The Board disburses money to respective constituency accounts based on approved schedules. No payments can be made without approval of the Board.

P Points for Discussion

1. What are the different stages of the CDF project cycle?
2. What are the stages of the project selection process?
3. What is the importance of the Second and Third Schedules?
4. What is the importance of the project selection minutes?
5. What steps can the Constituency Development Fund Committee (CDFC) take to ensure all locations benefit equitably from CDF?
6. What steps has the Constituency Development Fund Committee (CDFC) in your constituency taken to involve the public in project selection?

CHAPTER 5

Community Participation in Development



Photos courtesy of: Hanns Seidel Foundation

CDF is designed as a participatory fund from planning and project selection, to the implementation and monitoring stages. A development-conscious MP and CDFC will recognise that projects can only be successful if the community supports them. The most effective way to build support is to carry out projects jointly with the community right from the beginning. By participating in CDF at all stages, the community is able to correctly identify their needs, and projects can benefit from use of local knowledge, e.g. flooding patterns when a bridge or road is being constructed.

Once a project is complete, it may require the local community to take it over and manage it. This will only succeed if the community has been involved from the beginning. Community participation builds commitment and support for the project. For example, a project may require tenants to vacate a road reserve, or public land. By involving the community, this can be done without confrontation.

Communities around the country have realised the importance of such collective organisation. This means that they must put aside their tribal and political differences and put the interests of their area first. The location or ward needs to establish a Local Development Committee (LDC) to represent the needs of the community. Local development committees are most effective if chosen by the community and not imposed by the Constituency Development Fund Committee or Member of Parliament.



Below are some characteristics of successful Local Development Committees:

- They are elected or nominated by the local public;
- Their members are people of integrity, active in local affairs, able to understand CDF matters, and willing to listen to and embrace the view point of the local community. They respect even the less well educated and give all a chance to air their views;
- They hold regular meetings, share information and make regular reports back to the community, with updates on ongoing and proposed projects. They also publicise meetings widely;
- They keep a list of all approved and ongoing projects in the location and their status. They should have copies of Schedules Two and Three, and the cost breakdown of any sub-projects;
- The members of the community facilitate the work of the Local Development Committee members. They contribute towards transport costs, phone expenses, photocopying, etc. It is the responsibility of the community to support the work of the Local Development Committee. In turn, the Local Development Committee should account for every shilling through regular written reports that it must make public;
- According to the CDF Act Section 38, the community has the right to nominate its representative to the Project Committee of any project going on in the constituency. Members of the Local Development Committee should make sure that all relevant projects in their community have their representative;
- Local development committee representatives should represent a wide range of professions and expertise;
- Women and youth must be well represented;
- Serious local development groups register themselves with the District Social Development department so as to have official recognition;

Local participation makes it possible to identify the unique needs of the community and to obtain their support. Failure to involve the community may lead to project failure.

CHARACTERISTICS OF EFFECTIVE LOCAL DEVELOPMENT GROUPS

They are representative

They are inclusive

They report back to the community through regular meetings

They are accountable and open

They are well informed on project developments

They maintain records of ongoing projects in the area

They are people of integrity and respect all persons

CHAPTER 6

Procurement

Procurement is the process by which purchases are made for a project. It includes procurement of works, services, goods or property. Procurement also deals with hire, rent, lease, hire purchase and any other type of contractual arrangement.

‘The procurement cycle means the cycle that starts with the initiation of the process of an individual procurement requirement to when goods, works, services have been delivered and accepted’⁵.

The Project Committees, Constituency Development Fund Committees, and District Project Committees in CDF are regarded as public entities, also known as procurement entities, and are subject to government procurement regulations. In the case of CDF, procurement is guided by:

- The Public Procurement and Disposal Regulations 2006
- The Public Procurement and Disposal Act 2005
- The Government Financial Management Act 2004
- CDF implementation guidelines

Procurement is a delicate exercise because this is the stage in both public and private institutions during which funds are most frequently stolen through corruption. It is therefore important to monitor procurement very closely in the location and constituency. To do so, one has to understand the procurement process.



⁵ The Public Procurement and Disposal Regulations 2006.

CDF Tender Committees

All CDF procurement must be conducted by tender committees and the tender committee is responsible for all aspects of the procurement process. In other words, the District Procurement Committee (DPC), the Constituency Development Fund Committee (CDFC), and the Project Committee (PC) must establish tender committees to manage their procurement.

A list of the names and identities of the tender committee officials must be submitted to the Constituency Development Fund Committee and District Development Officer. The officials of the tender committee should be allowed to conduct their work without interference and are accountable for the decisions they make, as reflected in their records of expenditure and delivery of services on the ground.

It is vitally important to ensure the separation of the various procurement functions—preparation of tender documents, announcements, management of tender box, opening of tender, etc—between different officers of the tender committee to ensure accountability.

The District Projects Tender Committee is composed of all the District Project Committee members, except Members of Parliament.

The Constituency Development Fund Tender Committee—on which Members of Parliament and councillors are not allowed to sit—comprises seven members of the Constituency Development Fund Committee: The District Officer, the treasurer and five members of the Constituency Development Fund Committee. The secretary of the Constituency Development Fund Committee is also the secretary to the Constituency Development Fund Tender Committee. A quorum is formed by four members of the Committee.

The Project Tender Committee should be elected from members of the Project Committee. It should have not less than five and not more than seven members. If the Project Committee does not have sufficient capacity to undertake procurement, it should seek assistance from the relevant district government department. The Project Committee often already exists in institutions such as schools, colleges, etc.

CDF Procurement Thresholds

The CDF procurement regulations have set thresholds above and below which the various CDF tender committees may handle procurement. It is understood that bigger projects require more technical input and, therefore, procurement for large projects is managed by the District Project Tender Committee, whereas smaller projects that have simpler procurement requirements can be managed by the Constituency Development Fund Tender Committee or the Project Tender Committee.

Procurement is a delicate exercise because this is the stage in both public and private institutions during which funds are most frequently stolen through corruption.

Table 4: CDF Procurement Thresholds⁶

The procurement thresholds for the tender committees are as follows:

	Thresholds/Ceilings	Implementing tender committee	Procurement method
1	Ksh 0 – 100,000	All tender committees depending on the project being implemented	Direct Procurement or request for quotation
2	Between Ksh 100,000 and Ksh 5,000,000	All tender committees depending on the project being implemented	Request for quotation or alternative procurement method appropriate
3	Between Ksh 5,000,000 and Ksh 10,000,000	Constituency Development Tender Committee and the District Projects Tender Committee (if the DPTC is implementing a project cross-cutting the constituencies)	Open tender or alternative procurement method appropriate
4	Above Ksh 10,000,000	District Projects Tender Committee	Open tender or alternative procurement method appropriate

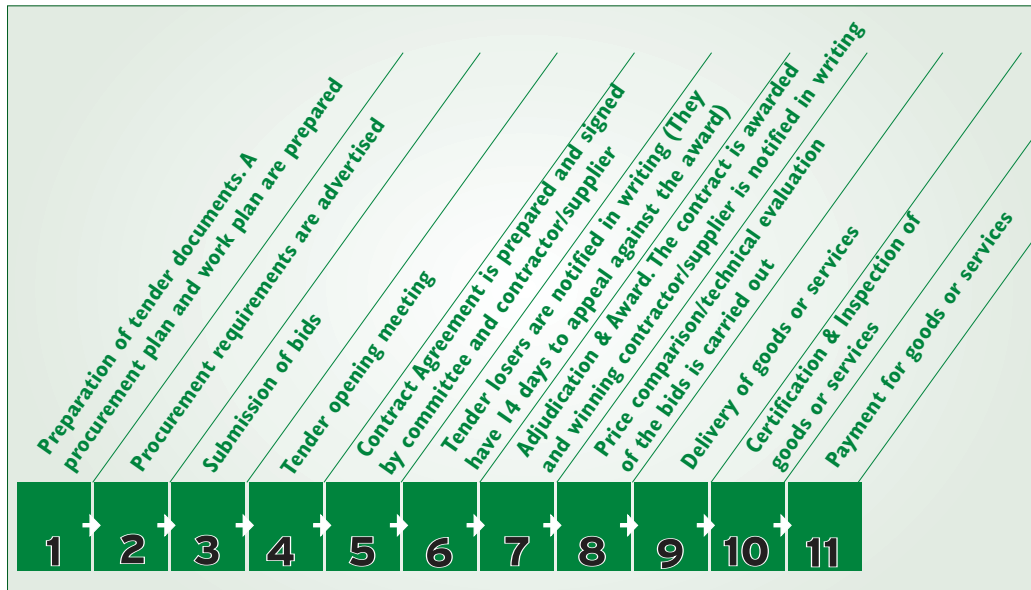
Note

1. The threshold above sets out the maximum contract value the Projects Tender Committee and the Constituency Tender Committee shall adjudicate on.
2. The Constituency Tender Committee and the District Tender Committee may adjudicate on tenders below the set thresholds provided the item(s) are reflected in their approved project proposal or:
3. A tender committee may produce items for the lower tender committees to benefit from the economies of scale applicable to large volume purchase.

In practice, most procurement is carried out by the Constituency Development Fund Committee, and frequently they do not establish a formal Constituency Development Fund Tender Committee. This is contrary to procurement guidelines, and members of the public must insist that procurement guidelines and regulations as elaborated are maintained.

⁶ From Constituencies Development Fund Implementation Guide, prepared by the National Management Committee.

CDF Procurement

Chart 5: **Stages in the CDF procurement process***1. Preparation of Tender Documents*

The first step in the procurement exercise is the development of a work plan, Bill of Quantities and other bid documents.

The work plan

This is the principal working document for any project. The work plan gives a summary of all the project activities, their cost, date, and who is responsible for them. A good work plan gives the following important information:

- The total cost of the project
- The cost of different phases of the project
- The contractor and supplier for the different project phases
- Relevant government department at each phase
- The duration for the different phases
- The person responsible at each stage

The work plan may be revised after the procurement process. The social auditor must therefore always ensure they obtain the final approved work plan. The CDF guidelines direct that all projects must have a work plan, and this is the basis for the release of any funds to the project as indicated in the sample overleaf.

A sample work plan

Name of Project	<i>Vifaranga Water Project</i>			
District	<i>Amani District</i>			
Constituency	<i>Umoja Constituency</i>			
Financial year	<i>2007/8</i>			
Amount allocated	<i>1,500,000</i>			
Date of commencement	<i>September 2007</i>			
Expected date of completion	<i>December 2007</i>			
Project details:	<i>Rehabilitation of borehole and construction of office block</i>			
Planned Activities	Required budget	Implementation Period in Weeks	Contracted Persons/ Companies	Monitoring and Evaluation
Removal of borehole	30,000.00	2 weeks	Davis and Shartliff Ltd	FSK Water committee CDFC DDC All stakeholders
Supply and installation of water pump	482,913.00	2 weeks	Davis and Shartliff Ltd	FSK Water committee CDFC DDC All stakeholders
Borehole rehabilitation	816,500.00	2 weeks	CDN Water Program	FSK Water committee CDFC DDC All stakeholders
Water tank PVC	97,400.00	2 weeks	Vifaranga Hardware Store Ltd	Water committee FSK CDFC DDC All stakeholders
Water Extraction Permit	46,575.00	2 weeks	Water Resource Management Authority, Amani District	Water committee FSK CDFC DDC
Training and supervision	223,400.00	4 weeks	Farming Systems Kenya	Water committee FSK CCF DDF
Purchase of plot 50x10ft (plot number)	160,000.00	4 weeks	John K Moses	FSK Water committee CDFC DDC All stakeholders
Construction of control house	170,370.00	4 weeks	Reliable Concrete Works	FSK Water committee CDFC DDC All stakeholders
Total	2,027,158			

Bill of Quantities

This is the document that gives the specification of a construction. The Bill of Quantities gives a breakdown of all project inputs item by item. It also gives the individual and total cost of all inputs. The social auditor needs to verify that the Bill of Quantities is accurate and that the items specified are actually used on the project. (See Annex).

All CDF projects are required to use standard government tender documents, including a BQ prepared by the relevant government department. In some cases, for a simple project, a schedule of materials is used, which is a simplified easy to understand list of inputs. Cost estimates for technical items may be obtained from government technical departments. For non-technical items, the tender committee may obtain the costs directly. In all cases, the tender committee must ensure that the cost estimates are realistic, and all quotations should be confirmed in writing to assist future verification.

Other bid documents include the advertisement used to invite tenders for the project. The tender committee may choose to invite tenders for the full project, often referred to as a full contract. It may also invite tenders for the various inputs, also known as a works contract. The tender committee may charge a small fee to tenderers to offset the cost of producing the tender documents. The tender documents include the blank Bill of Quantities or schedule of materials, and supplier questionnaire requesting detailed supplier information (see implementation guidelines in Annex for details of supplier questionnaire).

2. Advertisement of Tender Opportunities

Once the bid documents are prepared, the next stage is to advertise the opportunities so that potential bidders get a chance to apply for the work. The tender announcement should be made known as widely as possible, through public announcements in local meetings, notices in public places, especially the Constituency Development Fund Committee's notice board, the District Development Officer's notice board, the Chief's notice board, and the media and the Internet for bigger projects.

The notices should specify project/item description, required qualifications, collection and submission dates. The closing date and time of tender should be clearly indicated on the quotation form. This process may be used to pre-qualify suppliers/contractors. The procurement of goods, works or services exceeding Ksh 5 million in a financial year must be advertised in at least two national newspapers for at least 14 days before closure/opening of tender.

3. Submission of Bids

The closure of the bid must be specified down to the time of day. Bidders should be given sufficient time to fill and return their bids. Bids should be returned, recorded

in the bids register, signed and placed in a secure tender box. The bidders must have the opportunity to review the bids register.

In practice, many tender committees do not use a tender box, but they must ensure the bids are not opened beforehand and that tender opening takes place immediately after closure of the bids. Bidders may be required to fill in the confidential business questionnaire prior to adjudication. Once the tender is awarded, these business details are no longer confidential .

Conflict of interest: One of the most controversial aspects of tendering is manipulation of procurement procedures such that Constituency Development Fund Committee members or the Member of Parliament awards contracts to their relatives or business associates. The CDF guidelines stipulate that where there is a conflict of interest, the Constituency Development Fund Committee or Project Committee member must openly declare the relationship and must not participate in the deliberations on that contract.

4. Tender Opening Meeting

The tender opening should take place as soon as possible after the tender is closed. All interested bidders must be allowed to attend the proceedings. They must have the opportunity to review the bids register. The names of bidders, price and compliance/non-compliance with tender conditions must be read out and recorded in the minutes of the tender opening. Every page of the bid documents should be verified and signed.

5. Price Comparison/Technical Evaluation

The price comparison is then carried out by the tender committee and presented as a price comparison schedule. For specialised items, the government department where the project falls should be consulted for a technical evaluation.

6. Adjudication and Award

The secretary to the Tender Committee will ensure the agenda for each procurement item is prepared after proper analysis of the bids and subsequently tabled before the committee for adjudication and award. Awards should be made to the lowest evaluated bidder for standard off-the-shelf items, and to the best evaluated bidder for specialised items. Decisions are reached by consensus and are subject to collective responsibility. No procurement decisions should be made outside the Tender Committee.

7. Notification of Award

For all contracts that exceed Ksh 100,000, the successful bidder should be notified in writing and should confirm acceptance in writing. Unsuccessful bidders should be notified in writing at the same time. Procurement regulations give unsuccessful bidders 14 days to challenge the award of a tender. A summary of the award,

including the name and address of the bidder and contract price should be placed on the notice board at the office of the procuring committee.

Tender committees may grant permission for an urgent order in case of emergencies, but the decision must be recorded in the minutes. In this case, the tender is awarded immediately without giving losers the opportunity to appeal the decision.

8. Contract Agreement

A contract agreement must be entered into for any contract whose value exceeds Ksh 100,000. This contract specifies the quantity, quality, price and date of delivery for each good or service procured under the contract. The Tender Committee is empowered to approve variations of contract conditions previously awarded by the committee, but again such decisions must be recorded in the minutes.

9. Supply of Goods and Services

Upon award of the contract, the supplier/contractor will supply the goods or services as per the contract.

10. Inspection of Goods and Services

Once goods or services are supplied/completed, their delivery or completion must be inspected to ensure that they meet contractual specifications. According to government regulations, before a contractor is paid for a particular job, there should be a site meeting to verify completion of the work. This meeting should be attended by the:

- Contractor
- Relevant departmental officer, e.g. education officer, health officer
- District Works Officer
- Project Committee representatives
- Public

All projects should be verified before payment. This verification should be made in writing and signed by the relevant technical officers.

This verification seeks to establish:

- Are the works, materials etc, according to specification contained in the BQ or schedule of materials?
- Is the work of sound quality or are there faults?
- Has the work been undertaken within the proposed time?

Upon completion of the project, the relevant government technical department should issue a completion certificate to facilitate the final payment and thus ensure the project is duly completed.

Certificate of Practical Completion (Sample)

ANNEX 8R

CERTIFICATE OF PRACTICAL COMPLETION

From: (DR) GROUP LEADER/PA/CONSULTANT Ref: BUSTANI HEALTH CENTRE Date: 22/9/2006	To: Chief Architect MOW Architectural Department P.O. 30260 NAIROBI
--	--

Details of works			COMPLETION OF BUSTANI HEALTH CENTRE	
WP Item Number		Description of Job	Ministry/Agency	
Vote	Prov.	No	Completion of Maternity wing and extension of Maternity facility	
			MOR&PW	
Name / Address of contractor				
Contract Number				
L.S.O. NO 805952				

Completion of Building works

Delete (a) or (b)

(a) The contracts works

(b) The part of the works here listed

Are now complete to my satisfaction, subject to the items noted overleaf and are ready to be handed over to the Client Ministry.

22/9/2006
Date

Building Supervisor (MOW or Consult)

Completion of Mechanical / Electrical works

The mechanical/electrical installations on the above works have been completed and tested to my satisfaction

22/9/2006
Date

M/E Supervisor (MOW or Consult)

Release of Retention and Surety Bond

Att: Job QS and Contractors Register office

The first moiety of the retention and the surety bond may now be released.

22/9/2006
Date

(DR) GROUP LEADER/PA/CONSULTANT

Copies: Building and M/E Supervisors
Job QS and CRO

AL 10/77

11. Payment Made to Vendor

Payments are made to vendors or suppliers for goods and services supplied once they are accepted. The payment is made on the basis of a payment voucher or payment request. The voucher should be accompanied by an original receipt or invoice from the contractor, a copy of the delivery note certified by the project officials, a copy of the contract or work plan, and a copy of the minutes of the committee meeting approving the payment.

All payments are made in arrears upon certification of completion of works, delivery of goods, or performance of services. Payments should be made by a designated committee member (treasurer) and duly recorded. Committees should ensure contractors are paid promptly to avoid payment of interest on due amounts.

Types of Tenders

While an open tender is the preferred procurement procedure, CDF guidelines allow committees to use other methods as is appropriate. Nonetheless, the following transactions must be by open tender—hire, sale, lease of buildings/facilities and disposal of stores equipment. The methods allowed are:

Restricted tendering

- Under certain circumstances—in procurement of specialised goods/services or where the time and cost of evaluating a large number of tenders is disproportionate to the value of the contract—restricted tendering is allowed, but tenders should be addressed to a minimum of three candidates.
- The Tender Committee must give a written report to the Minister of Finance where restricted tendering is used.

Direct procurement

- Sourcing is done directly from one supplier
- May be used during emergencies
- If contract value exceeds Ksh 300,000, authority must be obtained from the Minister of Finance

Request for proposals

- A minimum of three proposals must be obtained
- Used when it is not feasible for the Tender Committee to formulate precise specifications

Request for quotations

- Used for small purchases of standardised goods/works/services
- Must request quotations from a minimum of three candidates
- Selected based on the lowest price.

Important Tender Information and Documents⁷

Document	Availability
1. Work Plan	
2. Bill of Quantities	
3. List of all tenderers who participated in the tender The list must include (a) Full names and description of each tenderer (b) The tenderers postal and physical address (c) The tenderers telephone number, fax number and email (if applicable) (d) Tender advertisement notice	
4. All original tender documents	
5. Minutes of Tender Opening Committee	
6. Original tender opening supply register	
7. Original technical evaluation report and recommendations	
8. Original financial/commercial evaluation report/minutes	
9. Confirmed minutes of the Tender Committee approving the award of the tender	
10. Copies of notification to the successful/unsuccessful tenderers	
11. Final contract document	
12. Supplier information as contained in the supplier questionnaire (see implementation guidelines)	

Points for Discussion

1. What are the important steps in the CDF procurement cycle?
2. What are the different types of procurement?
3. Name some of the important procurement documents
4. What are some common abuses of procurement?
5. Give recommendations on how procurement can be strengthened
6. How do projects conduct procurement in your constituency?

⁷ Adapted from Schedule 1, Form 5, Public Procurement Complaints, Review and Appeals Board, Republic of Kenya.

CHAPTER 7

CDF Project Implementation



School Building. CDF has the potential to greatly improve lives.

Once funds for a project are approved and tendering is complete, the next stage is the implementation of the project—making purchases, payments, record keeping, overseeing the work of the contractor to ensure it is done according to specification, and eventually handing over the completed project to the community or to the relevant government department.

The revised CDF law stipulates that all CDF projects must be managed by a Project Committee. As discussed before, this Project Committee is recognised as a public entity and is therefore subject to government financial regulations. It is a committee comprising community members who manage an individual project on behalf of the community.

CDF regulations also stipulate that the Project Committee must submit a list of project committee members' names and full bank details indicating the signatories' names, and their identity card numbers to the Constituency Development Fund Committee and the District Development Officer.

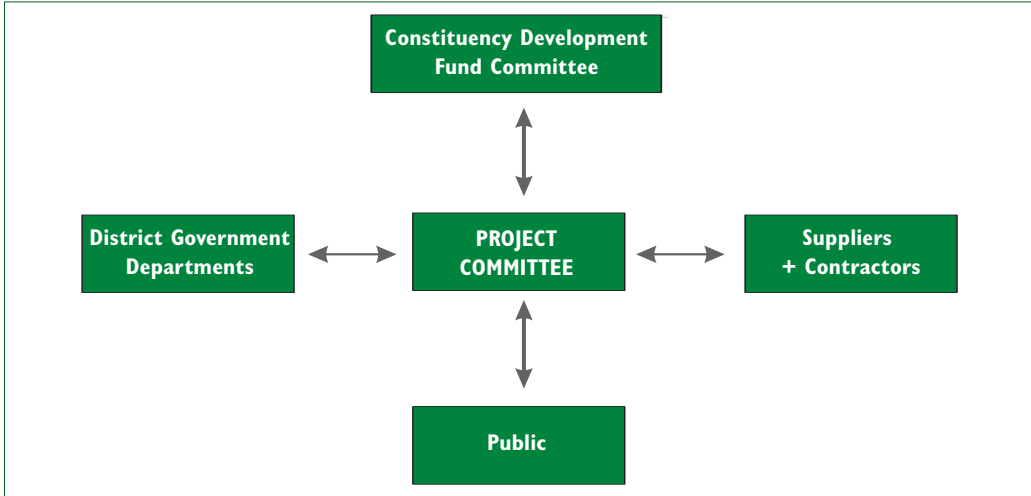
Role of the Project Management Committee

- Handling procurement, making purchases, payment of suppliers
- Maintaining procurement records
- Record keeping and reporting to the Constituency Development Fund Committee
- Liaising with the relevant government department
- Keeping the community informed



- Carrying out oversight of the contractors and suppliers to ensure they meet project specifications and maintain accountability
- Eventual handover of the completed project

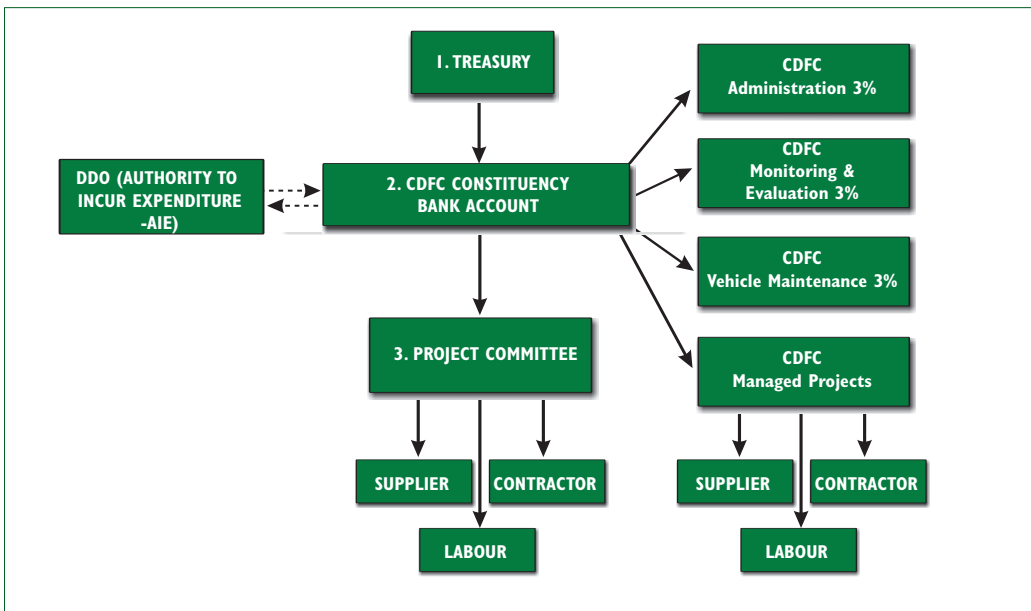
Chart 6: **Role of the Project Committee**



The CDF Payment Process

Let us now focus our attention on how money is disbursed in the CDF process. There are four important stages to consider as shown below:

Chart 7: **The CDF Payments Process**



1. Treasury to Constituency

Treasury releases the CDF cheque to each constituency, where it is placed in a commercial bank account. According to the CDF Amendments 2007, the funds to the constituency will be released in four equal installments, each quarter of the year. Under existing CDF regulations, full details of the constituency account, including bank, account details and the signatories should be provided to the District Development Officer and to the Board.

Each constituency has its own bank account. All expenditure must be approved by the District Development Officer, who is the AIE—Authority to Incur Expenditure—holder of CDF.

Each cheque has two signatories out of:

- District Accountant (mandatory)
- One nominee of the District Project Committee other than the Member of Parliament or Councillor
- Treasurer of Constituency Development Fund Committee
- Secretary to the Constituency Development Fund Committee

Constituencies are not eligible to receive funds for the new financial year if: they have not submitted project proposals; and have not submitted returns for the previous year; there are pending unresolved enquiries into use of funds for previous years; or if there are substantial unutilised amounts from the previous financial year. Unfortunately, in the past, these regulations have not been strictly enforced.

2. Constituency Account to Project Account

Although in the past, several Constituency Development Fund Committees were involved in project implementation, the revised CDF law places the responsibility of doing so in the Project Committee.

To process the payment, an official voucher is prepared detailing the requested amount. This voucher must be accompanied by supporting documents. These are usually the work plan, LPO, invoices and receipts, BQ or schedule of materials, and minutes. The DDO may require construction drawings and other forms of verification as applicable.

Based on the approved voucher, the cheque is prepared by the District Accountant and signed by the signatories. The cheque is then handed over to the Project Committee, which banks it and then implements the project. The money for the project may be given out in two or three disbursements depending on the size of the project.

In instances where the Constituency Development Fund Committee is implementing a project, the payment request must go through the same vetting process. In this case, however, the CDFC receives the cheque and pays the supplier or contractor.

3. Payments from Project Committee to Suppliers and Contractors

The Project Committee may prepare a Local Purchase Order (LPO) or letter of undertaking to the supplier/contractor to enable them carry out the work. CDF payments may only be made upon proof of completion or delivery of works, goods or services. Payments to contractors and suppliers are made on the basis of an invoice request from the supplier/contractor. This invoice must be supported by the LPO and receipts and delivery notes, and a completion certificate if applicable. All CDF payments are made on the basis of a minuted resolution and thus all vouchers must be accompanied by committee minutes.

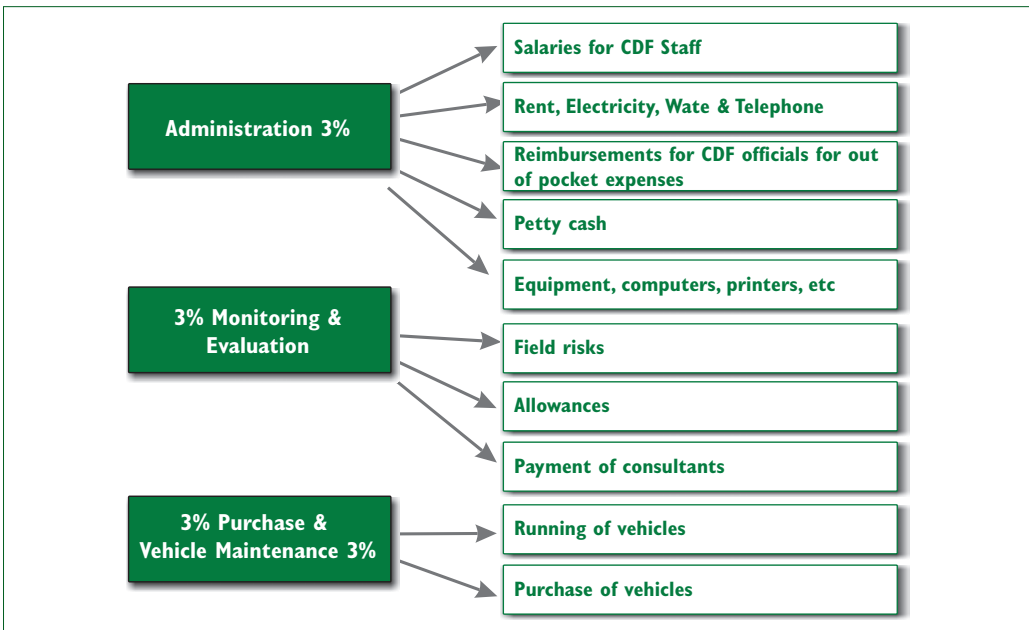
CDF Managed Projects

If the Constituency Development Fund Committee is implementing the project, they must also adhere to the same financial procedures. When the social auditor is seeking information about a project, he/she must determine whether it has been implemented by the Constituency Development Fund Committee or by a Project Committee. The social auditor must also determine if the project has been carried out as a full contract or on a works basis.

4. Constituency Development Fund Committee Administration Expenses

The revised CDF Act sets aside increased amounts towards administrative expenses, as discussed in chapter 4.

Chart 8: CDF Administrative Expenditure



Note: All fixed assets such as vehicles, cars, printers etc must be purchased through open tender and remain the property of the CDF Board.

Payment of Constituency Development Fund Committee administrative expenses

1. The Constituency Development Fund Committee passes a minuted resolution on payments
2. A breakdown of the required expenses is prepared internally and approved by the Constituency Development Fund Committee officials
3. A voucher is prepared, and to it are attached the minutes and the breakdown of expenses. The voucher is processed and approved by the District Development Officer and the cheque is prepared
4. An open cheque of the voucher value is given to the Constituency Development Fund Committee. The cheque is then cashed
5. Payments are made to the relevant persons, who must sign to verify receipt of funds

The Constituency Development Fund Committee may also hold a small amount of petty cash (imprest) for small cash payments. Nonetheless, all recipients must sign for all payments made.

Unspent Funds

All accruals and balances should remain in the constituency account. The 2007 CDF amendments also introduced two new schedules to deal specifically with unspent funds. Unspent funds should remain in the constituency account and should be reflected in the Fourth Schedule. A return should be made for the current year and every previous year for which funds remain unspent.

The Constituency Development Fund Committee may reallocate unspent funds to another project by listing the expenditure on the Fifth Schedule, which must then be approved by the Board. Unspent funds from the emergency reserve may also be reallocated to another project in the subsequent year. Projects to be funded using unspent funds may be lumped together. Funds may not be reallocated without approval of the Board.

The Constituencies Development Fund (Amendment) Bill, 2007 1811

FOURTH SCHEDULE (section 9(3))

STANDARD CONSTITUENCY PROJECTS SUBMISSION FORM

Constituency No.....Name.....Financial year.....

<i>Project No</i>	<i>Project Title</i>	<i>Amount allocated (Kshs)</i>	<i>Amount disbursed (Kshs)</i>	<i>Balance (Kshs)</i>	<i>Unspent to be re-allocated</i>
TOTALS					

Member of Parliament.....Signature.....Date.....

Secretary CDF Committee..... Signature.....Date.....

The CDF Record Keeping and Reporting Process

The CDF process contains several reporting requirements that are designed to strengthen accountability in the implementation of the Fund.

1. Important documents to be maintained by the Constituency Development Fund Committee and project committees

- A folder of all approved work plans
- A folder of invoices and cash sales receipts, payment vouchers, delivery notes, LPOs, and supporting documents such as quotations and minutes
- A record of all money received and paid out of the account. This is usually a cash book and cheque movement book/record
- A detailed record of all purchases of assets made by the project, e.g. vehicles, office equipment, etc. This is usually a ledger book
- A cheque book that provides a record of bank account transactions and a folder for bank statements
- Progress reports
- The project committee must also prepare an expenditure report at the end of each project summarising all project expenditures

2. Constituency Development Committee reporting

The revised CDF Amendments 2007 tried to consolidate the Constituency Development Fund Committee reporting process. The Fund Manager is required to compile and maintain a record showing all receipts and disbursements on a monthly basis for every project and sub-project in the constituency.

The Constituency Development Fund Committee must complete the Fourth and Fifth Schedules at the end of the financial year. These give a record of unspent funds, and reallocation of funds as discussed on the previous page.

The Constituency Development Fund Committees are required to prepare progress reports detailing all ongoing projects in the constituency and their status. However, to be really useful, these status reports must give sufficient information to give a clear picture of funds allocation and project status, which most do not.

3. Board Reports

Annual expenditure report

At end of the financial year, the Board is required to submit an expenditure report to the Constituency Fund Committee.

Monthly disbursement reports

The Board shall submit on a monthly basis to CDFC a summary of project proposals received in the previous month, indicating approval status, and a summary of status of disbursements to constituencies, and summary of status of disbursements from treasury to the National Account.

4. Report by the Minister

With the passage of the 2007 Amendments, the Minister of Planning and National Development will be required to table an annual report on the activities, operations and expenditure of the fund at the end of each financial year.

5. Parliament

The Constituency Development Fund Committee shall make a report to Parliament every two years on the status of the fund, including recommendations for improvement, and may make other reports to appraise Parliament and obtain approvals.

A look at the 2006/7 implementation guidelines gives a list of the reporting requirements of the fund prior to the passage of the 2007 Amendments.

P Points for Discussion

1. According to the CDF 2007 amendments, who implements CDF projects?
2. What are the functions of the Project Committee?
3. How many types of payments are made in the CDF process?
4. What supporting documents are required for the release of money to a project?
5. What is the role of the DDO in CDF?
6. What important documents are maintained by the CDFC?
7. What important documents are maintained by the Project Committee?
8. What is the purpose of the Fourth and Fifth Schedules?
9. Which reports are prepared by the various institutions in the CDF structure?

CHAPTER 8

CDF Bursary

CDF may now allocate up to 15% of each annual disbursement to bursaries, up from 10% prior to the passage of the 2007 CDF Amendments Act. The CDF law does not give guidelines on how this money should be disbursed. Thus, for instance, CDF does not restrict bursaries to local primary, secondary or tertiary institutions. Some Constituency Development Fund Committees have been accused of abusing the CDF by sponsoring students to overseas institutions and for doctoral and postgraduate study. Some MPs have in the past allocated a small amount to each student in the constituency to avoid the difficult task of selecting needy applicants.

Despite an absence of guidelines, many other Constituency Development Fund Committees have taken the issue of allocating bursaries to needy children quite seriously. Most appoint a sub-committee to oversee this demanding task or even to manage the bursary directly. Many Constituency Development Fund Committees use the already existing secondary bursary committees, which usually already have an existing application format and disbursement structure.

The disbursement of bursaries process should entail:

- 1) An advertisement for applicants at location level with closing dates
- 2) Easy to access application forms. Most Constituency Development Fund Committees use the local Chief's and Constituency Development Fund Committee offices as collection points for these forms.
- 3) Proof of being needy: District social services and the Chief present letters of verification to the needy—such as orphans, widows, the disabled and the financially disadvantaged
- 4) Screening of applicants by the Committee
- 5) A final list of successful candidates must be posted at the District Development Officers office. It is also advisable that the list be posted at the Constituency Development Fund Committee office as well as the Chief's office and that it includes full names of applicant, amount disbursed and institution of study
- 6) Cheques should be written directly to the institution



An active local development committee will screen applicants on behalf of the community and will ensure that only needy children receive the bursary.

Common abuses of the CDF bursary

- Given to students who are not deserving
- Frequently, Constituency Development Fund Committee members grant bursary to relatives
- Collusion with educational institutions
- Failure by Constituency Development Fund Committee to formulate disbursement guidelines
- Failure by Constituency Development Fund Committee to create awareness of disbursement guidelines
- Failure by Constituency Development Fund Committee to display list of bursary beneficiaries

P Points for discussion

1. Are you aware of the students who received bursary in your constituency?
2. Does the Constituency Development Fund Committee display or make available the list of bursary recipients for each year?
3. What criteria are used to award bursary in your constituency?
4. Who are the members of the bursary screening/awarding committee?
5. What recommendations would you make to improve bursary administration in your constituency?



SECTION 3

MONITORING & EVALUATION OF CDF



CHAPTER 9

Social Audit of CDF

How is CDF Monitored at Present?

The CDF Act and Implementation Guidelines place great emphasis on the monitoring and evaluation of CDF money. In CDF, the responsibility of monitoring is placed upon the various stakeholders. To be effective, monitoring must ask the right questions, investigate the real issues and generate relevant information to enable those monitoring the project to make an accurate assessment of the project. Unfortunately, at present, the monitoring systems instituted under the CDF Act are not thorough enough. Most CDF monitoring exercises entail visits to the project site and a verbal report on the project, which gives a very superficial picture. Chapter 12 gives some suggestions on how CDF monitoring and reporting can be strengthened and deepened.

This chapter provides important information on how members of the public can successfully monitor CDF expenditure through the social audit process. We all have a responsibility to monitor CDF.

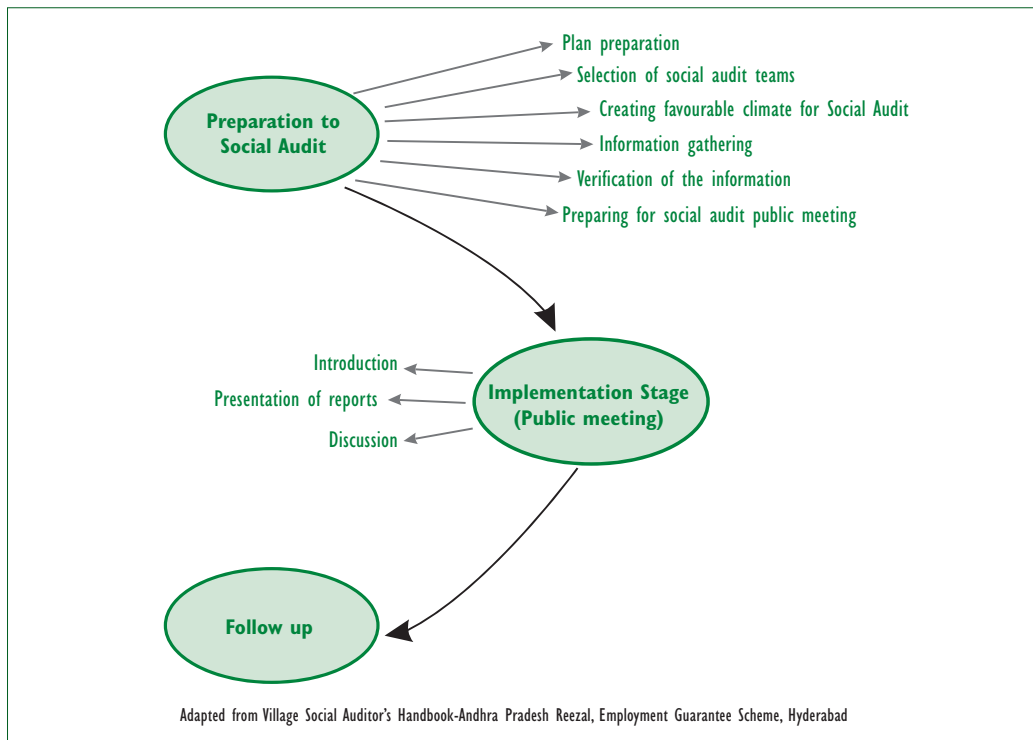
What is a social audit?

A social audit is the process by which members of the community seek to evaluate how well public resources are being used and how to improve performance. The process of social audit is similar to that of financial audit. However, social audits fill the gap left by a financial audit by investigating issues such as performance, accountability, relationships between stakeholders, impact of the project and so forth.

The concept of social audit is not new. It was used as an external tool in the 1970s and 1980s by groups trying to encourage more responsible practices in corporate organisations. It is now widely used by organisations as a tool for self evaluation and increasingly as an accountability tool for public expenditure.



Chart 9: Different Stages in Social Audit



Step 1: Organisation of the social audit

The first stage of social audit deals with the establishment of the social audit and selection of social audit teams. Some basic questions must be asked such as:

1.1) What is the scope of the audit?

Which projects will be monitored? Where are these projects located? When will the social audit take place? The social audit teams need to outline the scope of the project. For instance how long will it take for each stage of the process and where will it take place.

1.2) Selection of Social Audit Teams

Who will conduct the monitoring? In most cases, obtaining this information is a time-consuming process better carried out by a group rather than an individual, who will easily tire and give up. This group may be an existing community group, or it may simply be a group of community members interested in auditing specific projects. It is advisable that the larger social audit group divide itself into a number of social audit teams. Each team is then assigned specific projects or a specific area to audit.

1.3) Building Community involvement

For the social audit to be successful, the project beneficiaries must be involved.

Through awareness raising meetings, those initiating the social audit must educate the public on what the social audit is and how it will impact the lives of the local community. The local community members must be encouraged to join the social audit teams. At this stage, the community could be made aware of the expenses involved, such as phone bills, photocopying charges, travel expenses, costs of the social forum and follow-up expenses. The social auditors are volunteers, and such costs can be met by the community, especially if the community understands the objectives of the social audit.

1.4) Accountability

Social audit teams should report back on how much was spent on the social audit and how each shilling was used, and should put the financial report in writing. Social auditors should not use this work to enrich themselves; they should lead by example by being transparent themselves.

1.5) Informing CDF officials

It is advisable that the team organising the social audit notify the District Development Officer and Constituency Development Fund Committees of their intention to audit various projects. They may do so through a written letter. This is important to give the social audit legitimacy. However, this notification is not a request for permission, it is an assertion of the right of the public to scrutinise public expenditure and performance.

Step 2: Information gathering

As explained in earlier chapters, CDF projects are documented using a large number of records. These are available from the various official CDF sources. The purpose of the information gathering stage is to obtain records for the projects to be studied in the social audit. These records give important information on the project. Below is a list of the important CDF documents, where they are to be found and some key questions and concerns to be addressed during the social audit. It may not be possible to obtain all the documents on a single project either due to refusal by officials to release them or because Project Committees do not abide with regulations and therefore do not maintain all required documents and records. Nonetheless, through careful analysis of available records, the social auditor can raise the key questions and concerns to be addressed during the social audit public forum.

Table 5: List of essential documents for CDF Projects, and relevant social audit questions

Record	Social Audit Questions
Project Proposal	Is there a project proposal? Who initiated the project? Was the community involved at inception of the project? Who is implementing the project? Who are project committee members?
Second Schedule	Is project well named or is name ambiguous? How much has project received in the particular year/s of funding? Is the project name, code and amount consistent on all documents such as BQ, work plan, status reports, etc?
Third Schedule	Which is the relevant government department? What are the details of sub-projects? How much has the project received over successive years if it is continuing?
Fourth Schedule (effective end of financial year 2007/8)	How much remained unspent on each project? Do expenditure records support the expenditure claims?
Fifth Schedule (effective end of financial year 2007/8)	How has unspent money been reallocated? Was necessary approval obtained?
Approved Work Plan	Does the project have a work plan? Does work plan give sufficient information? Has the work plan been followed?
Approved Bill of Quantities	Which government department was involved in preparation of BQ? What are the specifications of the project? Is the BQ accurate? Do the amounts quoted in the BQ reflect market rates? Are BQ specifications consistent with such a construction? Does BQ clearly have the name of the contractor?
Minutes	Do minutes give the necessary information? Which officers were present during the different meetings? Do the meetings fulfil the quorum rule of half of all CDFC members?
Contract Agreement	Does contract agreement correspond with the work plan and BQ? What are contractor's obligations in the project?
Tender information	Was tender process open and fair? Is there a technical and financial analysis record of the BQ? Who prepared it? Was the most competitive bidder given the work?
Certificate of Completion	Was there a verification of the project? By which government officers? Are the names of the relevant officers clearly written on the written approval? How much allowance is paid to the government officers and where is it recorded?
Bursary list	Does the CDFC maintain a list of each bursary recipient per financial year? What is the basis of awarding bursaries?
Payment vouchers, invoices, receipts, LPO's delivery notes	Are expenditure records well maintained? Do these records reflect actual payments made? Are all records made for duly received deliveries? Do expenditure records correspond to other financial records such as the cashbook (if applicable) and the vote book held by the DDO?
CDF monthly expenditure reports (from November 2007 prepared by the Fund Manager)	Does the CDFC prepare monthly expenditure records as required? Who approves these records? Do they correspond with the financial records and actual work done?



Step 3: Analysis and verification of information

Once the basic CDF records have been obtained, the social auditor needs to analyse it and to verify it. This will form the basis of the social audit report to be presented at the social audit public forum. The social audit questionnaire in the annex is a valuable tool for gathering and collating CDF information.

3a) Analysis of information

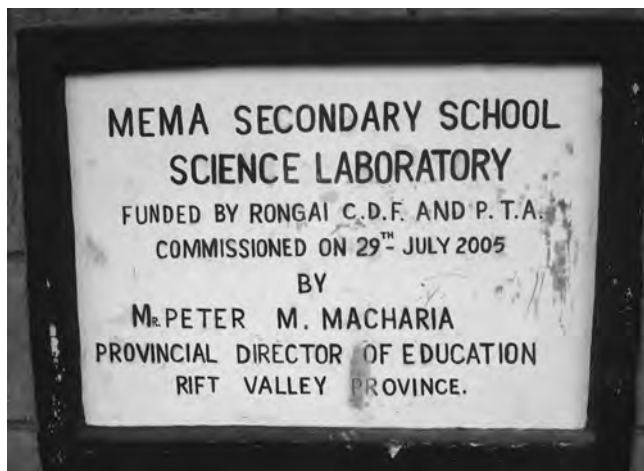
3a) Analysis of information is done by studying the available documents to create a complete picture of a single project. On the basis of the available records the social auditor can begin to understand aspects of the project such as the project name, code, location, amount, building specifications, etc.

3b) Interviews and physical verification of projects

In many cases, public perceptions contradict official views about a project, and this is why the social auditor must obtain copies of the original CDF records and verify them. The most effective method of verifying CDF information is through physical verification of projects and interviews with project stakeholders, including the officials, contractors/suppliers and even project beneficiaries who comprise members of the public within the vicinity of a project.

3c) Project site

The social auditor needs to observe details such as: Does the project have an accountability board displayed at the project site? Does the accountability board show the project reference number, amount, year/s of funding, contractor and amount allocated? Do project/construction specifications correspond to BQs, work plan, etc?



3d) Preparation of social audit reports

The social audit team should compile a file on each project, and eventually prepare a summary report to be presented to the public during the social audit forum. The report can take the following format;

Social Audit Project Summary Reporting Form

Name of social auditors/teams	Date of social audit :
Constituency	Name of Project
Name of Location/Sub-location/village	
Name of project committee officials	
.....	
.....	
Responsible CDFC	
Name of Committee members responsible for Procurement	
.....	
.....	
Name of collaborating government departments & officers	
.....	
.....	
Starting date of project	
Planned project completion date	
Total allocated amount	
Amount spent so far	
Project status	
Total labour force (number of workers)	
Expenditure on labour	
Description of materials procured for the project and expenditure on each	
.....	
.....	
Observations and comments	
.....	
.....	

Step 4: Awareness raising and notification of social audit public meeting

The next step is a public meeting to share information with the community. The audit team needs to ensure that all area residents are aware of the meeting, and that there is as wide a public participation as possible. Government and CDF officials should be given a written invitation with sufficient notice to enable them to attend. Other relevant authorities should also be notified.

Local media should also be invited to cover the proceedings of the forum. The meeting organisers should ensure they brief the press well in advance of the objectives of the meeting. The media can assist in raising awareness, as well as highlighting the events of the day and subsequent follow-up. Social audit groups should seek to build relationships with both local and national media houses.

Note: During pre-election times, organisers should take special care to ensure that the meetings are not politicised.

Step 5: Public meeting

The meeting is used to discuss the findings of the audit and to make resolutions for follow-up. The meeting should be held in a public area accessible to all community members. The social audit is likely to take the better part of the day; therefore, arrangements should be made to provide seating and tents.

Forum organisers should pick a suitable day and time when they are assured of attracting a majority of area residents. The public hearing should be chaired by a panel of eminent citizens, who will play an important role as moderators of the forum. These can be retired civil servants, development workers, teachers and other able people of integrity. The public hearing should be guided by rules, which should be announced at the very outset to ensure discussions proceed smoothly. Participants should be clear on how they make their contributions. They should keep such contributions brief, and interruptions should not be allowed. A few strong speakers should not be allowed to dominate the proceedings. All speakers should use respectful language, and speculation and hearsay should not be condoned.

Members of the local media should be invited to attend the public hearing and to report on the often explosive findings regarding corruption in the conduct of public projects.

CDF officials, including the Member of Parliament, CDF managers (including Constituency Development Fund Committee and Project Committee members), district officials (including DDO, District Accountant, District Engineers, etc) and all those responsible for various aspects of the Constituency Development Fund Committee in the constituency should be invited to attend the public hearing. They should be informed in advance of the purpose of the public hearing and should be told that they will be provided with an opportunity to provide explanations and opinions on every project that is discussed.

It should be made clear to the officials that the public hearing is not a witch-hunt or a finger-pointing exercise, but rather that discussions at the public hearing will be an opportunity for the local community to provide feedback on CDF-supported projects.

Finally, the local community has the most important role to play at the public hearing. A large attendance and active participation during discussions by the local community makes the difference between a successful and an unsuccessful social audit.

If feasible, microphones should be set up at one end of the meeting area and every speaker should be encouraged to use the microphone when speaking. This will help control the discussions, which often become heated. Persons from the organisation or community group coordinating the social audit should take turns (to avoid monotony) reading out information contained in the project files and asking for feedback on the accuracy of the information.

Community theatre groups and other entertainers may be engaged to break the monotony of the public audit, which may last for up to a full day.

The public forum should end with resolutions and points for action. The forum organisers/social auditors should do their best to obtain commitments from the attending officials to rectify mistakes made and to improve the operations of the fund. The social auditors should commit the MP and CDFC by making them sign an accountability charter; see Chapter 12 and annex.

Step 6: Follow-up

The first important follow-up activity is for forum organisers to prepare a brief but accurate report of the social audit findings and public forum proceedings and recommendations. The subsequent follow-up may include an official letter of protest to the relevant officials or higher authorities. It may include a number of activities to demand action on the findings of the audit. It should also include a follow up to affected projects to verify the action taken by the relevant officials.

Tips on collecting information

The biggest challenge in social auditing of CDF is that officials are reluctant to give information. Here are some tips to improve your chances of obtaining information:

1. Decide your approach beforehand: Is the social auditing going to be done by a group? Is it going to be done by a few individuals on behalf of the community? This should be decided beforehand so that the social auditor does not misrepresent him/herself as this can taint the credibility of the audit.
2. Do your groundwork: A social auditor must realise that complaints about funds may be based on ignorance, malice or misinformation. A social audit must endeavour to uncover the facts. No accusations should be made without verification, and allegations should be cross-checked with documented information.

3. Obtain community support: A social auditor seeks to protect the interests of the community. As such, the social audit must build widespread acceptability and support among the community by raising awareness regarding the importance of social auditing. This is very important, where the social audit seeks to obtain information on behalf of the community through a written request. Public officers pay more attention to the requests of a representative group than to an individual.
4. Do not be aggressive or confrontational. Be firm, clear and respectful in your approach. If the official/s seem to be uncooperative, it helps to request information formally through a written letter from the community requesting a clarification.
5. If the Project Committee is elusive or fails to give information, go to the CDFC. Over time, the social auditors will have to take a more aggressive approach. Avenues of redress are discussed in chapter 11.
6. Get photocopies: As far as possible, the social auditors should obtain photocopies of the CDF records needed and should offer to cover the costs of photocopying. If the officer is unwilling to provide copies of documents, the auditors may make handwritten notes of the records. This is likely to be a very tedious process but participants are encouraged to invest the time required to collect information through handwritten notes if necessary.
7. Use your connections: Participants could also request information from CDF committee members through their informal connections with any of these members. The most useful information is frequently obtained in this manner.

*The responsibilities of the social auditor*⁸

- The social auditor should have a full understanding of CDF and how it works and should create awareness about it among the local people
- The social auditor should go to villages and locations to get familiar with the pressing concerns of the community
- Awareness about the social audit process should be created in the locations and villages
- Any irregularities should be reported as soon as possible to the official responsible, and in writing
- A report of all irregularities should be compiled. It should be read out to the participants of the public forum, and their approval of the contents sought.

*Some key principles of the social audit process*⁹

- The purity of the social audit must be maintained at all times. It must not be politicised
- The social auditor must be impartial. He/she must not bring personal opinions, likes and dislikes into the process
- All persons have an equal right to contribute in the process irrespective of official position

8 & 9 Adapted from the Village Social Auditor's Handbook, Andhra Pradesh Rural Employment Guarantee Scheme, Hyderabad.

- All issues raised must be supported by fact
- The officials of the CDF should provide records to the social auditors to enable informed discussion

P Points for Discussion

1. List the qualities of a good social auditor
2. List the important documents required for the social audit process?
3. What are the stages of the social audit process?
4. How can the social audit teams obtain public support for their work?
5. How would you as a social auditor motivate your community to sustain social audits in your community?

SECTION 4

CDF IN PRACTICE



CHAPTER 10

Common Abuses of CDF



In the few years that CDF has been in existence, it has generated significant controversy due to poor, partisan and even fraudulent management. Practical experience over the past four years has shown that CDF has numerous flaws which, if not redressed will seriously undermine the success of the fund. These include among others:

1. Excessive powers of the Member of Parliament

From the very outset, the duplication of roles of the MP has continued to seriously undermine the democracy, transparency and accountability of the fund. The duplicity of roles of the MP is a fundamental flaw in the design of CDF, which contravenes all fundamental rules of accountability.

The MP sits in Parliament as a legislator formulating and passing laws on CDF. The CFC (Constituency Fund Committee) is empowered to



determine amounts allocated to the fund, develop policy, has a final say on issues of implementation, and is responsible for oversight of the fund. Further, the MP is responsible for appointing the CDFC members, who implement CDF at constituency level. This duplicity of roles makes CDF a defacto 'MP's kitty' without regard to MP's competence in development planning and implementation, and also fails to provide sufficient checks to prevent abuse.

2. Insufficient checks and balances

2.1 Poor regulation by the NMC

The previous National Management Committee is now reconstituted as the Board of Management of the CDF, and we shall consider the impact of the Amendment in chapter 13. Over the past five years, the NMC has played a significant role in streamlining the funds' operations, but it consistently displayed an unwillingness to confront Members of Parliament on issues of governance and did not fully exercise its powers to ensure prudent utilisation of funds. In other cases, such as the controversial graders project where the CFC unilaterally decided to purchase graders worth 600 million in contravention of government procurement regulation and flouting existing CDF procurement guidelines, the NMC was literally powerless to stop the determined MPs who eventually made the purchase. It is noteworthy that parliamentarians have since changed the law so that such purchases are now accommodated under the 2007 CDF amendments, but such purchases lack the requisite scrutiny and checks and balances.

Whereas the NMC has continually striven to enhance CDF implementation through the issuance of circulars and guidelines, it has performed poorly in enforcing the same. CDF is thus characterised by low compliance with laid down regulations in matters such as routine reporting, record keeping, development of work plans and procurement procedures. This has led to wastage, inefficiency and corruption.

2.2 Lack of clarification of the role of other government institutions

The operations of CDF have been characterised by an ongoing battle between the government and Parliament with regard to accountability. The CDF law recognises the DDO (Ministry of Planning) as the AIE holder of the fund. In turn, all payments must be approved by the district treasury with the district accountant as a mandatory signatory on all cheques. The district accountant is also charged with ensuring proper record keeping in the fund. The law and guidelines, however, have failed to accord these government institutions any powers to enforce accountability upon errant CDFCs who fail to comply with regulations. The assigning of accountability and responsibility between the key institutions of CFC, NMC, CDFC, and district office remains ambiguous, allowing unscrupulous CDFCs to routinely flout CDF financial regulations and controls.

The District Project Committee, which is charged with the harmonisation of projects, is an equally toothless body that has been sidelined in a majority of constituencies.

The district line ministries are in turn charged with assisting project committees in costing of projects, verification of works and other technical aspects of a project. However the absence of a formal clarification of roles and responsibilities has resulted in rampant collusion between government officers and CDFC officials.

4. Poor public participation and poor access to information

While the CDF Act is conceived on the basis that the public will be actively involved, the law is silent on how such participation should take place. The CDF law and guidelines are equally silent on the issue of public right and access to information. Most CDFCs frequently cite this lapse to deny the public even the most basic of information. Without relevant and timely information, the public cannot effectively engage in CDF project identification and monitoring. In many cases, even project committee members responsible for implementing CDF projects are not privy to salient CDF information such as the BQs, contract agreement and work plans.

5. Weak project committees

The Project Committee is recognised under the revised CDF Act 2007 as the body responsible for implementation of a project. It may be nominated or elected, or may be pre-existing, such as school boards. In practice, however, many project committees are initiated by people close to the MP. In many cases, they do not represent community interests and are not transparent or accountable. In other cases, the project committees are very ignorant and are easily manipulated by unscrupulous CDFC members. There is need to put in place mechanisms to strengthen project committees and make them more accountable to both the public and the CDFC.

6. Lack of bursary guidelines

Presently, bursaries are awarded in an ad hoc manner due to lack of guidelines. It is unfortunate that the 2007 CDF amendments did not address this issue.

Due to these and other structural weaknesses in CDF, there are numerous ways in which CDF funds are abused. Below we mention a few common trends:

1. Collusion

This is witnessed when CDF officials conspire to defraud the fund. In most cases, key members of the Tender Committee will conspire with contractors/suppliers to rip off CDF funds and assets. The collusion is likely to involve government officers, especially where procurement is concerned. Ways in which such collusion takes place includes over pricing through the generation of inflated BQ's and cost estimates, approval of substandard buildings and services, non-delivery, etc.

CDFCs may also collude with family members, political allies and acquaintances to set up Project Committees for dubious and non-existent projects to divert funds to personal use. Collusion is very widespread in CDF use due to the failure of institutions of redress to take prompt and stern action against the culprits.

2. Favouring of certain locations

There have been several court cases and complaints to the NMC against Members of Parliament due to the excessive role of the MP in influencing cash disbursements towards certain locations allied to the MP. Locations where the MP does not enjoy much political support tend to be sidelined in project prioritisation. One way constituents can determine the overall distribution of CDF cash in their constituency is to obtain the second and third schedules for successive years and prepare a break down of projects per location in the constituency.

3. Manipulation of CDF by the MP

In cases where the MP dominates CDFC operations, the Constituency Development Fund Committee members may have little say in the running of the fund, with the MP making all the decisions. As cited before, in such cases the MP usually works closely with a few key officials, while the rest act as rubberstamps to the decisions taken by this 'kitchen cabinet'. CDFC members who raise questions or query the decisions of the CDFC are likely to be sidelined from the fund and eventually dropped from the Constituency Development Fund Committee.

In such cases, record keeping is likely to be poor, and the public are locked out of the funds operations through the withholding of CDF information. Certain contractors with close links to the MP are likely to be favoured, and genuine proposals are likely to be ignored. The Constituency Development Fund Committee membership is likely to be comprised of illiterate and non-technical people who cannot understand the tricks of the MP and his 'kitchen cabinet'—who usually comprise the coordinator, treasurer, chairman and secretary. The kitchen cabinet is very likely to breach CDF regulations and undertake project procurement and implementation on behalf of the project committee as a way of defrauding the fund.

4. Withholding of information

One of the most prevalent abuses of CDF today is the consistent withholding of information to the public. In many areas members of the public have not idea how much a project in their location has received, who the CDFC and project committee members are, who the contractor is and what the specifications of the project are. This secrecy is often used as a cover to allow irregular, fraudulent, and illegal practices in the funds operations.

5. Withholding of funds

Some Constituency Development Fund Committees receive project funds and fail to release them to the Project Committee. This was common with earlier CDF disbursements, but as the public have become more vigilant, fewer Constituency Development Fund Committees do this.

6. *Fraud*

Some Constituency Development Fund Committees set up parallel accounts into which they siphon off the money, in collusion with officials at the District Treasury. A few committees actually 'cook' the books so that the records are highly attractive, but on the ground no projects or Project Committees exist. Others keep two sets of books. These are cases of fraud, which is a criminal offence.

7. *Committee officials/MPs acting as suppliers*

Many CDF officials act as suppliers to CDF projects, either directly or through business acquaintances. Many CDFC members have initiated new businesses to benefit from CDF projects. This is in contravention of the CDF Act and government procurement regulations.

8. *Double funding*

Double funding is a common complaint all around the country, but it occurs due to collusion and failure to table CDF projects at the District Project Committee for harmonisation. Unscrupulous CDF officials take advantage of projects funded by the Local Authority Transfer Fund, and pocket the money designated for that project. Councillors are also frequent culprits and are on record as claiming credit for projects funded by CDF to allow them to pocket LATF funds or gain popularity with the electorate.

To prevent double funding, all CDF projects and other public-funded projects should elect a prominent accountability board. This is a signpost displaying relevant project information such as the fund responsible for the project, total amount allocated, the contractor, the engineer, the CDF project reference number, etc. This is equally important where projects are jointly funded.

9. *Piecemeal funding and incomplete projects*

Some Constituency Development Fund Committees try to avoid lengthy procurement regulations by funding smaller projects with small amounts such as Ksh 100,000 and may do so for up to three years. This means that the Project Management Committee cannot meaningfully make good use of the money and the project cannot be completed within the year of funding. This is against CDF regulations, which stipulate that CDF must fund all of a phase or part of a project and not parts of a project. Piecemeal funding increases chances of fraud, misallocation and the chances of a project ending up as a 'white elephant' project.

P Points for Discussion

1. What are some of the abuses of CDF in your area?
2. What can be done to stop these abuses?

CHAPTER 11

Offences and Redress under the CDF Act

The CDF Act 2003 defines the following offences under the principle Act: Misappropriation of funds or assets, and application of funds contrary to manner provided in the Act. The penalty is a maximum of 5 years or a fine of a maximum of Ksh 200,000.

The revised CDF Act goes further in clarifying mechanisms of dispute. All cases will be handled by the Board, in first instance, and where necessary the Minister will appoint an arbitration panel. The CDF amendments also state that no person in the management of the fund shall be held personally liable for any lawful action taken.

Avenues of Redress

If an individual or group is not happy with some aspect of CDF management in the constituency, it is their right and responsibility to take action. Where there is a query or doubt about the way CDF is being handled, always use local avenues first. Pay a visit to the relevant Project Committee and Constituency Development Fund Committee office and seek a clarification on the subject. Always insist on seeing original documents, and obtain a photocopy for verification. Do not accept mere verbal explanations. If the official refuses to provide information, ask for it formally through a written letter to the CDFC in charge of CDF in the constituency. Copy the letter to the Member of Parliament, the Project Committee and DDO. Ensure you record all your communication in writing for future reference.



1) Complaints to the Member of Parliament

Members of the public have a right to demand of the CDFC and MP a report as to how CDF money has been used in the constituency. *In a Western Kenya constituency, the area MP was compelled to disband the entire CDFC after members of the public complained of irregularities in CDF use and demanded an account of how CDF funds had been used in the constituency. The residents protested against claims that Ksh 2 million meant*

for development projects could not be accounted for and gave a breakdown of which projects had misappropriated the cash.

2) *Complaints to the relevant district officials*

The PC, DC, DOs and DDOs have also in the past intervened positively to rectify problems in CDF management.

The former Coast PC intervened in CDF in 2003 by instructing seven coast DCs to assess CDFCs in the respective constituencies and to order fresh elections to remove incompetent CDFC members. The PC warned all DCs, DAs and DDOs that they risked being prosecuted if they mismanaged the CDF cash.

Also in two Rift Valley and Coast districts, the DDOs have laid down very strict guidelines which they enforce rigorously to ensure prudent CDF spending.

If these initial complaints fail to elicit action, then it is time to take stronger measures through formal written complaints to the following agencies:

1) Board of Management of the CDFC

Board of Management of CDFC
Complaints Committee
P O Box 46682-00100
Tel (Parliament) 020-221291/020-2848000
Nairobi

The NMC has intervened in numerous constituencies and overseen the disbanding of CDFCs and even withholding of funds when misappropriation is apparent. However, as mentioned before, their intervention is sporadic and many public complaints go unanswered.

2) Kenya Anti-Corruption Commission (KACC), established under the Anti-Corruption and Economic Crimes Act of 2003. The KACC is authorised to investigate allegations of corruption in the CDF. Members of the public are encouraged to report suspected crimes involving the CDF to the KACC.

Kenya Anti-Corruption Commission
P O Box 61130-00200
Tel: 020-310722/2719-555

Official records indicate that as of 16th July 2007, a total of 187 CDF cases had been reported to the anti-corruption body on matters such as embezzlement and misappropriation, abuse of office, irregular award of tenders, and poor delivery of goods and services. Of those cases, KACC took up 35 cases for further investigation, referred 48 to the NMC, 9 were referred back to the CDC, and gave advise on the appropriate action to take for 92 cases. However, of the 35 cases under investigation, none had been concluded by that date.

3) Kenya Police Criminal Investigation Department

Criminal cases involving fraud can be reported to the Criminal Investigation Department (CID). To make a complaint, report to the district police headquarters, CID. *The anti-fraud investigation department of the police has undertaken and successfully prosecuted several cases of CDF fraud.*

4) Public Procurement Complaints, Review and Appeals Board

This agency takes up cases of aggrieved tenderers in the procurement process. To qualify, one must have participated in the tender process. If dissatisfied with the process, the unsuccessful bidder must file a complaint within 14 days after award of the tender. The complaint must be in writing and must state which procurement regulation has been breached. The appeals board must respond to the appeal within 30 days.

Public Procurement Complaints, Review and Appeals Board
Treasury Building 6th Floor
P O Box 30007
NAIROBI

The Appeals Board has intervened in a few CDF cases and rescinded the award of the tender where they have found it to be faulty. They, however, do not receive very many complaints because most small contractors and suppliers do not have the awareness and resources to quickly lodge a complaint even where there are glaring procurement anomalies.

5) Legal action

Many communities unable to get a hearing from the concerned bodies opt to take court action. The 2007 amendments, however, seek to block the increased number of court cases. It is not clear how recent changes will impact access to justice.

Some practical examples

In a certain constituency in early 2007, some area residents went to court alleging that the area MP had misused the CDF kitty and had misappropriated funds amounting to Ksh 25,489,000. The MP and the then CDC (Constituency Development Committee) were accused of awarding contracts to relatives, who had exaggerated project costs. The court froze the CDC account pending the outcome of the case.

In a Central Province constituency in 2004/5, area residents were displeased with the political bias in the then CDC, and despite assurances from the MP over representation of all political parties, he continued to ostracise members of the public from opposing political parties. There were also some cases of financial mismanagement in the same constituency. In one location, a hospital generator was purchased with money from CDF. The CDF document indicated that the generator was of 55KVA and worth Ksh 2.4 million but the actual generator bought was 33KVA and worth a maximum of Ksh 900,000. The residents filed a court case but were, however, unsuccessful.

Again in Central Province in 2004/5, a local Councillor was unhappy with the management of CDF in the constituency and repeatedly tried to engage then CDC without success. He finally opted to launch a lawsuit against the CDC over diversion of funds in a particular hospital project. The court ruled in his favour.

P Points for discussion

1. What practical steps can residents take if they are unhappy with the management of CDF in their location or constituency?
2. What are the challenges of taking such action?

CHAPTER 12

CDF Best Practice¹⁰

CDF is a noble initiative and has brought many benefits to communities around the country, leading to an awakening of public interest and participation in local development. CDF projects are also highly visible, with many completed projects already in use in parts of the country that had not witnessed government-funded projects over the previous two decades. Despite the weaknesses cited in the previous section, there have been numerous examples of CDF successes, which can inform the development of policy, legislation and regulations in this area.

A CDF project can be said to be successful if it enjoys public involvement and support, is transparently managed, and answers the development needs of the electorate. Some of the key characteristics of successful CDF implementation include:

- The MP does not interfere with CDFC decisions and activities
- The CDFC members are competent professionals from various fields
- There is commitment and unity among CDFC members
- There is high awareness among members of the public
- There is good coordination between members of the local communities
- There is high level of public participation through frequent, open meetings and access to CDF information and records
- The CDFC maintains sound records in accordance with the CDF implementation guidelines
- The CDFC remains open to the public and readily supplies CDF information upon request



¹⁰ Borrowed heavily from Constituency Development Fund, Best Practices-Summary of Research Findings, The Centre for Gender and Development, CCGD, 2007, Nairobi.

Below are some examples of actual successful cases of CDF in the country. The use of names of constituencies and MPs has been avoided to prevent any political implications.

1. Public participation

The CDF Act does not give a specific framework for public participation in CDF. Many MPs have taken advantage of this oversight to manipulate CDF for their own selfish political ends. However, some MPs have taken steps to ensure public participation and have won great public support. Their positive stories should inspire future MPs to do the same. Ways in which MPs can promote public participation in CDF include:

Selection of representative Constituency Development Fund Committee (CDFC) members

Although the CDF Act empowers the MP to appoint the Constituency Development Fund Committee of her/his choice, several MPs understand the benefit of making Constituency Development Fund Committee selection a participatory process. In one constituency in Nairobi, the MP selected 5 members of the CDFC and the rest were selected by the community members. In another constituency, the MP opted to appoint professionals to professionalize the running of CDF in the constituency, such as retired government officials, civil servants and other professionals of good reputation.

Ensuring effective community participation in project selection

Despite the fact that the CDF Act does not deal with community participation sufficiently, some MPs have wisely recognised the need to involve the community to identify projects that meet their needs. In one Rift Valley constituency, for instance, constituents identified the need to purchase satellite phones and radios for the village elders, the District Commissioner, the OCPD and the cattle herders along the border to deal with continuous cattle rustling in the area. CDF funded this project to ease communication for swift intervention when raiders are spotted. The project has contributed greatly to security in the area.

Ensuring maximum participation and attendance in public meetings

In a certain constituency, the MP has created a structure that ensures that communities are involved in project identification and prioritization through public meetings, which are well publicised and open to all members of the public. In this case, the Constituency Development Fund Committee does not reprioritise community projects.

The MP also ensures that all CDF meetings are always well publicised and have a good representation of all interest groups in the location—such as women, youth, disabled, all ethnic groups and so forth. In fact, these location development meetings must have representatives from all these groups to have a quorum. These location meetings are convened to deliberate on the needs of the locations and constituency at large. They then forward their recommendations to the Constituency

Development Fund Committee, which does not reprioritise the projects. The CDFC in turn operates with minimum interference from the MP.

Under one such project, constituents have benefited from a macadamia and banana project in which CDF caters for 50% of the crop seedlings. A banana market with a cooling system has also been constructed allowing women to preserve their banana crop to sell when market prices are high, protecting them from unscrupulous middle men. The funds raised have in turn been used to construct an agro-processing factory to serve the area.

2. Community organisation

For CDF to succeed, the community in turn has to organise itself into effective local development committees. These may already be in existence, or may be formed anew. In a few constituencies, development conscious MPs have encouraged and guided the establishment of an effective network of local development committees. In one outstanding example, the local MP encouraged and guided the community to form a network of development committees at sub-location and location level. The MP ensured that members of the Locational Development Committees were elected by the community at an annual general public meeting.

The CDF Act does not address the requirements for effective local participation. This should not stop members of the public from organising themselves into sub-location and location committees. A sub-location committee is able to deliberate on the needs of the sub-location in detail. A location meeting then allows members of the various sub-locations to prioritise location projects through a process of open dialogue and compromise.

Representatives from the various location meetings should then meet with other location representatives as well as Constituency Development Fund Committee members to deliberate on the final list of location and constituency projects for the year.

3. Capacity building of CDFC and project committees

Due to the technical nature of CDF, many MPs ensure continuous capacity building of the committees. One particular constituency in Nakuru District ensures that all project committees undergo capacity building/training on the process and procedures of CDF to enable them manage CDF projects and maintain proper records, including financial records. Each project committee must undertake the training before the funds are released to them.

4. Pooling resources

Despite the limitations of the CDF Act, some MPs have made great strides to professionalise development operations in the constituency. In one shining example, the MP has established a Constituency Development Association, a

network of structures right from the sub-location level. Under the network, representatives from all funds in the constituency, such as the Roads Maintenance Levy Fund (RMLF), Local Authority Transfer Fund (LATF) and so forth pool their resources and agree on which development initiatives to undertake. This avoids overlap and wastage and has led to the fast achievement of infrastructure development in the constituency. Needless to say, the MP easily trounced his opponents in the 2007 elections to reclaim his parliamentary seat.

5. Best Practice in CDF Procurement

A Tender Committee, which is committed to promoting transparency in CDF procurement will uphold the following positive practices as legally stipulated:

Tender information: Ensure information on tenders is available to community members through community meetings, village elders, chiefs meeting/barazas, religious forums and public notices at chief's and CDFC's office. The tender notice must indicate the date of tender opening.

Tender register: Ensure there is a tender register, duly signed by the bidders and available for public scrutiny.

Tender opening: Ensure the tender opening meeting takes place immediately after closure of bids. Ensure the meeting is open to all interested parties, as well as members of the public. All bids should be opened and initial comments made and recorded. All bidders should confirm their participation in the tender opening meeting.

Technical evaluation: The technical evaluation team should be given specific duration to complete their evaluation. Their written evaluation reports should be duly signed.

Supplier information: The CDFC and project committees should maintain a list of all CDF contractors/suppliers and all projects of which they are beneficiaries. Supplier/Contractor information should be available to the public upon request. It should show physical location, names of all company directors and shareholders, registration of the business, past government and CDF projects undertaken, and certification by the Ministry of Public Works (if applicable). Any contractor responsible for shoddy or incomplete CDF projects should not be eligible for future work.

Important documents: The signed contract document, work plan and Bill of Quantities for each project should be available upon request to members of the public.

Conflict of interest: The CDF law requires that a CDFC member declares conflict of interest if it legitimately exists. Such a declaration should be duly captured in the minutes. However, a CDFC or project committee member should not initiate a new line of business to benefit from CDF contracts as this pushes out legitimate contractors.

6. Accountability Charters

An accountability charter is a contract between the MP and his/her constituents. Civil society groups are increasingly using accountability charters as a method of committing the MP to manage CDF responsibly. In the face of a weak law accountability charters are a powerful tool that the electorate can use to commit their Member of Parliament to enforce high standards of CDF governance and to utilise CDF effectively.

More progressive MPs will welcome such interventions, as they will recognise that by governing CDF responsibly, they not only enhance local development, but also increase their chances of re-election. MUHURI managed to commit a reluctant MP to undertake substantial reform of the CDFC operations during a public forum in Changamwe in August of 2007. In this case, the commitments were handwritten onto a long cloth, which was then signed not only by the MP but also by the then CDFC members, as well as members of the public who attended the public forum.

Action Aid Kenya in undertaking social audit work around the country in conjunction with CEPAD (Centre for Peace and Democracy). They have developed an accountability charter for all decentralised funds, which we have adapted into a CDF Accountability Charter for this publication (See annex).

P Points for Discussion

1. What are some examples of CDF best practice that you have come across?
2. How can you revise the CDF accountability charter contained in the annexes to suit the needs of your constituency in order to hold you area MP accountable?

CHAPTER 13

Suggestions for improvement

In this final chapter of this handbook, we will take a brief look at the 2007 CDF Amendments Act and its likely impact on CDF governance. We will end this chapter by making suggestions on how CDF implementation can be improved in Kenya. Civil society groups can use this chapter to formulate advocacy demands to their local Member of Parliament and CDF committees.

The contents of this chapter are a synthesis of contributions and recommendations made by civil society individuals and groups in 2007 on the then proposed CDF Amendments and on broader suggestions on how to improve CDF.¹¹

The CDF Amendment Act 2007 introduced numerous changes to CDF. While some were positive and much needed changes, some have raised concern such as those discussed below.

1. *The CDF Board is weaker than the NMC*

In many ways, the new Board is weaker than the National Management Committee was. For instance, on several important matters, the Board decisions are subject to the CFC approval, making the Board subject to the CFC. Below is a list of Board matters that must be agreed by the CFC:

- *The Board may set out conditions and guidelines for funds release but only in concurrence with CFC*
- *(The) list of projects shall be tabled for review at a meeting of the Board, which shall scrutinize and approve eligible projects. Those projects it does not approve shall be referred to the CFC, which has a final say on the matter*
- *(The Board's) institutional structure shall be created by the Board in concurrence with the CFC*

¹¹ ABANTU For Development, Action Aid, CDSC-Initiatives, Centre for Education in Democracy and Good Governance (CEDGG), Centre for Peace and Development (CEPAD), Collaborative Centre for Gender & Development (CCGD), MUHURI-Muslim for Human Rights, Society For International Development (SID), Tudor Lobby Group, Wanjiru Gikonyo, Youth Agenda.



- *Any issues of policy must be referred to the CFC*
- *The Minister may amend schedules with concurrence of CFC*
- *The Minister may give the Board additional functions (other than those outline in the Act) in concurrence with the CFC*
- *3% of total fund amount is allocated to administration of the Board, whose annual budget must be approved by the Minister of Planning in concurrence with the CFC*

2. The Board is no longer empowered to ensure prudent utilisation of CDF funds

Sections 8(6) and 6e of the 2003 CDF Act are deleted. The Board may now not impose restrictions upon constituencies where funds have been abused as was the case before.

The role of ensuring timely returns to Parliament (*Section 6e*) and *prudent utilisation of funds(6b)* are removed, with the removal of the term prudent and its replacement with efficient. *These vital functions are also not assigned to any other CDF institution.*

3. Ability of the Board and its officers to enforce compliance is severely undermined

By deleting section *6e* and *rephrasing section 6b*, the role of the Board is limited to administration and its power to enforce compliance is greatly compromised. This removes an important accountability check in CDF implementation. One of the pressing challenges in CDF implementation is the very low compliance to existing regulations; the ability of the Board to enforce compliance should be strengthened, not weakened.

By failing to give the Board any powers in policy formulation and giving the CFC the final say in approval of projects, the Board is made simply a rubberstamp in the administrative process.

4. Amendments create ambiguity on role of CEO

Some crucial functions previously undertaken by the officer administrating the fund are not reassigned to any body, namely: The task of supervising and controlling day to day administration of the fund; keeping or causing to be kept proper books of account and records; and preparing and transmitting accounts to the Controller and Auditor General (CAG).

5. *The CDF calendar of events seems to be removed*

There seems to be an implication that projects will be approved on an ongoing basis, away from the previous case where the NMC imposed an orderly calendar of activities.

Previous CDF timetable of activities

Under the CDF 2004 Act, the National Management Committee had a clear timetable for CDF activities, which included:

- October to November — Locations were to submit proposals to the Constituency Development office
- November to December — The CDFC was to prepare Schedules 2 and 3
- December to January — The DPC was to meet to harmonise projects
- January to February — The MP was to forward project lists to the National Management Committee
- February — Clerk forwards lists to the CFC, which then approves projects and forwards them to the Minister of Finance for inclusion in the printed estimates.

After the budget reading in June, disbursements were then made.

Removal of this calendar is a negative development that will remove discipline from the Fund and is likely to exacerbate abuse of funds. It also negates the concept of planning, and makes it more difficult to track CDF expenditure. The CDF Board needs to reinstate a calendar of activities as initially envisaged.

6. *The significance of District Projects Committee diminished*

The Fund Manager is not required to attend meetings of the District Projects Committee (DPC). The amendments no longer compel the CDFC to table a list of projects to the DPC. Rather, they compel the DPC to avail a list of all district development projects to the CDFC. If there is an overlap of projects, section 43 of the amendments allows the CDFC to continue regardless raising questions as to the usefulness of the DPC. Instead of strengthening the role of the DPC as a check to the CDFC, its significance in CDF is further diminished.

7. *Other*

- The CDF amendments did not give a gender provision for the CDFC as is given for the Board.
- It is noteworthy that according to the Act, the Fund Manager reports to the CDFC, and not the Board, and it is not specific how this person will report to the Board. The amendments do not clarify what powers the Fund Manager is given, if any, to enforce discipline in CDFC operations.
- The DDO is still not recognised as AIE holder of the fund. The DDO is also not given powers to compel performance of CDFCs. In this regard, the amendments failed to institutionalise and strengthen the existing checks in CDF implementation.

Suggestions for Improvement

1. CDF Board needs to be strengthened

The Board of Management of CDF should be granted requisite and explicit powers and the independence to administer the fund professionally and transparently. The Board should be granted powers of sanction to enforce compliance. The CDF law should clearly elaborate the responsibilities, powers, authority and liability of various office bearers in CDF, CDFC, DDO, PC and so forth, away from the present situation where power lies with the MP and responsibility does not really lie anywhere. Such ambiguity promotes inefficiency, complacency and corruption.

2. CDF rules and regulations need strict enforcement

The Board needs to devote more resources to capacity building of implementing committees, and should enforce strict and swift punitive measures to CDFCs that fail to comply. The Board should identify best practices in CDF implementation and incorporate those standards into their guidelines. Failure of the Board to enforce discipline, prudent utilisation of funds and compliance to regulations should also be actionable.

3. Public participation and access to information need to be protected and assured

The government should undertake to pass a Freedom of Information (FOI) Bill, such as the one introduced into the house by Hon. Prof. Anyang' Nyong'o as a private members bill in early 2007. This bill was crafted with the active input of civil society and it clearly addresses most of the demands of an effective freedom for information law.

The CDF Board at national and constituency level should be compelled to publish comprehensive income, expenditure and asset reports on a quarterly basis at places that are accessible to the general public. The reports should also give a summary of implementation status for every approved project, as well as a report on progress on complaints and ongoing suits.

Record keeping

The Board, CDFC and PC should maintain proper records in accordance with the law and guidelines and these should be available to the public upon request. These records include all CDF schedules and work plans, BQs, contract agreements, supplier information, procurement records, and other records and reports. Such information should be available upon request, to prevent the present bureaucratic run-around used to deny the public information. A designated day each week could be set aside for routine public enquires.

CDFCs should be compelled to hold quarterly public accountability forums at designated locations within the constituency to report to the community by

informing and updating communities on funds received and project implementation status. Media houses and other persons must be allowed to disseminate CDF information and records. Failure to avail information and poor record keeping should be actionable.

4. Project committees and development groups need to be strengthened

Project committees must be selected by local communities and not appointed by CDFCs as is popular practice. Membership of project committees should cater for representation of all interest groups such as women, youth and persons with disabilities, at the local level.

Project committee members must be guided by a code of conduct to ensure transparency and accountability and failure to uphold this and CDF regulations should be actionable. Project committees must fully engage the community by reporting back through frequent (at least quarterly) public meetings and availing project records and information. All project committees must undergo rigorous and comprehensive capacity building before undertaking the project. All CDFCs should set aside a mandatory amount for capacity building.

5. Bursary Requires Guidelines

CDF bursary guidelines urgently need to be formulated to standardise implementation. The application process and criteria need to be clearly articulated, publicised and enforced. Bursaries, however, should only be awarded to financially disadvantaged candidates in public or mission-established institutions, and who are unable to pay, based on a robust process of verification and accountability. Bursaries should not be awarded to parallel degree students of any university as such students are able to meet their fees.

6. M&E framework needs to be strengthened

There is need to define exactly what M&E is required, including the frequency, the kind of data to be collected, by whom, and reported to whom. For example, CDFCs should report on challenges where projects have stalled or failed, and explain what has happened to money allocated towards these stalled projects. They should report on 'new' employment opportunities created in the process of project implementation, and do so by gender (similar to Kenya's Economic Survey) to highlight the employment and wealth creation opportunities the CDF has been responsible for. They should report on numbers of students benefiting from educational bursaries, including amounts by gender, etc. The present reporting formats need to be strengthened to make monthly expenditure and progress reports mandatory.

7. Redress must be swift, impartial and visible

There is a need to clarify offences in the broadest terms possible to curb rampant offences. Offences should include denial of information, barring public participation, as well as common types of fraud. There is need to formulate explicit and commensurate, significant penalties to make redress more effective. Ambiguities in the law foster criminal behaviour. The present fine of Ksh 200,000 is not a sufficient deterrent to fraud.

The general powers of sanction granted the Board should be strengthened to enable it enforce compliance with laid down procedures and regulations and take action against routine offences. Given the widespread abuse of CDF around the country, the Board should be empowered to establish an impartial and robust Standing Committee, which should be mandated to settle all CDF disputes expeditiously within 30 days. Such a standing CDF arbitration panel should be empowered and compelled to address all CDF complaints with the exception of criminal cases. It should be mandated to address abuses in procurement, failure to release information, barriers to public participation, faulty composition of the CDFC, disputed appointments and so forth. It should be empowered to levy punitive measures on errant MPs, CDFCs and contractors. It should be compelled to follow and report the progress of CDF criminal court cases.

All redress by the Board and Standing Committee should be within a specified timeframe and their failure to act should in turn be actionable.

8. The Role of the MP needs to be limited

The duplication of the roles of the MP occurs in at least three areas:

- 1) The appointment of Constituency Development Fund Committee members. The MP is empowered to appoint the members of the CDFC. The MP is also the chairperson of the Constituency Development Fund Committee although many MPs opt to appoint someone else to perform this role, and sit on the committee as patrons. Responsible MPs allow the Constituency Development Fund Committee to function without interference but a majority appear to prefer to appoint their political allies and family members.
- 2) The MPs also sit in Parliament where they pass laws pertaining to CDF.
- 3) The MPs also make up the powerful Constituency Fund Committee (CFC), which oversees CDF implementation, approves projects for funding, and makes recommendations on the CDF law.

Although the law compels the MP to convene locational meetings within the first year of a new parliament and every 2 years thereafter (year 3 and 5) to deliberate on development matters for the constituency, most MPs do not. Where they do convene these meetings some MPs use it as a publicity exercise and do not address the genuine concerns and grievances of the public.

The CDFC should be locally elected, and the MP should participate in an ex-officio

capacity. The MP's role should be to facilitate strategic, long term development planning, arbitrate when there are wrangles and conflicts, and ensure prudent use of funds.

The authority of the CFC should be confined to matters of policy, legislation and oversight. The CFC should not be allowed to engage in procurement under any circumstances. For instance, the revised CDF law now allows payment to be made directly from treasury to a supplier or other account with CFC approval. This is a further breach of separation of powers by legislators, making the issues of accountability even murkier.

9. Procurement

CDFCs and Project Committees (procuring entities) should be compelled to maintain complete supplier/contractor information on all suppliers and contractors, which should in turn be accessible to the public. Suppliers and contractors should be compelled to list all directors and shareholders to stamp out the rampant practice of conflict of interest. Illegal engagement of CDF and project committee officials in procurement should be actionable to the fullest extent of the law.

10. Role of District Development Officer needs to be clarified and strengthened

Ironically, under the present CDF framework, the DDO and DA bear the responsibility for CDF, yet these offices do not enjoy corresponding powers to compel performance.

The DDO should be entrenched in the Act as the AIE holder of the fund, and the DDO should be given powers to sanction non-compliant CDFCs. Corresponding roles should be clarified to prevent ambiguity.

The Third Schedule should be revised to capture the relevant government department as was previously. The schedule should also capture continued funding as some projects are funded over 2 or more years before completion.

A separate schedule should be created and prepared for all projects to formalise the involvement of government officers in CDF. The schedules should officially capture the role of the relevant government department, the officer involved, and the dates of various approvals and certification of projects.

11. Ongoing and routine audit needs to be entrenched

It is both alarming and unacceptable that over the past five years, CDF funds have not been audited. There is an urgent need to institutionalise an annual nationwide audit and reporting process, utilising existing structures as much as possible, but vest authority and responsibility with the CDF Board. Audit reports should in turn be published timely and actions of redress promptly taken to promote financial discipline.

12. The Labourer needs to be protected

The CDF law fails to address the role of CDF in income and employment generation for local communities, ignoring the vast potential the fund holds for increasing local household incomes. The protection of the role of the labourer in CDF is a fundamental issue that requires further dialogue. The rates at which local labour is paid should be safeguarded at equivalent or above government rates.

The Act should distinguish between labour intensive and capital intensive projects and should employ labour intensive projects except where it is not financially viable to do so.

CDF projects should employ local labour, suppliers and contractors as far as possible. To this extent, the NMC has recommended the employment of works contracts as opposed to full contracts in CDF construction as far as possible. Under full contracts, large contractors, many of whom also own supplies stores, are capturing all the benefits of CDF contracts, to the detriment of local suppliers.

SECTION 5

ANNEXES

- Annex 1: Other CDF Texts
- Annex 2: Glossary
- Annex 3: Profile of Institutions Involved
- Annex 4: Sample Bill of Quantities and Schedule of Materials
- Annex 5: Sample Tender Award Summary
- Annex 6: CDF Social Audit Questionnaire
- Annex 7: CDF Allocations
- Annex 8: Accountability Charter
- Annex 9: The Constituencies Development Fund Act 2003
- Annex 10: The Constituencies Development Fund (Amendment) Act 2007
- Annex 11: The Constituencies Development Fund Implementation Guide

ANNEX 1

Other CDF Texts

1. Constituency Development Fund: Best Practices. Collaborative Centre for Gender and Development, 2007
2. Gender Budgeting & CDF: A gender benefit incidence analysis of four constituencies. Society for International Development (SID), East Africa, 2007.
3. An Assessment of the Management and Utilisation of the Constituency Development Fund in Kenya. Mapesa and Kibua, IPAR Discussion Paper Series No. 076/2006
4. Decentralised Funds: A simplified version - ABANTU for Development, 2006
5. Decentralised Funds: Our Money our Decision. Kenya Institute for Public Policy Research and Analysis (KIPPRA 2006). Funded by the European Union (EU) through the Democratic Governance Support Programme of the Ministry of Justice and Constitutional Affairs and the Canadian International Development Agency (CIDA)
6. Kenya Private Sector Alliance (KEPSA) and Kenya Knowledge Network for Research and Development (KNET). Stakeholder's forum on Constituency Development Fund (CDF) Report, Nairobi, Panafric Hotel, 18th August 2006
7. Kenyan's Verdict: A Citizen's Report Card on the Constituencies Development Fund (CDF), IEA Research Paper Series No. 7, Institute of Economic Affairs and Kenya National Commission on Human Rights (KNCHR), 2006
8. Working paper on Decentralised Funds. Wanjiru Gikonyo, Hanns Seidel Foundation, 2006
9. Devolved Funds Development- A handbook on participation. Odhiambo and Taifa, Centre for Law and Research International (CLARION), 2005
10. CDF - The Constituency Fund - For Development or Campaigns, Mwalulu and Irungu, 2004.

ANNEX 2

Glossary

Bill of Quantities (BQs): This is a cost estimate for a construction works used to give specifications inputs, including the number of units, unit cost and total cost for all inputs. The Government of Kenya has a standard format to be used in all works undertakings. In its simpler forms, the BQ may be developed as a schedule of materials for simple standardised works.

Authority to Incur Expenditure (AIE): An AIE is a certificate that is given to persons authorised to expend money from a CDF account. The NMC issues AIEs to the DDOs upon approving project proposals for CDF support. Once DDOs become holders of AIEs, they are allowed to disburse funds from the CDC bank account.

Constituency Development Fund Committee (CDFC): CDFCs manage the finances and implementation of projects at the constituency level. On the financial end, they are responsible for making payments to cover administrative costs, emergencies, education bursary and for disbursing funds to Project Committees for the latter's use to make payments for procurement. In practice, they often times undertake work intended for Project Committees because the Project Committees are incapable (or deemed as such). In these cases, the CDFCs end up making payments to the contractors, suppliers, and labourers who provide goods and services to CDF-supported projects. Additionally, CDFCs prioritise projects within their constituencies and are in charge of keeping records of project finances and work plans. They are headed by a Member of Parliament or his/her designee.

Constituency Fund Committee (CFC): The CFC is the highest CDF official body established by the CDF Act. It is a national level committee made up of 11 Members of Parliament that oversees the CDF implementation process. The CFC is also the final reviewer in the project selection process, and thus ultimately determines which projects will receive CDF support. The Treasury disburses funds to the CDF bank account in the Central Bank of Kenya only upon receiving the list of projects the CFC approves for CDF support.

Controller and Auditor General (CAG): The Controller and Auditor General is an official whose position is established at the national level by the CDF Act to audit and report upon all funds received in the CDF. The CAG receives a full account of the CDF from the officer administering the fund (the head of the NMC) and in turn, the CAG performs audit tests to verify that CDF monies have been applied to the purposes for which they were intended and that expenditures conform to government financial regulations and procedures.

Constituency Development Fund (CDF): The CDF is a national fund to which 2.5% of national government revenue is allocated every year. The CDF was created by the CDF Act of 2003 to support development and improve service delivery at the local level. The CDF frequently supports projects such as the construction of schools, hospitals, and community centres.

District Development Officer (DDO): The DDO serves as a member of the District Project Committee and serves as the secretary of the District Projects Tender Committee. He/she is the only person with the Authority to Incur Expenditure, which is needed to access the CDFC bank account. Thus, the DDO must authorise all payments to Project Committees, education bursary recipients, and so forth (see AIE description above). He/she also maintains records of CDF expenditures, keeps track of fund receipts at the district level, and submits monthly records to the NMC. DDOs should hold copies of such important CDF records as BQs, work plans, and the Second and Third Schedules.

District Projects Committee (DPC): The DPC coordinates CDF-supported project implementation at the district level and is responsible for ensuring that no two identical projects or projects on similar “themes” are being carried out at the same time. The DPC will occasionally visit projects when it feels it is necessary to do so.

Kenya Anti-Corruption Commission (KACC): The KACC is a national level institution that investigates corruption and fraud in the use of public funds. It is authorised to investigate charges of corruption in the CDF.

Local Development Committee (LDC): LDCs are committees organised at the community or village level to coordinate the process of identifying projects to receive CDF support. The CDF Act does not require the establishment of LDCs nor does it designate a specific role for them in the selection process. Thus, it is up to individuals to organise LDCs and insert them into the selection process. LDCs typically compile lists of projects suggested by the constituents and then forward them to their Constituency Development Committees.

Member of Parliament (MP): The MP is involved in the CDF at many different levels and consequently has been a very controversial figure in the fund management. Each MP serves as the chairman of his/her CDFC and as a member of the District Project Committee unless he/she appoints someone else to do so. 11 MPs also serve on the CFC. As members of the national legislature, they also verify CDF accounts. However, the only CDF-related document the MP signs is the Second Schedule report.

Non-Governmental Organisation (NGO): An NGO is any organisation that is not part of the government. Some examples of NGOs are women’s organisations, advocacy groups, and human rights organisations. NGOs often assist in identifying projects to receive CDF support and can act as partners in “joint projects”. NGOs can also provide helpful assistance in the social audit. One NGO representative serves on each CDFC and eight NGO representatives serve on the NMC. Also known as CSO.

National Management Committee (NMC): The NMC is a national level committee that was set up by the CDF Act to provide executive administration of the CDF. The NMC reviews project proposals before they are submitted to the CFC to receive final approval. The NMC is in charge of disbursing funds from the CDF bank account into the CDFC bank accounts and issuing Authority to Incur Expenditures to the DDOs. The NMC is also responsible for submitting all CDF records to the Controller and Auditor General.

ANNEX 3

Profile of Institutions Involved

Open Society Initiative for East Africa (OSIEA)

The Open Society Initiative for East Africa (OSIEA) promotes public participation in democratic governance, the rule of law, and respect for human rights by awarding grants, developing programme, and bringing together diverse civil society leaders and groups. OSIEA plays an active role in encouraging open, informed dialogue about issues of public importance in East Africa. Launched in 2005 and based in Nairobi, the OSIEA team is headed by Binaifer Nowrojee, a human-rights advocate with extensive experience in Africa. OSIEA supports work in Kenya, Tanzania, and Uganda as well as regional organisations whose mandate encompasses East Africa.

Muslims for Human Rights (MUHURI)

MUHURI—Muslims for Human Rights—is a non-governmental organisation (NGO) based at the Kenya Coast. It was set up in 1997 to promote the struggle for human rights among marginalised social groups, with a view to contributing towards the national and international struggle to promote and protect the enjoyment of human rights and civil liberties by all.

International Budget Project (IBP)

Founded in 1981 in Washington DC, the International Budget Project seeks to nurture the growth of civil society capacity to analyse and influence government budget processes, institutions and outcomes. The IBP is interested particularly in working with organisations that focus on the impact of the budget on the poor and low-income people in developing countries or new democracies. The overarching aim of the project is to make budget systems more responsive to the needs of society and, accordingly, to make these systems more transparent and accountable to the public.

Mazdoor Kisan Shakti Sangathan (MKSS) is a non-party peoples' political organisation started in 1987-88, committed to helping the economically marginalised and catalyse social change by living and working within the local communities. MKSS has been instrumental in shaping policy in the crucial areas of employment guarantee and freedom of information in its areas of activity. They are also proactively engaged in other initiatives to uplift the livelihoods of India's poorest.

Since 1994 MKSS has used public hearings as a tool to expose abuse in local construction and payment of local labourers. These public hearings have been a great success in fighting corruption and promoting social justice, a result of which MKSS now faces increased demands for wider intervention.

ANNEX 4

Sample Bill of Quantities and Schedule of Materials

ITEM	DESCRIPTION	UNIT	QTY	RATE	KSH
	LENGENET HEALTH CENTRE				
	EXTENSIONS ON				
	<u>SLUICE / LAUNDRY AND LABORATORY</u>				
	<u>SUB STRUCTURE</u>				
A	<u>FOUNDATION</u>				
	<u>CONCRETE</u>				
	(i) Cement	Bags	10	620	6200.00
	(ii) Sand	Tons	2	800	1600.00
	(iii) Ballast	Tons	3	1300	3900.00
B.	FOUNDATION WALLS				
	(i) 150 mm thick natural stone walling in foundation	Sm	33	400	13200.00
	(ii) Cement	Bags	3	620	1860.00
	(iii) Sand	Sand	1	800	800.00
	(iv) DPC 150mm Wide	Roll	2	1400	2800.00
C	CONCRETE				
	(i) Cement	Bags	17	620	10,540.00
	(ii) Sand	Tons	3	800	2400.00
	(iii) Ballast	Tons	2	1300	2600.00
D	PLASTER 1:3				
	(i) Cement	Bags	2	620	1240.00
	(i) Sand	Tons	1	800	800.00
	(iii) Three coats of plastic emulum paint	Litres	4	500	500
	TOTAL				48,460.00

ITEM	DESCRIPTION	UNIT	QTY	RATE	KSH
ROOFING					
A	150 X 150 mm rafters	LM	75	165	12,375.00
B	150 x 150 mm tie beam	LM	35	180	6300.00
C	100 x 50 mm struts and ties	LM	38	148	5,624.00
D	50 x 50 mm purlins	LM	80	45	3600.00
E	100 x 50mm Wall plate	LM	19	180	3,420.00
F	Gauge 30 G.C.I Roofing Sheets	SM	89	305	27,145.00
FLOORS FINISHES					
G	Cement and sand 1:4 Paving Scredd				
	(i) B Cement	Bags	6	620	3720.00
	(ii) Sand	Tons	2	800	1600.00
WALL FINISHES					
Plastering					
	(i) Cement	Bags	10	620	6200.00
	(ii) Sand	Tons	2	800	1600.00
	(iii) Lime	Bags	5	300	1500.00
	(iv) Ceiling (1.2 x 2.4m) Soft boards	NO	16	950	15,200.00
	(v) 50 x 50 mm Brandering	LM	175	72	12,600
TOTAL					113,484.00

ITEM	DESCRIPTION	UNIT	QTY	RATE	KSH
	WINDOWS				
A	size 1500 x 1200 mm steel windows	No	3	4250	12,750.00
	Glazing				
B	4mm clear sheet glass and glazing	SM	7	1080	7560.00
	Cills				
C	150 x 50 mm thick precast concrete (1:2:4) weathered and throated window cill	LM	6	470	2820.00
	DOORS				
D	Steel doors as per sample size 816 x 2050 mm complete with Irony Mongery	No.	3	9650	28,950.00
	TOTAL				52,080.00
	Plus page 1				48,460.00
	Plus page 2				113,484.00
	TOTAL				214,024.00
	Plus plumbing works				38,524.00
	-Electrical works				32,103.00
	-10 % Contingencies				21,524.00
	-Labour				96,820.00
	TOTAL				402,995.00

SAMPLE OUTLINE SCHEDULE OF MATERIALS (for office building)

A schedule of materials is a simple listing of the specifications and cost of materials in a project. It is best used for simple projects.

ITEM

COST

- 1) Surface and trench excavation
- 2) 150mm thick concrete in foundation
- 3) 150mm thick stone walling in foundation
- 4) 250mm thick parked hardcore compacted
- 5) 150 thick floor slab concrete
- 6) 150mm thick external stone walling
- 7) 6X 1 timber framework
- 8) Y10 and Y8 bars
- 9) 150mm thick concrete slab
- 10) 2 fabricated doors with locks
- 11) 1 window with glazing
- 12) 25mm thick coloured floor screen
- 15) 12mm plaster to walls

TOTAL COST

ANNEX 5

Sample Tender Award Summary Form

The tender award summary gives a break down and comparison of all tenders received and forms the basis of the award decision. The social auditor should calculate the to determine if the BQ figures are calculated correctly and if the tender was awarded to the most attractive bidder

Name of Project					
District					
Constituency					
Financial year					
Amount allocated					
ITEM/Materials	Bidders name	Quantity	Unit price	Total Amount	Bidder awarded
Building stones 6X9	1.				
	2.				
	3.				
	4.				
Building stones 9X9	1.				
	2.				
	3.				
	4.				
Sand	1.				
	2.				
	3.				
	4.				
Hardcore	1.				
	2.				
	3.				
	4.				
Ballast	1.				
	2.				
	3.				
	4.				
Cement	1.				
	2.				
	3.				
	4.				

SOCIAL AUDIT QUESTIONNAIRE ON CONSTITUENCY DEVELOPMENT FUND

PROVINCE:		DISTRICT:					
CONSTITUENCY:		LOCATION					
PROJECT TITLE <i>(second schedule)</i>	PROJECT NUMBER	PROJECT SECTOR					
DATE OF INCEPTION	2003/4	DATE OF COMPLETION		2006/7	2007/8		
AMOUNT ALLOCATED	2004/5	2005/6	2006/7	2007/8			
RELEVANT GOVERNMENT DEPARTMENT(S) INVOLVED							
Name and department of government official/s used for:	Preparation of BQ	Verification of construction	Completion certificate				
Which is the procuring entity	Project Committee		CDC				
PROJECT STATUS ¹							
PROJECT COSTS	Amount allocated to date	Amount spent	Balance required to complete				
Observation							

¹ Indicate whether Complete, Pending, On Going, Extension, Just Started, any delays? If yes what has caused the delays, Not Started (Give reasons: if complete, ask for certificate of completion. What time was taken to implement the project

FOR JOINT PROJECTS

<i>Who is the other financier/donor?</i>	
<i>What amount was by other donor?</i>	
<i>What amount was donated by CDF?</i>	
<i>What is the defined phase/unit constructed by CDF?</i>	
<i>What is the defined phase/unit constructed by other donor?</i>	
Observations	

<p>Project committee² <i>Is there a management committee for the project in place? Give names and note key officials</i></p>	
<p><i>How was the project committee selected/appointed? Do its members hail from the community?</i></p>	
<p><i>Who are the members of the tender committee? Comments</i></p>	
<p><i>Does the committee have adequate capacity to process procurement and keep records of accounting procedures?</i></p>	
<p><i>How does the project committee involve the public? Are members of the public made aware of important aspects of the project? amount allocated, contractor etc</i></p>	

² Ask for registration certificate

PHYSICAL VERIFICATION
<i>Are project specifications in line with the BQ specifications?</i>
<i>What was the quality of the project work? (Was the work in accordance with the expenditure incurred?)</i>
<i>How have old materials such as building blocks and roofing tiles been handled?</i>
<i>Comments</i>
LABOUR
<i>How many people from the community were employed in the project?</i>
<i>Has labour been paid at or above government recommended rates?</i>
<i>How were labour payments made? By whom? What a record maintained? Was there a witness?</i>
<i>How were labour opportunities advertised?</i>

CONTRACTOR/SUPPLIER
<i>Is it a works contract or full contract?</i>
<i>Has the contractor carried out other CDF projects in the constituency?</i>
<i>Are the directors of the contractors company linked to members of the Project committee or CDC?</i>
<i>Are the prices quoted in line with market costs?</i>
<i>Has the contractor been paid with due verification of quality of works completed?</i>
<i>Is the project committee satisfied with the performance of the contractor?</i>
<i>Was procurement handled openly and in line with CDF procedure?</i>
TRANSPARENCY
<i>Does the project have an accountability board? Does the board contain the necessary information?</i> ³
<i>Is information and records on the project available at the CDC? Project Committee?</i>

³ Full contract- Full project construction is awarded to a single contractor

Works contract- The different parts of the construction are awarded to different suppliers and contractors and the project committee oversees quality

⁴ Project name, number, amount allocated, year of allocation, contractor name, information on previous allocations if applicable

BURSARY

Is the list of bursary recipients for each year readily available from the CDC office? Does this list conform with the CDC bursary minutes?

Does the CDC have a dedicated bursary committee? If not who decides how bursaries are awarded?

Are institutions listed as recipients of bursaries in genuinely in existence?

Do the institution records confirm the receipt of the amount recorded on the bursary list?

Do the students whose names have been recorded on the bursary list confirm receipt of funds?

What criteria does the CDC use to select bursary recipients? Have they maintained that criteria?

Do the community members agree that the students whose names have been recorded in the CDC minutes as recipients of bursaries are truly needy students?

Are there names of needy eligible children who did not receive bursary? List some for inclusion in the social audit report

CONSTITUENCIES ALLOCATIONS FOR FINANCIAL YEARS 2003/2004, 2004/2005, 2005/2006, 2006/2007 & 2007/2008

CONSTITUENCY	2003/2004	2004/2005	2005/2006	2006/2007	2007/2008
1 001 MAKADARA	6,000,000.00	22,227,573.00	28,764,684.00	39,823,243.00	40,069,212
2 002 KAMUKUNJI	6,000,000.00	21,656,627.00	28,008,210.00	38,800,223.00	39,039,874
3 003 STAREHE	6,000,000.00	21,808,619.00	28,197,039.00	39,061,810.00	39,303,077
4 004 LANGATA	6,000,000.00	22,218,788.00	28,735,319.00	39,807,498.00	40,053,371
5 005 DAGORETTI	6,000,000.00	22,134,510.00	28,626,313.00	39,656,491.00	39,901,431
6 006 WESTLANDS	6,000,000.00	21,079,433.00	27,261,656.00	37,766,009.00	37,999,272
7 007 KASARANI	6,000,000.00	23,202,173.00	30,007,249.00	41,569,523.00	41,826,279
8 008 EMBAKASI	6,000,000.00	23,545,780.00	30,451,677.00	42,185,197.00	42,445,755
9 009 CHANGAMWE	6,000,000.00	21,587,110.00	27,918,295.00	38,675,661.00	38,914,543
10 010 KISAUNI	6,000,000.00	22,289,060.00	28,826,211.00	39,933,413.00	40,180,063
11 011 LIKONI	6,000,000.00	20,750,517.00	26,836,299.00	37,176,659.00	37,406,281
12 012 MVIITA	6,000,000.00	20,294,967.00	26,247,013.00	36,360,408.00	36,584,989
13 013 MSAMBWENI	6,000,000.00	31,855,866.00	41,238,905.00	57,128,917.00	57,481,775
14 014 MATUGA	6,000,000.00	25,832,720.00	33,409,649.00	46,282,299.00	46,568,790
15 015 KINANGO	6,000,000.00	31,464,438.00	40,693,823.00	56,373,805.00	56,721,999
16 016 BAHARI	6,000,000.00	33,718,686.00	43,609,511.00	60,412,955.00	60,786,097
17 017 KALOLENI	6,000,000.00	33,468,463.00	43,285,868.00	59,964,607.00	60,334,980
18 018 GANZE	6,000,000.00	28,786,762.00	37,233,051.00	51,579,543.00	51,898,126
19 019 MALINDI	6,000,000.00	29,328,716.00	37,931,439.00	52,547,030.00	52,871,589
20 020 MAGARINI	6,000,000.00	26,983,061.00	34,897,523.00	48,344,098.00	48,642,697
21 021 GARSEN	6,000,000.00	22,480,418.00	31,133,252.00	43,129,393.00	43,395,783
22 022 GALELE	6,000,000.00	21,615,808.00	29,359,133.00	40,671,678.00	40,922,888
23 023 BURU	6,000,000.00	21,631,807.00	30,751,651.00	42,600,755.00	42,863,880
24 024 LAMU EAST	6,000,000.00	21,057,611.00	26,414,913.00	36,593,003.00	36,819,020
25 025 LAMU WEST	6,000,000.00	24,686,378.00	29,436,114.00	40,778,321.00	41,030,189
26 026 TAVETA	6,000,000.00	22,474,175.00	29,065,642.00	40,265,099.00	40,513,798
27 027 WUNDANYI	6,000,000.00	22,973,937.00	29,712,044.00	41,160,571.00	41,414,801
28 028 MWATATE	6,000,000.00	22,859,118.00	29,563,534.00	40,954,838.00	41,207,797
29 029 VOI	6,000,000.00	24,238,025.00	31,347,040.00	43,425,558.00	43,693,777
30 030 DUJUIS	6,000,000.00	25,356,544.00	32,793,754.00	45,429,714.00	45,710,312
31 031 LAGDERA	6,000,000.00	24,368,363.00	31,515,621.00	43,659,095.00	43,928,757
32 032 FAFI	6,000,000.00	22,507,333.00	29,108,529.00	40,324,512.00	40,573,578
33 033 IJARA	6,000,000.00	21,939,166.00	28,373,651.00	39,306,474.00	39,549,252
34 034 WAJIR NORTH	6,000,000.00	23,850,698.00	30,846,064.00	42,731,547.00	42,995,479
35 035 WAJIR WEST	6,000,000.00	23,914,006.00	30,927,947.00	42,844,981.00	43,109,615
36 036 WAJIR EAST	6,000,000.00	25,554,011.00	33,049,162.00	45,783,535.00	46,066,318
37 037 WAJIR SOUTH	6,000,000.00	24,788,737.00	32,059,341.00	44,412,319.00	44,686,633
38 038 MANDERA WEST	6,000,000.00	24,072,288.00	31,132,673.00	43,128,591.00	43,394,976
39 039 MANDERA CENTRAL	6,000,000.00	25,673,699.00	33,203,929.00	45,997,936.00	46,282,043
40 040 MANDERA EAST	6,000,000.00	24,530,827.00	31,725,756.00	43,950,198.00	44,221,658

41	041	MOYALE	6,000,000.00	22,779,222.00	29,460,196.00	40,811,682.00	41,063,756
42	042	NORTH HERR	6,000,000.00	22,136,837.00	28,629,323.00	39,660,660.00	39,905,626
43	043	SAKU	6,000,000.00	21,280,617.00	27,521,871.00	38,126,490.00	38,361,979
44	044	LAISAMIS	6,000,000.00	21,160,334.00	27,366,295.00	37,910,968.00	38,145,126
45	045	ISIOLO NORTH	6,000,000.00	23,098,805.00	29,873,550.00	41,384,308.00	41,639,920
46	046	ISIOLO SOUTH	6,000,000.00	20,695,203.00	26,764,686.00	37,077,548.00	37,306,559
47	047	GEMBE	6,000,000.00	29,810,236.00	38,554,246.00	53,409,816.00	53,739,703
48	048	NTONYIRI	6,000,000.00	25,476,262.00	32,948,600.00	45,644,223.00	45,926,146
49	049	TIGANIA WEST	6,000,000.00	26,462,130.00	34,223,740.00	47,410,696.00	47,703,529
50	050	TIGANIA EAST	6,000,000.00	26,991,060.00	34,907,869.00	48,358,431.00	48,657,119
51	051	NORTH IMENTI	6,000,000.00	28,744,668.00	37,176,020.00	51,500,536.00	51,818,631
52	052	CENTRAL IMENTI	6,000,000.00	25,001,083.00	32,333,993.00	44,792,800.00	45,069,464
53	053	SOUTH IMENTI	6,000,000.00	26,120,402.00	33,374,216.00	46,798,391.00	47,087,443
54	054	NITHI	6,000,000.00	31,196,461.00	40,347,216.00	55,893,645.00	56,238,873
55	055	THARAKA	6,000,000.00	25,805,893.00	33,374,950.00	46,234,854.00	46,520,425
56	056	MANYATTA	6,000,000.00	26,780,152.00	34,635,076.00	47,980,526.00	48,276,879
57	057	RUNYENJES	6,000,000.00	27,199,336.00	35,177,256.00	48,731,617.00	49,032,610
58	058	GACHOKA	6,000,000.00	25,370,807.00	32,812,203.00	45,455,271.00	45,736,026
59	059	SIKAGO	6,000,000.00	24,477,127.00	31,656,299.00	43,853,979.00	44,124,844
60	060	MWINGI NORTH	6,000,000.00	29,604,205.00	38,287,761.00	53,040,650.00	53,368,257
61	061	MWINGI SOUTH	6,000,000.00	28,032,436.00	36,254,804.00	50,224,362.00	50,534,574
62	062	KITUI WEST	6,000,000.00	28,970,210.00	37,467,740.00	51,904,661.00	52,225,252
63	063	KITUI CENTRAL	6,000,000.00	30,922,240.00	39,922,533.00	55,402,298.00	55,744,491
64	064	MUTITO	6,000,000.00	25,636,443.00	33,155,782.00	45,931,236.00	46,214,931
65	065	KITUI SOUTH	6,000,000.00	28,278,659.00	36,573,274.00	50,665,543.00	50,978,480
66	066	MASINGA	6,000,000.00	26,228,491.00	33,921,547.00	46,992,063.00	47,282,311
67	067	YATTA	6,000,000.00	27,225,089.00	35,210,567.00	48,777,763.00	49,079,040
68	068	KANGUNDO	6,000,000.00	30,429,306.00	39,354,963.00	54,519,061.00	54,855,800
69	069	KATHIANI	6,000,000.00	27,515,309.00	35,585,942.00	49,297,777.00	49,602,266
70	070	MACHAKOS TOWN	6,000,000.00	21,873,968.00	28,289,322.00	39,189,652.00	39,431,708
71	071	MWALA	6,000,000.00	29,121,124.00	37,662,935.00	52,175,068.00	52,497,329
72	072	MBOONI	6,000,000.00	30,497,983.00	39,443,791.00	54,642,117.00	54,979,615
73	073	KILOME	6,000,000.00	24,550,291.00	31,750,932.00	43,985,075.00	44,266,750
74	074	KAITI	6,000,000.00	26,811,466.00	34,675,578.00	48,036,635.00	48,333,334
75	075	MAKUENI	6,000,000.00	32,706,674.00	42,300,555.00	58,599,637.00	58,961,580
76	076	KIBWEZI	6,000,000.00	29,980,271.00	38,774,172.00	53,714,482.00	54,046,252
77	077	KINANGOP	6,000,000.00	24,895,921.00	32,197,975.00	44,604,371.00	44,879,871
78	078	KIPIPIRI	6,000,000.00	22,624,113.00	29,259,575.00	40,533,758.00	40,784,116
79	079	OL'KALOU	6,000,000.00	24,420,059.00	31,582,486.00	43,751,724.00	44,021,958
80	080	NDARAGWA	6,000,000.00	21,753,260.00	28,133,197.00	38,973,369.00	39,214,089
81	081	TETU	6,000,000.00	22,180,736.00	28,686,102.00	39,739,318.00	39,984,769
82	082	KIENI	6,000,000.00	23,739,238.00	30,701,899.00	42,531,834.00	42,794,533
83	083	MATHIRA	6,000,000.00	23,261,815.00	30,084,391.00	41,676,390.00	41,933,805

84	084	OTHAYA	6,000,000.00	21,977,534.00	28,423,277.00	39,375,221.00	39,618,423
85	085	MUKURWEINI	6,000,000.00	22,339,747.00	28,891,770.00	40,024,233.00	40,271,444
86	086	NYERI TOWN	6,000,000.00	20,641,824.00	26,695,644.00	36,981,903.00	37,210,323
87	087	MWEA	6,000,000.00	25,127,316.00	32,497,266.00	45,018,984.00	45,297,045
88	088	GICHUGU	6,000,000.00	23,659,733.00	30,599,066.00	42,389,376.00	42,651,195
89	089	NDIA	6,000,000.00	22,574,556.00	29,195,477.00	40,444,963.00	40,694,772
90	090	KERUGOYA KUTUS	6,000,000.00	23,003,788.00	29,750,654.00	41,214,058.00	41,468,618
91	091	KANGEMA	6,000,000.00	21,531,327.00	28,664,574.00	39,709,494.00	39,954,760
92	092	MATHIOYA	6,000,000.00	22,806,732.00	28,903,357.00	40,040,284.00	40,287,594
93	093	KIHARU	6,000,000.00	24,570,582.00	31,777,176.00	44,021,432.00	44,293,332
94	094	KIGUMO	6,000,000.00	23,290,203.00	30,121,109.00	41,727,255.00	41,984,985
95	095	MARAGWA	6,000,000.00	23,421,802.00	30,291,321.00	41,963,053.00	42,222,239
96	096	KANDARA	6,000,000.00	25,144,192.00	32,519,095.00	45,049,223.00	45,327,471
97	097	GATANGA	6,000,000.00	25,483,286.00	32,957,684.00	45,656,809.00	45,938,809
98	098	GATUNDU SOUTH	6,000,000.00	23,082,611.00	29,852,605.00	41,355,292.00	41,610,725
99	099	GATUNDU NORTH	6,000,000.00	23,246,109.00	30,064,077.00	41,648,248.00	41,905,489
100	100	JUJA	6,000,000.00	28,776,276.00	37,216,901.00	51,557,170.00	51,875,614
101	101	GITHUNGURI	6,000,000.00	22,840,485.00	29,539,435.00	40,921,453.00	41,174,205
102	102	KIAMBAA	6,000,000.00	23,071,782.00	29,838,599.00	41,335,890.00	41,591,202
103	103	KABETE	6,000,000.00	22,716,105.00	29,378,560.00	40,698,590.00	40,949,966
104	104	LIMURU	6,000,000.00	21,986,118.00	28,434,380.00	39,390,603.00	39,633,900
105	105	LARI	6,000,000.00	22,651,353.00	29,651,353.00	41,076,495.00	41,330,205
106	106	TURKANA NORTH	6,000,000.00	28,865,253.00	37,331,986.00	51,716,600.00	52,036,029
107	107	TURKANA CENTRAL	6,000,000.00	28,993,838.00	37,498,301.00	51,946,998.00	52,267,850
108	108	TURKANA SOUTH	6,000,000.00	23,262,923.00	30,085,825.00	41,678,375.00	41,935,803
109	109	KACHELIBA	6,000,000.00	22,412,671.00	28,986,092.00	40,154,899.00	40,402,916
110	110	KAPENGURIA	6,000,000.00	26,292,036.00	34,003,737.00	47,105,923.00	47,396,874
111	111	SIGOR	6,000,000.00	25,695,469.00	33,232,126.00	46,036,997.00	46,321,346
112	112	SAMBURU WEST	6,000,000.00	24,540,020.00	31,737,646.00	43,966,670.00	44,238,232
113	113	SAMBURU EAST	6,000,000.00	21,004,756.00	27,165,068.00	37,632,204.00	37,864,640
114	114	KWANZA	6,000,000.00	27,099,218.00	35,047,763.00	48,552,228.00	48,852,112
115	115	SABOTI	6,000,000.00	31,456,201.00	40,638,168.00	56,359,045.00	56,707,149
116	116	CHERANGANY	6,000,000.00	26,357,956.00	34,089,000.00	47,224,038.00	47,515,719
117	117	ELDORET NORTH	6,000,000.00	33,542,667.00	43,381,844.00	60,097,565.00	60,468,759
118	118	ELDORET EAST	6,000,000.00	26,395,954.00	34,138,147.00	47,292,122.00	47,584,224
119	119	ELDORET SOUTH	6,000,000.00	28,006,617.00	36,221,409.00	50,178,099.00	50,488,026
120	120	MARAKWET EAST	6,000,000.00	22,316,845.00	28,862,149.00	39,983,198.00	40,230,155
121	121	MARAKWET WEST	6,000,000.00	22,731,420.00	29,398,368.00	40,726,031.00	40,977,576
122	122	KEIYO NORTH	6,000,000.00	21,921,074.00	28,350,251.00	39,274,057.00	39,516,634
123	123	KEIYO SOUTH	6,000,000.00	22,907,468.00	29,626,071.00	41,041,472.00	41,294,965
124	124	MOSOP	6,000,000.00	24,906,919.00	32,212,200.00	44,624,078.00	44,899,700
125	125	ALDAI	6,000,000.00	25,646,949.00	33,169,369.00	45,950,059.00	46,233,871
126	126	EMGWEN	6,000,000.00	26,905,330.00	34,796,984.00	48,204,820.00	48,502,559

127	TINDERET	6,000,000.00	28,247,546.00	36,533,033.00	50,609,796.00	50,922,389
128	128 BARINGO EAST	6,000,000.00	23,092,860.00	29,865,861.00	41,373,656.00	41,629,202
129	129 BARINGO NORTH	6,000,000.00	23,026,493.00	29,780,021.00	41,254,740.00	41,509,551
130	130 BARINGO CENTRAL	6,000,000.00	24,525,206.00	31,718,485.00	43,940,126.00	44,211,524
131	131 MOGOTIO	6,000,000.00	21,939,078.00	28,373,538.00	39,306,317.00	39,549,094
132	132 ELDAMA RAVINE	6,000,000.00	23,862,355.00	30,861,141.00	42,725,433.00	43,016,495
133	133 LAIKIPIA WEST	6,000,000.00	27,496,020.00	35,560,994.00	49,263,215.00	49,567,490
134	134 LAIKIPIA EAST	6,000,000.00	24,935,033.00	32,248,563.00	44,674,452.00	44,950,385
135	135 NAIKVA	6,000,000.00	28,609,510.00	37,001,203.00	51,258,360.00	51,574,959
136	136 NAKURU TOWN	6,000,000.00	22,015,591.00	28,472,501.00	39,443,413.00	39,687,036
137	137 KURESOI	6,000,000.00	26,824,592.00	34,692,555.00	48,060,153.00	48,356,998
138	138 MOLO	6,000,000.00	29,398,658.00	38,021,902.00	52,672,351.00	52,997,683
139	139 RONGAI	6,000,000.00	25,474,641.00	32,946,503.00	45,641,318.00	45,923,223
140	140 SUBUKIA	6,000,000.00	24,700,873.00	31,945,696.00	44,254,886.00	44,528,227
141	141 KILGORIS	6,000,000.00	29,262,618.00	37,845,947.00	52,428,597.00	52,752,423
142	142 NAROK NORTH	6,000,000.00	27,208,837.00	35,189,546.00	48,748,642.00	49,049,740
143	143 NAROK SOUTH	6,000,000.00	29,785,128.00	38,521,771.00	53,364,827.00	53,694,437
144	144 KAJIADO NORTH	6,000,000.00	26,876,060.00	34,759,126.00	48,152,375.00	48,449,790
145	145 KAJIADO CENTRAL	6,000,000.00	23,658,964.00	30,598,071.00	42,387,999.00	42,649,810
146	146 KAJIADO SOUTH	6,000,000.00	25,261,292.00	32,670,553.00	45,259,041.00	45,538,585
147	147 BOMET	6,000,000.00	28,518,806.00	36,883,886.00	51,095,838.00	51,411,433
148	148 CHEPALUNGU	6,000,000.00	26,122,566.00	33,784,542.00	46,802,268.00	47,091,344
149	149 SOTIK	6,000,000.00	26,150,274.00	33,820,380.00	46,851,915.00	47,141,297
150	150 KONKIN	6,000,000.00	26,180,813.00	33,859,880.00	46,906,634.00	47,196,354
151	151 BURET	6,000,000.00	25,503,672.00	32,984,053.00	45,693,337.00	45,975,563
152	152 BELGUT	6,000,000.00	27,326,457.00	35,341,677.00	48,959,392.00	49,261,791
153	153 AINAMOI	6,000,000.00	25,272,154.00	32,684,603.00	45,278,504.00	45,558,168
154	154 KIPKELION	6,000,000.00	27,382,404.00	35,414,041.00	49,059,639.00	49,362,657
155	155 MALAVA	6,000,000.00	30,195,667.00	38,052,770.00	54,100,429.00	54,434,581
156	156 LUGARI	6,000,000.00	30,141,721.00	38,982,994.00	54,003,767.00	54,337,323
157	157 MUMIAS	6,000,000.00	29,769,752.00	38,501,883.00	53,337,276.00	53,666,715
158	158 MATUNGU	6,000,000.00	25,924,322.00	33,528,129.00	46,447,054.00	46,733,836
159	159 LURAMBI	6,000,000.00	32,932,606.00	42,592,780.00	59,004,461.00	59,368,904
160	160 SHINYALU	6,000,000.00	28,479,715.00	36,833,324.00	51,025,794.00	51,340,957
161	161 KOLOMANI	6,000,000.00	26,059,334.00	33,702,757.00	46,688,970.00	46,977,346
162	162 BUTERE	6,000,000.00	26,546,415.00	34,332,757.00	47,561,718.00	47,855,485
163	163 KHWISERO	6,000,000.00	25,166,239.00	32,547,610.00	45,088,727.00	45,367,219
164	164 EMUJHAYA	6,000,000.00	29,019,962.00	37,532,090.00	51,993,806.00	52,314,947
165	165 SABATIA	6,000,000.00	26,436,278.00	34,190,303.00	47,364,375.00	47,656,923
166	166 VIHIGA	6,000,000.00	24,244,366.00	31,355,242.00	43,436,919.00	43,705,209
167	167 HAMISI	6,000,000.00	27,413,952.00	35,454,845.00	49,116,165.00	49,419,533
168	168 MT ELGON	6,000,000.00	26,893,605.00	34,781,819.00	48,183,812.00	48,481,420
169	169 KIMILILI	6,000,000.00	32,849,296.00	42,485,025.00	58,855,187.00	59,218,708

170	170 WEBUYE	6,000,000.00	29,407,051.00	38,032,759.00	52,687,390.00	53,012,816
171	171 SIRISIA	6,000,000.00	29,804,871.00	38,547,307.00	53,400,202.00	53,730,030
172	172 KANDUYI	6,000,000.00	28,908,557.00	37,387,996.00	51,794,191.00	52,114,099
173	173 BUMULA	6,000,000.00	26,162,838.00	33,836,030.00	46,874,427.00	47,163,948
174	174 AMAGORO	6,000,000.00	28,361,188.00	36,680,019.00	50,813,419.00	51,127,270
175	175 NAMBALE	6,000,000.00	29,289,890.00	37,881,220.00	52,477,462.00	52,801,591
176	176 BUTULA	6,000,000.00	26,170,935.00	33,847,103.00	46,888,935.00	47,178,545
177	177 FUNYULA	6,000,000.00	24,691,353.00	31,933,383.00	44,237,827.00	44,511,064
178	178 BUDALANGI	6,000,000.00	23,202,015.00	30,007,045.00	41,569,241.00	41,825,994
179	179 UGENYA	6,000,000.00	29,933,250.00	38,713,355.00	53,630,232.00	53,961,480
180	180 ALEGO	6,000,000.00	30,490,081.00	39,433,571.00	54,627,958.00	54,965,369
181	181 GEM	6,000,000.00	28,696,380.00	37,113,562.00	51,414,013.00	51,731,573
182	182 BONDO	6,000,000.00	27,843,769.00	36,010,779.00	49,886,310.00	50,194,434
183	183 RARIEDA	6,000,000.00	27,635,884.00	35,741,697.00	49,515,823.00	49,819,646
184	184 KISUMU TOWN EAST	6,000,000.00	20,620,405.00	29,193,227.00	40,441,846.00	40,691,636
185	185 KISUMU TOWN WEST	6,000,000.00	23,389,766.00	27,942,234.00	38,708,825.00	38,947,912
186	186 KISUMU RURAL	6,000,000.00	27,977,806.00	36,184,146.00	50,126,477.00	50,436,085
187	187 NYANDO	6,000,000.00	26,538,709.00	34,322,789.00	47,547,910.00	47,841,591
188	188 MUHORONI	6,000,000.00	26,627,384.00	34,437,483.00	47,706,798.00	48,001,460
189	189 NYAKACH	6,000,000.00	26,538,416.00	34,322,410.00	47,547,385.00	47,841,063
190	190 KASIPUL KABONDO	6,000,000.00	31,933,179.00	41,300,101.00	57,213,692.00	57,567,074
191	191 KARACHUONYO	6,000,000.00	28,345,678.00	36,659,957.00	50,785,627.00	51,099,306
192	192 RANGWE	6,000,000.00	29,911,496.00	38,685,218.00	53,591,252.00	53,922,260
193	193 NDHIWA	6,000,000.00	28,829,539.00	37,285,793.00	51,652,607.00	51,971,641
194	194 RONGO	6,000,000.00	26,602,508.00	34,405,308.00	47,662,225.00	47,956,612
195	195 MIGORI	6,000,000.00	26,121,768.00	33,783,510.00	46,800,838.00	47,089,905
196	196 URIRI	6,000,000.00	23,808,988.00	30,792,116.00	42,656,812.00	42,920,283
197	197 NYATIKE	6,000,000.00	24,765,590.00	32,029,403.00	44,370,846.00	44,644,904
198	198 MBITA	6,000,000.00	24,973,865.00	32,298,790.00	44,744,032.00	45,020,395
199	199 GWASSI	6,000,000.00	24,400,841.00	31,557,629.00	43,717,290.00	43,987,311
200	200 KURIA	6,000,000.00	31,187,388.00	40,335,481.00	55,877,389.00	56,222,517
201	201 BONCHARI	6,000,000.00	25,769,993.00	33,328,517.00	46,170,529.00	46,455,703
202	202 SOUTH MUGIRANGO	6,000,000.00	27,111,245.00	35,063,319.00	48,573,778.00	48,873,795
203	203 BOMACHOGE	6,000,000.00	29,907,301.00	38,679,792.00	53,583,736.00	53,914,698
204	204 BOBASI	6,000,000.00	29,435,537.00	38,069,602.00	52,738,430.00	53,064,171
205	205 NYARIBARI MASABA	6,000,000.00	25,546,597.00	33,039,573.00	45,770,250.00	46,052,951
206	206 NYARIBARI CHACHE	6,000,000.00	25,683,659.00	33,216,851.00	46,015,836.00	46,300,055
207	207 KITUTU CHACHE	6,000,000.00	31,127,003.00	40,257,378.00	55,769,191.00	56,113,651
208	208 KITUTU MASABA	6,000,000.00	30,314,779.00	39,206,832.00	54,313,853.00	54,649,324
209	209 WEST MUGIRANGO	6,000,000.00	24,406,648.00	36,738,818.00	50,894,873.00	51,209,227
210	210 N. MUGIRANGO BORABU	6,000,000.00	32,634,680.00	42,207,437.00	58,470,639.00	58,831,785
	TOTAL	1,260,000,000.00	5,431,999,997.00	7,028,619,994.00	9,736,860,002.00	9,797,000,000
	KSHA					

ANNEX 8

The Accountability Charter

I.....

Member of Parliament for.....

of ID numberdo hereby enter into the following charter with my constituents. I shall ensure:

- 1. Equitable distribution of resources within the constituency without discrimination on any grounds.
- 2. In accordance with the CDF Act, I will ensure that members of the CDFC are competent, professional and represent all interest groups and communities in the constituency including women, youth and persons with disabilities. I shall ensure not less than 40% representation of each gender.
- 3. All members of the CDFC and project committees will undergo capacity building to ensure they are fully conversant with all aspect of CDF operations. All CDFC meeting minutes will be duly signed and circulated to all members, and I will not allow a 'kitchen cabinet' to dominate CDFC management.

Accountability & Transparency

- 1. All CDF documents will be made available to the public upon request. Copies of all original CDF schedules for the year will be on display at the CDFC notice board.
- 2. All CDF projects will have an accountability board displaying information on the year of award, code and name of project, the total amount awarded, the contractor name and physical location, and the involved government departments. This board will be erected at the inception of the project.
- 3. The CDFC and MP will hold public meetings every 6 months at constituency level at which the CDFC will deliberate on development concerns of the various locations, give a status report on all CDF projects in the constituency, give an expenditure account of all CDF funds, to field questions and complaints from the public and provide the necessary feedback. To ensure investigations the necessary punitive actions against officials and contractors who abuse CDF funds.

Page 1-Signed.....Date.....

4. I as the MP will hold annual CDF meeting at the location level
5. The constituents have a right to participate fully in project identification, prioritization and implementation of CDF projects as they are undertaken using public resources.

CDF Project committees

1. All CDF Project committees will obtain training to enable them carryout their duties responsibly. The PC will have available copies of the work plan, BQ's and contract document at each project at all times. All project committees must hold quarterly meetings at the project site at which they will give a full expenditure report on the status of the project.. The PC will also maintain full contractor information at the project site. The contractor foreman and all workers/suppliers engaged in the project must attend must attend the quarterly meeting to field questions from the public. The meeting must be held at a convenient time and must be well publicised in advance to ensure as many project beneficiaries attend.
2. The project must undertake to utilise local labour and materials to the fullest extent possible

Bursary

1. The bursary may only be awarded to needy students. The bursary may only be awarded to students in public institutions (not parallel) to ensure its beneficiaries are the needy. A needy child will be deemed an orphan or the economically disadvantaged.
2. A full list of bursary beneficiaries will be displayed at the chiefs' notice boards, CDFC notice board and beneficiary institutions.
3. The process and timetable for application and verification of bursaries will be displayed and made public.

Procurement

1. All tenders will be publicised as widely as possible. The tender notice must indicate the date of tender opening.
2. Ensure there is a tender register, duly signed by the bidders and available for public scrutiny
3. Ensure tender opening takes place immediately after closure of bids. Ensure meeting is open to all interested parties, as well as members of the public
4. Technical Evaluation team should be given specific duration, their written evaluation reports should be duly signed
5. Supplier/Contractor information should be available to the public upon request. It should show physical location, names of all company directors and shareholders, registration of the business, past government and CDF projects undertaken, certification by ministry of work (if applicable). Any contractor responsible for shoddy or incomplete CDF projects should not be eligible for future work CDFC should maintain a list of all CDF contractors/suppliers and all projects of which they are beneficiaries.

Page 2-Signed.....Date.....

Involvement of government department

Each project work plan must clearly indicate the government departments involved. The BQ's, Verification and completion certificates, and correspondence must be duly signed and clearly indicate the name, designation and department of the relevant government officer.

Signed by the
Member of
Parliament.....Date.....

In the presence of

1. Name.....Sign.....Date.....

2. Name.....Sign.....Date.....

ANNEX 9

The Constituencies Development Fund Act, 2003

Arrangement of Sections

PART I - PRELIMINARY

Sections

- 1 - Short title and commencement.
- 2 - Interpretation.
- 3 - Application.

PART II - ESTABLISHMENT OF THE CONSTITUENCIES DEVELOPMENT FUND

- 4 - Establishment of the Constituencies Development Fund.
- 5 - Establishment of the National Management Committee.
- 6 - Functions of the National Committee.
- 7 - Officer administering the Fund.
- 8 - Disbursement from the Fund.
- 9 - Funds to be set aside.
- 10 - Funds to be retained in the Fund.
- 11 - Emergency Reserve.

PART III - SUBMISSION OF CONSTITUENCY PROJECT PROPOSALS

- 12 - Member of Parliament to submit proposals.
- 13 - Submission deadline.
- 14 - Submission Form.
- 15 - Projects description Form.
- 16 - Constituencies Fund Committee to recommend.
- 17 - Clerk to forward to Minister.
- 18 - List to be serialized.
- 19 - Basis for budget ceiling.
- 20 - Criteria for projects.

PART IV - TYPES OF PROJECTS

- 21 - Projects to be community based.
- 22 - Number of projects.

- 23 – Composition of the Constituency Development Committee.
- 24 - Cost estimates to be realistic.
- 25 - Personal awards to be excluded.
- 26 - Counter-part funding to be permitted.

PART V - CONSTITUENCIES FUND COMMITTEE

- 27 – Establishment of the Constituencies Fund Committee.
- 28 – Constituencies Fund Committee to scrutinize proposals.
- 29 - Proposals to be included in the printed estimates.

PART VI - IMPLEMENTATION OF PROJECTS

- 30 - Government department to implement.
- 31 – Procurement of services and works.
- 32 - Department to maintain records.
- 33 - Returns to Constituencies Development Fund.
- 34 - Accounts and audit.
- 35 – Community initiatives to be eligible
- 36 - Departmental head to be represented in project committees.
- 37 - Ongoing projects to be evaluated.
- 38 - Community interests to be represented.

PART VII - DISTRICT PROJECTS COMMITTEE

- 39 - Establishment of District Projects Committee.
- 40 - Membership.

PART VIII - ROLE OF THE DISTRICT PROJECTS COMMITTEE

- 41 - Member of Parliament to table proposals.
- 42 - Duplication of projects to be avoided.
- 43 - District Projects Committee to approve.

PART IX - FINANCE AND ADMINISTRATI

- 44 - Other officers of the Fund.
- 45 - Constituency account
- 46 - Bank account of the Fund.
- 47 - Record of disbursements to be kept.

PART X - MISCELLANEOUS PROVISIONS

- 48 - Personal emoluments.
- 49 - Minister to make regulations.
- 50 - Provisions in the Act are complimentary.
- 51 - Offences and Penalties.

FIRST SCHEDULE - LIST OF ORGANIZATIONS TO NOMINATE PERSONS TO THE NATIONAL COMMITTEE

SECOND SCHEDULE - STANDARD CONSTITUENCY PROJECTS SUBMISSION FORM.

THIRD SCHEDULE - STANDARD PROJECTS DESCRIPTION FORM

An Act of Parliament to provide for the establishment of the Constituencies Development Fund and for connected purposes

ENACTED by the Parliament of Kenya as follows -

PART I - PRELIMINARY

Short title and commencement.	1. This Act may be cited as the Constituencies Development Fund Act, 2003, and shall come into operation on such date as the Minister may, by notice in the Gazette, appoint but not later than thirty days from the date of assent.
Intepretation	2. In this Act, unless the context otherwise requires -
Cap. 7	<p>“community” means residents of a particular geographical area or region defined as a constituency, location, or sub location and having common interests;</p> <p>“Clerk” means the Clerk of the National Assembly;</p> <p>“Constituency” has the meaning assigned to it in the National Assembly and Presidential Elections Act;</p> <p>“Constituency Development Committee” means the committee established under section 23;</p> <p>“constituency account” means the account maintained for every constituency in accordance with section 45;</p> <p>“Districts Projects Committee” means the committee established under section 39;</p> <p>“Constituencies Fund Committee” means a committee of the National Assembly established in accordance with section 27;</p> <p>“Fund” means the Constituencies Development Fund established under section 4;</p> <p>“Minister” means the Minister for the time being responsible for matters relating to finance;</p> <p>“National Committee” means the Constituencies Development Fund Management Committee established under section 5; and</p> <p>“Officer administering the Fund” means an officer appointed by the Minister in writing for that purpose.</p>
Application	3. The provisions of this Act shall apply, as more specifically provided for in the Act, and shall ensure that a specific portion of the national annual budget is devoted to the constituencies for purposes of development and in particular in the fight against poverty at the constituency level.

PART II - ESTABLISHMENT OF THE CONSTITUENCIES DEVELOPMENT FUND

Establishment of the Constituencies Development Fund.	<p>4. (1) There is established a Fund to be known as the Constituencies Development Fund (in this Act referred to as the “Fund”) which shall be administered by the Officer administering the Fund under the direction of the National Committee</p> <p>(2) There shall be paid into the Fund -</p> <p>(a) an amount of money equal to not less than 2.5% (two and a half percentum) of all the Government ordinary revenue collected in every financial year; and,</p> <p>(b) any moneys accruing to or received by the National committee</p>
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<p>Establishment of the National Management committee.</p>	<p>from any other source.</p> <p>(3) The expenditure from the Fund shall be on the basis and limited to the annual budget which shall be submitted to the Minister for approval in accordance with this Act before the beginning of the financial year to which the budget relates.</p> <p>(4). There shall be paid out of the Fund payments in respect of any expenses incurred in pursuance of the provisions of this Act.</p> <p>(5) If the Act comes into operation mid-way in a financial year then the Minister shall within one month of the assent, table in the House the amount proposed to be put into the Fund and the allocation to each Constituency, and the amounts so proposed shall be allowed for through supplementary estimates.</p> <p>5. (1) There is established a committee to be known as the National Constituencies Development Fund Management Committee (in this Act referred to as the “National Committee”).</p> <p>(2) The National Committee shall comprise -</p> <ul style="list-style-type: none"> (a) the Permanent Secretary of the Ministry for the time being responsible for matters relating to finance or his designated alternate, not being below the level of a Deputy Secretary who shall be the Chairman of the Committee; (b) the Permanent Secretary of the Ministry for the time being responsible for matters relating to economic planning or his designated alternate, not being below the level of an Under Secretary; (c) the Permanent Secretary of the Ministry for the time being responsible for matters relating to regional development or his designated alternate, not being below the level of an Under Secretary; (d) the Permanent Secretary of the Ministry for the time being responsible for matters relating to agriculture or his designated alternate, not being below the level of an Under Secretary; (e) the Clerk of the National Assembly or his designated alternate not being below the level of a Deputy Clerk; (f) eight persons appointed by the Minister from a list submitted in accordance with subsection (3), and qualified in matters relating to finance, accounting, engineering, economics, rural development, or law; and (g) the Officer administering the Fund who shall be an ex-officio member and secretary to the committee. <p>(3) The organizations listed in the First Schedule shall each submit names of two nominees, one of whom shall be a man and the other a woman and out of the sixteen names submitted, the Minister shall appoint eight persons one from each of the eight organizations and at least a third of the eight appointees shall be from either gender, to be members of the Committee.</p> <p>(4) The names and curriculum vitae of persons nominated or appointed as members of the National Committee, pursuant to sub-section (3), and the name of the person proposed to be appointed as the officer administering the Fund, including names of persons to be designated as alternates, shall be submitted to Parliament for approval before the appointments are made.</p>
<p>Functions of the National Committee.</p>	<p>6. (1) The functions of the National Committee shall be -</p> <ul style="list-style-type: none"> (a) to ensure allocation and disbursement of funds to every constituency; (b) to ensure prudent management of the Fund;

<p>Officer administering the Fund.</p>	<p>(c) to receive and discuss annual reports and returns from the constituencies;</p> <p>(d) to ensure the compilation of proper records, returns and reports from the constituencies;</p> <p>(e) to ensure timely submission to Parliament of various returns, reports and information as required under the Act; and</p> <p>(f) to perform such other duties as the National Committee, in consultation with the Minister, may deem necessary from time to time for the proper management of the Fund.</p> <p>(2) The quorum necessary for the transaction of the business of the National Committee shall be one half of all the members.</p> <p>7. (1) The Officer administering the Fund shall –</p> <p>(a) be the chief executive of the Fund and secretary to the National Committee.</p> <p>(b) supervise and control the day to day administration of the Fund;</p> <p>(c) prepare monthly returns on the movement of funds as appropriate for submission to Parliament;</p> <p>(d) keep or cause to be kept proper books of accounts and other books and records related to the Fund;</p> <p>(e) prepare, sign and transmit to the Controller and Auditor General accounts of the Fund in accordance with section Cap 412. 18 (2) of the Exchequer and Audit Act; and</p> <p>(f) perform any other duties that may be reasonably assigned to him by the National Committee from time to time;</p> <p>(2) The Officer administering the Fund shall be appointed by the Minister from among Government public servants who have relevant training and at least five years experience in public finance.</p>
<p>Officer administering the Fund.</p>	<p>8. (1) Each and every disbursement from the Fund shall be approved by the National Committee</p> <p>(2) All disbursements from the Fund shall be for specific projects as provided for in the printed estimates prepared for projects under this Act.</p> <p>(3) All disbursements shall be made through the constituency bank accounts maintained for every constituency in accordance with section 45 of the Act.</p> <p>(4) The record of the amounts received by each constituency and the record of expenditure of amounts so received shall be submitted to the National Committee within thirty days after the close of the relevant financial year together with a copy of the relevant bank statements and no disbursements for the succeeding financial year shall be made into the accounts until the said records are duly received.</p> <p>(5) The National Committee may set out general conditions and requirements for release of funds, provided that such conditions shall be submitted to Parliament for approval before implementation.</p> <p>(6) The National Committee may impose reasonable requirements including restrictions, on a particular constituency due to previous misuse of funds and such restrictions or requirements shall be reported together with monthly returns to be submitted to Parliament in accordance with this Act.</p>
<p>Funds to be</p>	<p>9. (1) The National Committee shall, for each financial year, allocate funds</p>

set aside	<p>to each constituency and the funds shall be reflected in the printed estimates of that particular financial year.</p> <p>(2) Once funds are allocated for a particular project they shall remain allocated for that project and shall not be re-allocated during the financial year for any other purpose whether in that constituency or anywhere else.</p> <p>(3) If for any reason a particular project is cancelled or discontinued during the financial year, funds allocated for such a project shall be returned to the Fund and credited to the account of the constituency from which the funds were withdrawn.</p>
Funds to be retained in the Fund.	<p>10. (1) All receipts, savings and accruals to the Fund and the balance of the Fund at the end of each financial year shall be retained for the purposes for which the Fund is established.</p> <p>(2) All funds allocated to a constituency shall be cumulative and shall be carried forward from one financial year to the next, including funds returned into the accounts in accordance with section 9(3) or funds which are not utilized for whatever reasons.</p>
Emergency Reserve.	<p>11. A portion of the Fund, equivalent to 5% (five percentum hereinafter referred to as the “Emergency Reserve”) shall remain unallocated and shall be available for emergencies that may occur within the Constituency.</p>

PART III - SUBMISSION OF CONSTITUENCY PROJECT PROPOSALS

Member of Parliament to submit proposals.	<p>12. (1) The list of proposed constituency based projects to be covered under this Act shall be submitted by the member of Parliament for that constituency.</p> <p>(2) The Clerk may designate a particular officer to receive and compile the list of proposed constituency projects submitted to him under this Act.</p>
Submission deadline.	<p>13. The list of the proposed constituency projects shall be submitted to the Clerk before the end of the month of February in each year or such other month as may be determined by the Minister in order to ensure timely inclusion of the projects in the annual Government budget of a particular financial year.</p>
Submission Form.	<p>14 (1). The list of projects shall be submitted on a Standard Constituency Projects Submission Form set out in the Second Schedule to this Act.</p> <p>(2) All projects proposed for every constituency shall be listed in the Form together with the cost estimates of such projects.</p>
Projects description Form.	<p>15 (1) For every project listed in the Form there shall be attached a Standard Projects Description Form set out in the Third Schedule.</p> <p>(2) The National Committee may, by notice published in the Gazette, amend any of the Schedules to this Act provided that the amendments shall first be referred to Parliament for approval.</p>
Constituencies Fund Committee to recommend.	<p>16 (1). The list of projects received by the Clerk pursuant to section 12(3) shall be tabled by the Clerk for review at a meeting of the Constituencies Fund Committee convened for that purpose.</p> <p>(2). The Constituencies Fund Committee shall scrutinize and</p>

Clerk to forward to Minister	<p>recommend the proposals to be forwarded to the Minister for eventual inclusion in the printed estimates of the following financial year.</p> <p>17 The Clerk shall, after scrutiny of the list of projects by the Constituencies Fund Committee, submit to the Minister the list of all the projects received for all the constituencies together with a summary showing the total number of projects and the total cost of projects for all the constituencies</p>
List to be serialized.	<p>18. The projects listed for each constituency in accordance with section 17 shall be numbered by the Officer administering the Fund in order to ensure that a project retains the same serial number every year until its completion.</p>
Basis for budget ceiling.	<p>19. (1) The budget ceiling for each constituency shall be –</p> <p>(a) three quarters of the amount specified in section 4(2)(a) divided equally among all constituencies; and</p> <p>(b) an amount equal to quarter the amount specified in section 4(2)(a) divided by the national poverty index multiplied by the constituency poverty index.</p> <p>(2) The Minister shall table in Parliament a schedule showing the ceiling for each constituency, which shall be determined in accordance with sub section (1).</p>
Criteria for Projects.	<p>20. (1) The types of projects submitted for funding under this Act shall comply with the provisions of this Act.</p> <p>(2) If some of the projects on the list of a particular constituency do not comply with the provisions of this Act, then such projects shall be deleted from the list and the list shall be forwarded to the Minister less the unacceptable projects.</p> <p>(3) If the total cost of the projects so submitted exceeds the allowable ceiling for a constituency, then the order in which the projects are listed shall be taken as the order of priority and the projects shall be struck off from the bottom of the list so that the total amount of the projects is within the allowable ceiling</p> <p>(4) Whenever the amount for projects in a constituency is less than the allowable ceiling for reasons of projects being deleted in accordance with sub-section (3), or for whatever reason, the shortfall shall be indicated as unallocated amount against that particular constituency on the list to be forwarded to the Minister.</p>

PART IV - TYPES OF PROJECTS

Projects to be community based.	<p>21. (1) Projects under this Act shall be community based in order to ensure that the prospective benefits are available to a widespread cross-section of the inhabitants of a particular area.</p> <p>(2) Any funding under this Act shall be for a complete project or a defined phase, unit or element of a project.</p> <p>(3) All projects shall be development projects and may include costs related to studies, planning and design or other technical input for the project but shall not include recurrent costs of a facility.</p> <p>(4) Funds provided under this Act shall not be used for the purpose of supporting political bodies or political activities or for supporting religious bodies or religious activities.</p>
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	<p>(5) Notwithstanding the provisions of subsection (4), the National Committee may identify a religious body or organization as an appropriate specialized agency for purposes of section 11 with regard to emergency support.</p> <p>(6) A constituency office project shall be considered as a development project for purposes of the Act and may include appropriate furniture and equipment for the office.</p> <p>(7) Notwithstanding the provisions of sub section (3), a constituency office project may include running expenses of the constituency office of up to a maximum of 3% (three percentum) of the total annual allocation for the constituency</p>
<p>Number of projects.</p>	<p>22. (1) The number of projects to be included in the Standard Constituency Projects Submission Form specified in the Second Schedule shall be a minimum of five and a maximum of twenty for every constituency in each financial year.</p> <p>(2) Uncompleted projects from a previous financial year shall remain on the project list, so as to ensure that the total number of projects remain the maximum number specified in subsection (1) at any one time.</p> <p>(3) Project activities of a similar nature in a particular constituency may be considered as one project for purposes of subsection (1), provided that the total cost of such projects shall not exceed 50% (fifty percentum) of the total annual allocation for a particular constituency.</p> <p>(2) Constituencies may pool resources for joint projects provided that the decision for such joint projects shall first be approved by the Constituency Development Committee of each of the participating constituencies and shall be reflected on the projects listed for each of the participating constituencies.</p> <p>(3) Where constituencies have joint projects, the District Projects Committee shall co-ordinate such projects.</p>
<p>Composition of the Constituency Development Committee.</p>	<p>23. (1) There shall be a Constituency Development Committee for every constituency, which shall be constituted and convened by the elected Member of Parliament within the first thirty days of a new Parliament and shall have a maximum of fifteen members, comprising of –</p> <ul style="list-style-type: none"> (a) the elected member of Parliament ; (b) two councillors in the constituency; (c) one district officer in the constituency; (d) two persons representing religious organizations in the constituency; (e) two men representatives from the constituency; (f) two women representatives from the constituency; (g) one person representing the youth from the constituency; (h) one person nominated from among the active NGOs in the area if any; <p>(2) The elected member of Parliament for every constituency shall, within the first year of a new parliament and at least once every two years thereafter, convene locational meetings in the constituency to deliberate on development matters in the location, the constituency and the district.</p> <p>(3) Each location shall come up with a list of priority projects to be submitted to the Constituency Development Committee.</p> <p>(4) The Constituency Development Committee shall deliberate on project proposals from all the locations in the constituency and any other projects which the Committee considers beneficial to the constituency,</p>

	<p>including joint efforts with other constituencies, then draw up a priority projects list both immediate and long term, out of which the list of projects to be submitted to Parliament in accordance with section 12 shall be drawn.</p> <p>(5) The elected Member of Parliament for every constituency shall be chairperson of the Constituency Development Committee unless he or she opts out in which case the Committee shall elect one amongst themselves to be the Chairperson.</p> <p>(4) The quorum of the Constituency Development Committees shall be one half of the total membership.</p> <p>24. (1) The Constituency Development Committee shall ensure that appropriate consultations with the relevant Government departments is done to ensure that cost estimates for the projects are as realistic as possible.</p> <p>(2) The Constituency Development Committee shall rank the projects in order of priority and whenever, in the opinion of the Minister, the total cost of the projects listed exceed the ceiling for a particular constituency, then the order in which they are listed shall be taken as the order of priority for purposes of allocation of funds, provided that on-going projects shall take precedence over all other projects.</p> <p>25. (1) A project or any part thereof which involve personal awards to any person in cash or in kind, shall be excluded from the list of projects submitted in accordance with section 12 of the Act.</p> <p>(2) Notwithstanding the provisions of subsection (1), an education bursary scheme shall be considered as a development project for purposes of the Act, provided that such a project shall not be allocated more than 10% (ten per centum) of the total funds allocated for the constituency in any financial year.</p> <p>26. For the purposes of this Act, the National Committee may consider part funding of a project financed from sources other than the Fund so long as the other financiers or donors of that project have no objection and provided that the part funding for the project availed pursuant to this Act shall go to a defined unit or any part thereof or phase of the project in order to ensure that the particular portion defined in the allocation is completed with the funds allocated under this Act.</p>
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PART V – CONSTITUENCIES FUND COMMITTEE

Establishment of the Constituencies Fund Committee.	<p>27. (1) The National Assembly shall, in accordance with its Standing Orders, establish a Select Committee to be known as the Constituencies Fund Committee consisting of a chairman and not more than ten other members of Parliament who are not Ministers or Assistant Ministers of Government.</p> <p>(2) In determining the membership of the Constituencies Fund Committee, the National Assembly shall ensure proportionate representation of the Parliamentary Political Parties.</p> <p>(3) The procedures and rules for the operations of the Constituencies Fund Committee shall be governed by the Standing Orders of the National Assembly.</p> <p>(4) The functions of the Constituencies Fund Committee shall be –</p> <p>(a) to consider project proposals submitted from various</p>
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	<p>constituencies in accordance with the Act and make appropriate recommendations to the Clerk of the National Assembly;</p> <p>(b) to consider and report to Parliament, with recommendations, names of persons required to be approved by Parliament under this Act;</p> <p>(c) to consider and recommend to Parliament any matter requiring action by the National Assembly pursuant to the provisions of this Act;</p> <p>(d) to oversee the implementation of this Act and in this respect, shall after every two years submit a report to the National Assembly and where necessary, propose any amendments to this Act, in particular, with respect to the quantum of funds repayable into the Fund in accordance with section 4 of the Act.</p> <p>(e) to oversee the policy framework and legislative matters that may arise in relation to the Fund;</p> <p>(f) to continually review the framework set out for the efficient delivery of development programmes financed through the Fund; and</p> <p>(g) to carry out any other functions relevant to the work of the Fund.</p>
<p>Constituencies Fund Committee to scrutinize proposals.</p>	<p>28. (1) The Constituencies Fund Committee shall scrutinize the list of projects received by the Clerk pursuant to this Act. (2). The Constituencies Fund Committee shall then minute all the project proposals received from every constituency then submit the list of projects to the Clerk for onward transmission to the Minister.</p>
<p>Proposals to be included in the printed estimates.</p>	<p>29. (1) The Minister shall ensure that the list of constituency based projects forwarded to him by the Clerk are included in the printed estimates before the Minister presents the annual Government budget to the National Assembly. (2) The estimates for the projects submitted under this Act shall be printed in a separate document among other printed estimates.</p>

PART VI – IMPLEMENTATION OF PROJECTS

<p>Government department to implement.</p>	<p>30. (1) Projects under this Act shall be implemented by the relevant department of Government in a district and all payments through cheques or otherwise shall be processed and effected in accordance with government regulations for the time being in force. (2) Where a particular project involves several sectors and therefore several Government departments, then the Government department under which the project is listed in the printed estimates shall take lead in the implementation of the project. (3) Where a project in a constituency involves the purchase of equipment, such equipment shall remain for the exclusive use of that constituency and in the event of disposal of such equipment the amount realized shall be paid into the account of that constituency. (4) The Constituency Development Committee shall be responsible for monitoring the implementation of projects and may designate a sub-committee, a locational committee or a project committee, the functions of monitoring an on-going project.</p>
<p>Procurement of Services and Works.</p>	<p>31. (1) All works and services relating to projects under this Act shall be sourced using existing Government procurement regulations.</p>

<p>Department to maintain records.</p>	<p>(2) All tenders and quotations shall be tabled at a meeting of the Districts Projects Committee and the committee shall indicate that they have no objection to the award through a minuted resolution before the tender of quotation is awarded.</p> <p>32. The departmental head of the relevant Ministry in each district shall oversee projects under his docket and shall keep and maintain records of the disbursements of funds and progress of the projects funded under this Act.</p>
<p>Returns to Constituencies Development Fund.</p>	<p>33. (1) The District Development Officer in every district shall compile and maintain a record showing all receipts and disbursements on a monthly basis in respect of every project under this Act and shall submit annual returns to the National Committee not later than sixty (60) days after the end of every financial year.</p> <p>(2) The District Development Officer, in every district, shall make such interim returns as the National Committee shall, by resolution, deem necessary in order to facilitate the release of the next tranche of funds as specified in section 47(2) of the Act.</p>
<p>Accounts and audit.</p>	<p>34. All funds received under this Act shall be audited and reported upon by the Controller and Auditor-General.</p>
<p>Community Initiatives to be eligible</p>	<p>35. (1) Projects initiated by a community shall be eligible for support under this Act provided that such projects shall be submitted with the other projects in conformity with the requirements of this Act.</p> <p>(2) Pursuant to subsection (1), a community shall, maintain an elected committee to represent the interests of that community during and after the implementation of the project and such a committee shall conform with established Government regulations in the discharge of its functions.</p>
<p>Departmental head to be represented in project committees.</p>	<p>36. (1) Where a community initiates a project and a project committee is maintained by the community, the departmental head of the Government Ministry under whose docket the project falls shall be an ex-officio member of such a committee and shall have the power to appoint a representative to the committee from among Government officers in the constituency.</p> <p>(2) A representative appointed under subsection (1), shall not have the right to vote but shall attend each and every meeting of such a committee and shall receive minutes of the deliberations of the committee.</p>
<p>On-going projects to be evaluated.</p>	<p>37. Any on-going or existing project initiated by a community prior or after the commencement of this Act, and which is intended to be supported under this Act, shall undergo a technical and financial evaluation by the relevant departmental head in a district, and the project status documented, before it is listed for support in accordance with the provisions of this Act.</p>
<p>Community interests to be represented.</p>	<p>38. If a community requests, it shall be given a chance to nominate representatives to represent their interests in any project being undertaken in their area.</p>

PART VII - DISTRICT PROJECTS COMMITTEE

<p>Establishment of District Projects Committee.</p>	<p>39. (1) There shall be established, for every district, a committee to be known as the District Projects Committee whose main function shall be to coordinate the implementation of projects financed through the Fund. (2) The District Projects Committee shall also perform such other functions as may be allocated to it by the National Committee from time to time. (3) The District Projects Committee may, in the discharge of its functions under this Act, make official or impromptu visits to projects at such times as it may deem appropriate.</p>
<p>Membership.</p>	<p>40. (1) The members of the District Projects Committee shall be – (a) the members of Parliament in that district, whether elected or nominated. (b) all chairmen and mayors of local authorities in the district; (c) the District Commissioner of the district; (d) The District Development Officer of the district who shall be the secretary to the Committee and the convenor of a new committee pursuant to subsection (7); (e) the chairpersons of the Constituencies Development Committee; and (f) the District Accountant of the district. (2) All district departmental heads in a district under whose docket the various projects fall may attend District Projects Committee meetings as ex-officio members, at the invitation of the District Projects Committee. (3) The members of the District Projects Committee shall elect a chairperson from among the members of the Committee who are elected members of Parliament of elected councillors for a term of two (2) years or part thereof until the end of a term of Parliament. (4) The quorum for any meeting of the District Projects Committee shall be one half of the members and for the purposes of this section immediate past members of a dissolved Parliament shall remain members of the District Projects Committee until a new District Projects Committee is convened pursuant to the provisions of subsection (7). (5) Meetings of the District Projects Committee shall be held at least once every three months. (6) All District Project Committees and all Constituency Development Committees shall be dissolved upon the election of a new Parliament and no payments shall be made from the Constituency Accounts until the new committees are formed. (7) The new District Projects Committees and the Constituency Development Committees shall be constituted within thirty days of a new Parliament being inaugurated.</p>

PART VIII - ROLE OF THE DISTRICT PROJECTS COMMITTEE

<p>Member of Parliament to table proposals.</p>	<p>41. The member of Parliament for each constituency shall table a list of the projects for that constituency at a meeting of the District Projects Committee convened for that purpose.</p>
<p>Duplication of projects to be</p>	<p>42. The District Projects Committee shall ensure that no duplication of projects occur particularly where it is prudent to combine efforts on projects designed to benefit a large section or sector of a community</p>

<p>avoided. District Projects Committee to approve.</p>	<p>traversing several constituencies in a district.</p> <p>43 (1) The District Projects Committee shall examine the list of projects submitted under section 41 and where there are no duplication of projects, recommend the list of projects for onward transmission to the Clerk through the member of Parliament for that constituency.</p> <p>(2) The District Projects Committee shall, however, not unreasonably withhold recommendation of projects submitted under this Part.</p>
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PART IX - FINANCE AND ADMINISTRATION

<p>Other officers of the Fund.</p>	<p>44. The Minister may designate such other officers as he considers necessary, but not more than ten, for the proper management of the Fund.</p>
<p>Constituency account.</p>	<p>45. (1) For the purpose of disbursement of funds under this Act there shall be opened and maintained a constituency account for every constituency at any commercial bank, approved by the Minister, into which all funds shall be kept and such an account shall be known by the name of the constituency for which it is opened.</p> <p>(2) The bank account opened pursuant to subsection (1), shall be separate from that of the District Treasury.</p> <p>(3) At least three signatories shall be required for every cheque or instrument for actual payment or withdrawal of funds from a constituency account and the signing instructions shall be such that there shall be at least one signature of a nominee from the District Projects Committee and at least one signature of a nominee of the Constituency Development Committee and none of the signatories shall be members of Parliament or councillors.</p> <p>(4) Funds from the constituency account shall only be withdrawn as disbursements for a particular project in accordance with the provisions of section 8 of the Act.</p> <p>(5) Each and every payment out of the constituency account shall strictly be on the basis of a minuted resolution of the Constituency Development Committee.</p> <p>(6) All receipts, savings and accruals to the constituency account and the balances thereof at the end of each financial year shall be retained in the constituency account for the purposes for which the account is maintained.</p> <p>(7) All unutilized funds shall remain in the constituency account and no investment elsewhere shall be permitted, provided that funds meant for a project that is cancelled or discontinued shall be returned to the Fund in accordance with section 9.</p> <p>(8) Any accruing revenues, interest and liabilities from any constituency account shall be declared to the National Committee together with the annual returns.</p>
<p>Bank account of the Fund.</p>	<p>46. (1) A bank account of the Fund shall be opened and maintained at the Central Bank of Kenya.</p> <p>(2) The signatories to the account of the Fund maintained in accordance with subsection (1), shall be the Officer administering the Fund and two other persons appointed by the National Committee from among its members.</p> <p>(3) The signature of the Officer administering the Fund shall be</p>

<p>Record of disbursements to be kept.</p>	<p>mandatory on all payment cheques and or instruments intended for actual release of money from the Fund.</p> <p>47. (1) An accurate record of all disbursements made for projects in each constituency shall be kept and updated every month by the Officer administering the Fund.</p> <p>(2) The disbursement of funds to the constituency account shall be effected within the first quarter of each financial year with an initial amount equivalent to 25% of the total estimated amount for the year and thereafter the constituency account shall be replenished in five equal installments of 25% as soon as returns are received from the constituency showing an equivalent amount expended from the constituency account.</p>
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PART X - MISCELLANEOUS PROVISIONS

<p>Personal emoluments.</p>	<p>48. (1) The personal emoluments of Government officers working or involved in the management of the Fund shall be determined by the Minister in consultation with the National Committee and shall be provided under the recurrent expenditure of the Government.</p> <p>(2) Out of pocket expenses incurred by any person officially involved in the management of the Fund or the implementation of projects under the Fund, including public officers may be reimbursed; provided that not more than 3% (three percentum) of the total allocation in the financial year may be used for this purpose.</p> <p>(3) Sitting and other allowances for the members of the National Committee shall be fixed by the Minister in consultation with the Constituencies Fund Committee.</p>
<p>Minister to make regulations.</p>	<p>49. (1) The Minister may make regulations for the smooth running of the Fund and such regulations shall be approved by Parliament before implementation.</p> <p>(2) The Minister may amend any of the Schedules through a notice in the Gazette, provided that such amendments shall first be approved by Parliament before implementation.</p> <p>50. (1) The provisions of this Act shall be complimentary to any other development efforts by the Government or any other agency and nothing in this Act shall be taken or interpreted to mean that an area may be excluded from any or other development programmes by the Government or any other agency.</p> <p>(2) For the avoidance of doubt, normal Government development allocations shall continue alongside the projects funded under this Act.</p> <p>51. Any person who misappropriates any funds or assets from the Fund, or assists or causes any person to misappropriate or apply the funds otherwise than in the manner provided in this Act, shall be guilty of an offence and shall, upon conviction, be liable to imprisonment for a term not exceeding 5 years or to a fine not exceeding two hundred thousand shillings or to both.</p>

FIRST SCHEDULE (Sec. 5(3))

LIST OF ORGANIZATIONS TO NOMINATE PERSONS TO THE NATIONAL COMMITTEE

- The Kenya Farmers Union.
- The Institute of Engineers of Kenya.
- The Kenya National Chamber of Commerce.
- The Catholic Church.
- The Kenya National Union of Teachers of Kenya.
- The NGO Council of Kenya.
- The National Council of Churches of Kenya (NCCCK)
- The Supreme Council of the Kenya Muslim (SUPKEM)

SECOND SCHEDULE (Sec.14.)

STANDARD CONSTITUENCY PROJECTS SUBMISSION FORM

Name of Constituency Financial Year

District Province

SERIAL NUMBER	NAME OF PROJECT	COST ESTIMATES in Kshs.
	TOTAL FOR THE YEAR Kshs.	

Name of Member of Parliament Signature.....

Name of the Constituency Development Committee Signature

Name of Chairman of District Project Committee..... Signature

Date.....

THIRD SCHEDULE (s. 15)

STANDARD PROJECT DESCRIPTION FORM

(To be completed in consultation with District departmental head)

Constituency: District Province

Project Number Project Title

Relevant Government Department

Status of projects (tick one) New Extension On-going

Rehabilitation

Brief statement on progress at time of submission

.....
.....
.....

Financial year under reference 1st July To 30th June

Original Cost estimates, in Kshs. dated

Amount allocated last financial year

Person completing form:

Signature

Name

Position

Date

ANNEX 10

The Constituencies Development Fund (Amendment) Act, 2007

THE CONSTITUENCIES DEVELOPMENT FUND (AMENDMENT) ACT, 2007

An Act of Parliament to amend the Constituencies Development Fund Act, 2003

ENACTED by the Parliament of Kenya, as follows-

Short title and
commencement.

1. This Act may be cited as the Constituencies Development Fund (Amendment) Act, 2007, and shall come into operation on such date, being not later than thirty days from the date of assent, as the Minister may, by notice in the Gazette, appoint.

Amendment of
section 2 of No
10 of 2003.

2. The Constituencies Development Fund Act, 2003, in this Act referred to as the "principal Act" is amended in section 2 –

(a) by inserting the following new definitions in proper alphabetical sequence-

"**Board**" means the Constituencies Development Fund **Board** established by section 5 ;

"Board" means Board of Management of the Constituencies Development Fund **Board** established by section 5 (3);

"Chairperson" means the Chairperson of the Board appointed under section 5(4);

"Chief Executive Officer" means the Chief Executive Officer of the Board appointed under section 7

"National Account" means the Constituencies Development Fund account maintained under section 46";

"officer of the **Board**" means an officer of the **Board** appointed under section 44;

"project" means an eligible development project as

The Constituencies Development Fund (Amendment) Act, 2007

described in the Act;

“project committee” means a committee or board of persons elected or nominated to implement a project or manage an institution, including a committee existing prior to the establishment of the Fund, and which is assuming the responsibility of implementing a project funded under the Act;

“sub-project” means one of similar activities lumped together into one project for purposes of sections 21 and 22 of the Act;

“youth” means a person who has attained the age of eighteen years and has not attained the age of thirty five years.

- (b) by deleting the definition of “National Committee”;
- (c) by deleting the word “finance” appearing in the definition of “Minister” and substituting therefor the word “planning”;
- (d) by inserting the word “Fund” immediately after the word “Development” in the definition of “Constituency Development Committee”;
- (e) by inserting the word “fund” immediately after the word “constituency” in the definition of “constituency account”.

Amendment of section 4 of No 10 of 2003.

3. Section 4 of the principal Act is amended-

- (a) in subsection (1) by deleting the words “Officer administering the Fund under the direction of the National Committee” and substituting therefor the word “**Board**”.
- (b) in subsection (2) by deleting the words “National Committee” and substituting therefor the words “**Board**”.
- (c) in subsection (3) by deleting the words “for approval in accordance with this Act before the beginning of the financial year to which the budget relates” and substituting therefor the words “by various constituencies in accordance with the Act”.

Replacement of section 5 of No

4. The principal Act is amended by repealing section 5 and replacing

The Constituencies Development Fund (Amendment) Act, 2007

10 of 2003. it with the following new section-

Establishment
of the **Board**

5. (1) There is established a **Board** to be known as the Constituencies Development Fund **Board**.

(2) The **Board** shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of-

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) borrowing money or making investments; and
- (d) doing or performing all other acts or things for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

(3) The s **Board** shall be administered by a Board of Management which shall consist of –

- (a) the Permanent Secretary of the Ministry for the time being responsible for matters relating to economic planning or his designated alternate, not being below the level of Director of Planning;
- (b) the Permanent Secretary of the Ministry for the time being responsible for matters relating to finance or his designated alternate, not being below the level of Director of Budget;
- (c) the Clerk of the National Assembly or his designated alternate not being below the level of Deputy Clerk;

The Constituencies Development Fund (Amendment) Act, 2007

- (d) the Attorney General or his designated alternate not being below the level of Senior State Counsel;
- (e) eight persons, qualified in matters relating to finance, accounting, engineering, economics, community development, or law, appointed by the Minister in accordance with subsection (5);
- (f) four persons, qualified in accordance with paragraph (e), appointed by the Minister to achieve any regional imbalance that may not be achieved pursuant to the process under subsection (5);
- (g) the Chief Executive Officer who shall be an ex-officio member and secretary to the Board.

(4) The Minister shall appoint the Chairperson of the Board from amongst the eight persons appointed in accordance with paragraph (e) of subsection (3).

(5) The organizations listed in the First Schedule shall each submit names and curriculum vitae of four nominees, two of whom shall be men and two women, and out of the thirty two names submitted, the Minister shall, taking into account regional balance of the people of Kenya, appoint nine persons, at least one from each of the eight organizations and at least a third of the appointees to be from either gender, to be members of the Board.

(6) The names and curriculum vitae of persons nominated to be appointed as members of the Board, pursuant to sub-section (5) and the name of the person proposed to be appointed as the Chief Executive Officer

The Constituencies Development Fund (Amendment) Act, 2007

shall be submitted to Parliament for approval before the appointments are made.

Amendment of section 6 of No 10 of 2003.

5. Section 6 of the principal Act is amended-

(a) in subsection (1)-

- (i) by deleting the words “National Committee” and substituting therefor the words “**Board**”;
- (ii) by deleting the words “allocation and” appearing in paragraph (a) and substituting therefor the words “timely and efficient”;
- (iii) by deleting the word “prudent” appearing in paragraph (b) and substituting therefor the word “efficient”;
- (iv) by deleting paragraph (e) ;
- (v) by deleting paragraph (f);
- (vi) by inserting the following new paragraphs immediately after paragraph (d)-

(e) to receive and address complaints and disputes and take any appropriate action;

(f) to consider project proposals submitted from various constituencies in accordance with the Act, approve for funding those projects proposals that are consistent with this Act and send funds to the respective constituency fund account of the approved projects;

(g) to perform such other duties as the Minister, with the concurrence of the Constituencies Fund Committee, may deem necessary from time to time for the proper management of the Fund.

(b) by deleting subsection (2) and substituting it with the following new subsection-

The Constituencies Development Fund (Amendment) Act, 2007

(2) Where any issues of policy arise in the course of the performance of its functions under this Act, the **Board** shall refer the same to the Constituencies Fund Committee for directions in accordance with section 27(4) (e).

Insertion of new section 6A into No 10 of 2003.

6. The principal Act is amended by inserting the following new section immediately after section 6-

Conduct of business and affairs of the Board.

6A. (1) The conduct and regulation of the business and affairs of the Board shall be as provided in the Sixth Schedule.

(2) Except as provided in the Sixth Schedule, the Board may regulate its own procedure.

Replacement of section 7 of No 10 of 2003.

7. The principal Act is amended by repealing section 7 and replacing it with the following new section-

Chief Executive Officer of the **Board**.

7 (1) There shall be a Chief Executive Officer of the **Board** who shall be appointed by the Board on a competitive basis and whose terms and conditions of service shall be determined by the Board in the instrument of appointment or otherwise in writing from time to time.

(2) No person shall be appointed under this section unless such person-

(a) has a university degree in finance, accounting, engineering, economics, community development, law or a related field from a recognized university;

(b) has at least ten years' working experience in the relevant field.

(3) The Chief Executive Officer shall-

(a) be the secretary to the Board; and

(b) subject to the directions of the Board, be responsible for the day to day management of the affairs and staff of the **Board**.

The Constituencies Development Fund (Amendment) Act, 2007

Amendment of
section 8 of No
10 of 2003.

8. Section 8 of the principal Act is amended-

- (a) by deleting the words “approved by the National Committee” appearing in subsection (1) and substituting therefor the words “minuted by the **“Board”**”;
- (b) by deleting the words “provided for in the printed estimates prepared for projects under ” appearing in subsection (2) and substituting therefor the words “submitted by the constituencies in accordance with the procedures outlined in ”;
- (c) by inserting a new subsection immediately after subsection (3) as follows-

(3A) Notwithstanding the provisions of subsection (3), payments for a joint project as outlined in section 22 (4) or joint procurement, may be made directly to a supplier or to an account established for the purpose with due concurrence of the Constituencies Fund Committee”;

- (d) by deleting the words “National Committee” appearing in subsection (4) and substituting therefor the word **“Board”**;
- (e) by deleting subsection (6).

Amendment of
section 9 of No
10 of 2003.

9. Section 9 of the principal Act is amended-

- (a) by deleting subsection (1) and substituting therefor the following new subsection-

(1) The Minister, with the concurrence of the Constituencies Fund Committee, shall for each financial year allocate funds to each constituency in accordance with section 19.

- (b) by inserting the words “without the approval of the **“Board”**” at the end of subsection (2).
- (c) by deleting subsection (3) and substituting therefor the following new subsection-

The Constituencies Development Fund (Amendment) Act, 2007

(3) At the end of each financial year, every constituency shall submit a return in the form set out in the Fourth Schedule showing for each project, the amount allocated, the amount disbursed and any unspent funds no longer needed for that project and intended to be re-allocated.

(d) by inserting the following new subsections immediately after subsection (3) -

(4) Every constituency which has unspent funds at the end of the financial year shall, in the form set out in the Fifth Schedule, submit a request to the **Board** detailing how they intend to re-allocate the unspent funds.

(5) Unspent funds for re-allocation in accordance with subsections (3) and (4) may be allocated to any eligible project and such project may be new or ongoing at the end of the end of the financial year.

(6) For the avoidance of doubt, a return shall be made for the current financial year and every previous financial year on which some funds remain unspent

Amendment of section 10 of No 10 of 2003.

10. Section 10 of the principal Act is amended-

- (a) by deleting the words “for the purposes for which the Fund is established” appearing in subsection (1) and substituting therefor the words “in the constituency fund account”;
- (b) by deleting the words “funds returned into the accounts in accordance with section 9 (3)” appearing in subsection (2) and substituting therefor the words “retained in the account”.

Amendment of section 11 of No 10 of 2003.

11. Section 11 of the principal Act is amended by renumbering the existing provision as subsection (1) and inserting a new subsection as follows-

- (2) The Constituency Development Fund Committee shall determine the allocation of the emergency reserve

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and may re-allocate such reserve to other projects at the end of the financial year, in accordance with the Act.

Amendment of section 12 of No 10 of 2003. **12.** Section 12 of the principal Act is amended by deleting the words “Clerk” and “him” appearing in subsection (2) and substituting therefor the words “**Board** and “it” respectively.

Amendment of section 13 of No 10 of 2003. **13.** Section 13 of the principal Act is amended by deleting the word “Clerk” and substituting therefor the word “**Board**”.

Amendment of section 14 of No 10 of 2003. **14.** Section 14 of the principal Act is amended by deleting the words “cost estimates of” appearing in subsection (2) and substituting therefor the words “amounts allocated to”.

Amendment of section 15 of No 10 of 2003. **15.** Section 15 of the principal Act is amended by deleting subsection (2) and substituting therefor the following new subsection-

(2) The Minister may, with the concurrence of the Constituencies Fund Committee, amend any of the Schedules to this Act.

Replacement of section 16 of No 10 of 2003. **16** The principal Act is amended by repealing section 16 and replacing it with the following new section-

Approval of projects.

16 (1) The list of projects received by the **Board** pursuant to section 12 shall be tabled for review at a meeting of the **Board**.

(2) The **Board** shall scrutinize and approve for funding those projects proposals that are consistent with the Act.

(3) Where the **Board** does not approve a proposal submitted to it under this section, it shall refer the matter to the Constituencies Fund Committee giving reasons as to why it has declined the proposal.

(4) The Constituencies Fund Committee shall within fourteen days of receipt of the reference under subsection (3), make a decision on whether the proposal should be recommended for funding or not and the decision of the Constituencies Fund Committee shall be final.

Replacement of section 17 of **17.** The principal Act is amended by repealing section 17 and replacing

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No 10 of 2003. it with the following new section-

Discretion of Constituency Development Fund. **17.** The allocation of funds to various projects in each constituency is the responsibility of the Constituency Development Fund Committee to be exercised at its own discretion within the provisions of this Act.

Amendment of section 18 of No 10 of 2003. **18.** Section 18 of the principal Act is amended by deleting the words “in accordance with section 17 shall be numbered by the Officer administering the Fund” and substituting therefor the words “shall be numbered by the **Board** and the serial numbers of all projects in a constituency shall bear the number of the constituency as delineated by the Electoral Commission of Kenya.”

Amendment of section 21 of No 10 of 2003. **19.** Section 21 of the principal Act is amended-

- (a) by inserting the words “and may include the acquisition of land and buildings” at the end of subsection (2);
- (b) by inserting the words “other than as provided for in subsections (9),(10) and (11)” at the end of subsection (3);
- (c) by deleting the words “National Committee” appearing in subsection (5) and substituting therefor the words “Constituency Development Fund Committee”;
- (d) by deleting subsection (7) and substituting therefor the following new subsection-

(7) Notwithstanding the provisions of subsection (3), up to a maximum of three per centum of the total annual allocation for the constituency may be used for administration and such use shall be listed in the Second Schedule as a project.

- (e) by inserting the following new subsections immediately after subsection (7) -

(8) Development projects may include the acquisition of vehicles, machinery and other equipment.

(9) An appropriate amount not more than three per centum of a constituency’s annual allocation may be

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allocated to recurrent expenses of vehicles, equipment and machinery and be listed as a project provided that such items do not belong to a separate entity.

(10) Sports activities may be considered as development projects for purposes of this Act but shall exclude cash awards provided that the allocation to such activities does not exceed two per centum of the total allocation of the constituency in that financial year.

(11) Monitoring and evaluation of ongoing projects and capacity building of various operatives may be considered as a development project provided that not more than two per centum shall be allocated for this purpose.

(12) Environmental activities may be considered as development projects for purposes of this Act provided that the allocation to such activities does not exceed two per centum of the total allocation of the constituency in that financial year.

(13) Each of the projects shall be listed on the Second Schedule including the emergency item under section 11 and, where applicable, the activities under subsections (6), (7), (8), (9), (10), (11) and (12) of this section.

Amendment of
section 22 of
No 10 of 2003.

20. Section 22 of the principal Act is amended-

(a) by deleting the word “twenty” appearing in subsection (1) and substituting therefor the words “twenty five”;

(b) by deleting subsection (2) and substituting therefor the following new subsection-

(2) Any projects to be funded under unspent funds at the end of the financial year may be lumped together as one project with sub projects, where applicable, for the purpose of subsection (1);

(c) by deleting subsection (3). and substituting therefor the following new subsection-

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(3) Project activities of a similar nature in a particular constituency may be combined and considered as one project for purposes of subsection (1) provided that the sub projects are listed in the Third Schedule.

Amendment of section 23 of No 10 of 2003.

21. Section 23 of the principal Act is amended-

- (a) in subsection (1)-
 - (i) by deleting the words “thirty days of a new Parliament ” and substituting therefor the word “ sixty days of a new Parliament or a by election”;
 - (ii) by inserting the following new paragraphs immediately after paragraph (h)-
 - (i) a maximum of three other persons from the constituency such that the total number does not exceed fifteen;
 - (j) an officer of the **Board** seconded to the Constituency Development Fund Committee by the **Board**, who shall be ex-officio.
- (b) by inserting the following new subsections immediately after subsection (6) -

(7) The term of office of the members of the Constituency Development Fund Committee shall be three years renewable but shall come to an end upon the appointment of a new Constituency Development Fund Committee in a manner provided for in this Act.

(8) Whenever there is a new Member of Parliament through a general election or by-election, the new Member of Parliament shall constitute and convene a new Constituency Development Fund Committee;

Provided that-

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(a) the Constituency Development Fund Committees existing prior to a parliamentary election or by election shall continue in office until a new Constituency Development Fund Committee is constituted after the election or by election in a manner provided for under this Act; and

(b) the list of projects shall not be changed other than at the end of the financial year or in accordance with this Act.

(9) The officer of the **Board** shall be the custodian of all records and equipment of the constituency during the term of Parliament and during transitions occasioned by general elections or a by election.

(10) Whenever a vacancy occurs in the Constituency Development Fund Committee by reason of resignation, incapacitation or demise of a member then the Member of Parliament shall fill the vacancy from the same category of persons where the vacancy has occurred.

(11) The Constituency Development Fund Committee shall meet at least twelve times in a year and not more than twenty four times in every financial year including sub-committee meetings.

(12) The Constituency Development Fund Committee shall, at its discretion, determine the quantum of installments to various projects in the constituency, taking into account the disbursement received and the requirements of different projects.

Amendment of
section 24 of
No 10 of 2003.

22. Section 24 of the principal Act is amended by deleting the word “Minister” appearing in subsection (2) and substituting therefor the word “**Board**”

Amendment of
section 25 of

23. Section 25 of the principal Act is amended by deleting subsection(2) **and substituting therefor the following-**

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No 10 of 2003.

(2) Notwithstanding the provisions of subsection (1), an education bursary scheme, mocks and continuous assessment tests shall be considered as a development project for purposes of the Act provided that such a project shall not be allocated more than fifteen per centum (15%) of the total funds allocated for the constituency in any financial year”

Amendment of section 26 of No 10 of 2003.

24. Section 26 of the principal Act is amended by renumbering the existing provision as subsection (1) and deleting the words “National Committee” and substituting therefor the word “**Board**”.

Amendment of section 27 of No 10 of 2003.

25. Section 27 of the principal Act is amended-

(a) by inserting the words “provided that the term of office of the members of the committee shall be three years renewable or upon the appointment of a new committee in a manner provided for in this Act, whichever comes earlier” at the end of subsection (2);

(b) by deleting paragraph (a) of subsection (4) and substituting therefor the following new paragraph-

(a) to determine the allocation and distribution to each constituency, of the amounts collected under section 4(2) and the utilization of any unspent funds intended for use by the **Board** under this Act.

(c) by inserting the following new subsection immediately after subsection (4) –

(5) The Committee may make reports other than the statutory report stated in sub section 4 (d) to appraise the National Assembly on various matters relating to the Fund and to seek various approvals as required by the Act.

Repeal of section 28 of No 10 of 2003.

26. The principal Act is amended by repealing section 28 and replacing it with the following new section-

Monthly reports on projects and disbursements.

28. The **Board** shall, on a monthly basis, submit a

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report to the Constituencies Fund Committee detailing-

- (a) a summary of the project proposals received from the constituencies in the preceding month and indicating the approval status of such projects; and
- (b) a summary of the status of disbursements of funds to the constituencies for that preceding month;
- (c) a summary of the status of disbursements from the Treasury to the National Account.

Replacement of section 29 of No 10 of 2003.

27. The principal Act is amended by repealing section 29 and replacing it with the following new section-

Funding of listed projects.

29. The **Board** shall ensure that the list of projects forwarded to it by each constituency is, upon approval, funded in accordance with the Act.

Amendment of section 30 of No 10 of 2003.

28. Section 30 of the principal Act is amended-

- (a) by deleting the words “relevant department of Government in the district” appearing in subsection (1) and substituting therefor the words “project committee in each case, with the assistance of the relevant department of Government”;
- (b) by deleting the words “in the printed estimates” appearing in subsection (2).
- (c) by inserting the following new subsections immediately after subsection (4) –

(5) All fixed and movable assets, including equipment bought under this Act shall be the property of the **Board** to be insured in the name of the **Board**.

Provided that-

- (a) such property shall bear the name and number of the constituency as

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delineated by the Electoral Commission of Kenya; and

(b) equipment bought for institutions shall remain the property of those institutions.

(6) Any proceeds that may accrue from the disposal of any asset acquired pursuant to subsection (5) shall be credited to the account of the constituency from whose funds the asset was acquired.

Amendment of section 31 of No 10 of 2003.

29. Section 31 of the principal Act is amended by deleting subsection (2).

Replacement of section 33 of No 10 of 2003.

30. The principal Act is amended by repealing section 33 and replacing it with the following new section-

Record of receipts and disbursement.

33. The officer of the **Board** in every constituency shall compile and maintain a record showing all receipts and disbursements on a monthly basis in respect of every project and sub-project under this Act and shall-

(a) table such record at a meeting of the Constituency Development Fund Committee in every month ; and

(b) submit a summary of the record for the year to the Constituency Development Fund Committee not later than sixty days after the end of every financial year.

Amendment of section 36 of No 10 of 2003.

31. Section 36 of the principal Act is amended-

(a) by deleting the word “shall have the power to” appearing in subsection (1) and substituting therefor the word “may”;

(b) . by deleting the word “shall” appearing immediately before the words “attend each” in subsection (2) and substituting therefor the word “may”.

Amendment of section 39 of

32. Section 39 of the principal Act is amended by deleting subsection

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No 10 of 2003. (2).

Amendment of
section 40 of
No 10 of 2003.

33 Section 40 of the principal Act is amended-

- (a) by inserting the word “Fund” immediately after the word “Development” appearing in paragraph (e) of subsection (1)
- (b) by deleting the word “two (2)” appearing in subsection (3) and substituting therefor the word “three (3)”;
- (c) by deleting the words “ every three months” appearing in subsection (5) and substituting therefor the words “annually but not more than six (6) times in a year”;
- (d) by deleting subsection (6) and substituting therefor the following new subsection-

(6) All District Project Committees existing prior to a parliamentary election shall stand dissolved upon the dissolution of Parliament.

- (e) by deleting the words “and all Constituency Development Committees shall be constituted within thirty” appearing in subsection (7) and substituting therefor the words “shall be constituted within sixty”;

Replacement of
section 43 of
No 10 of 2003.

34. The principal Act is amended by repealing section 43 and replacing it with the following new section-

District
Projects
Committee
to prepare
list.

43. The District Projects Committee shall, at the beginning of every financial year, prepare and circulate to the various Constituency Development Fund Committees in that district, a list of other Government allocations for various projects in the district.

Provided that the existence of another allocation by Government to a project in the constituency shall not be used as a reason to deny either approval or funding of any project consistent with this Act.

Replacement of
section 44 of
No 10 of 2003.

35. The principal Act is amended by repealing section 44 and replacing it with the following new section-

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Staff of the Board .

44 The **Board** may appoint such officers and other staff as are necessary for the proper management of the Fund and discharge of its functions under this Act, upon such terms and conditions of service as it may determine.

Provided that the principal management structure of the **Board** shall be established or varied by the **Board** with the concurrence of the Constituencies Fund Committee.

Amendment of section 45 of No 10 of 2003.

36. Section 45 of the principal Act is amended-

- (a) by inserting the word “Fund” immediately after the word “Development” appearing in subsection (3);
- (b) by deleting subsection (5) and substituting therefor the following new subsection-

(5) Every payment or instruction for payment out of the constituency fund account shall be strictly on the basis of a minuted resolution of the Constituency Development Fund Committee.

- (c) by inserting the word “fund” immediately after the word “constituency” appearing in subsection (6);
- (d) by deleting the words “shall be returned to the Fund in accordance with section 9” appearing in subsection (7) and substituting therefor the words “retained in the account until the end of the financial year when they may be reallocated in accordance with this Act”;
- (e) by deleting the words “National Committee” appearing in subsection (8) and substituting therefor the words “**Board**”

Amendment of section 46 of No 10 of 2003.

37. Section 46 of the principal Act is amended-

- (a) by deleting the words “the Officer administering the Fund and two other persons appointed by the National Committee from amongst its members” appearing in subsection (2) and substituting therefor the words

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“Chief Executive Officer and three other persons appointed by the Board from amongst its members”.

- (b) by deleting subsection (3) and substituting therefor the following new subsection-

(3) The signing instructions shall be such that the signature of the Chief Executive Officer shall be mandatory on all payment cheques and or instruments intended for actual release of money from the fund, plus any two of the other three signatories.

Amendment of section 47 of No 10 of 2003.

38. Section 47 of the principal Act is amended-

- (a) by deleting the words “for projects in each constituency shall be kept and updated every month by the Officer administering the Fund” appearing in subsection (1) and substituting therefor the words “to every constituency shall be kept and updated every month by the **Board**”;

- (b) by deleting subsection (2). and substituting therefor the following new subsection-

(2) The disbursement of funds to the constituency fund account shall be effected at the beginning of the first quarter of each financial year with an initial amount equivalent to twenty-five of the annual allocation for the constituency and thereafter the constituency fund account shall be replenished in three equal installments at the beginning of the second, third and fourth quarters of the financial year.

- (d) by inserting the following new subsection immediately after subsection (2) –

(3) The Minister shall table an annual report on the activities, operations and expenditure under the Act.

Replacement of section 48 of No 10 of 2003.

39. The principal Act is amended by repealing section 48 and replacing it with the following new section-

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Finances of the Board.

48. (1) The expenditure for running the **Board** and related purposes shall be set aside at the beginning of the financial year and not more than three per centum of the total allocation to the Fund in the financial year may be used for this purpose, the annual budget of which shall be approved by the Minister with the concurrence of the Constituencies Fund Committee, and expenses shall not be incurred until such approval is accorded.

(2) The **Board** shall, at the end of each financial year, submit to the Constituencies Fund Committee a statement showing the balance or shortfall, if any, arising out of its approved annual budget for that year and the **Board** shall, with the concurrence of the Constituencies Fund Committee, determine the manner in which such balance or shortfall shall be spent or met respectively.

(3) The personal emoluments of Government officers working or involved in the management of the Fund shall be provided for under the recurrent expenditure of Government but any other emoluments or payments to such officers from the Fund shall be determined by the **Board** with the concurrence of Constituencies Fund Committee.

(4) Sitting and other allowances for the members of the District Projects Committee **and Constituency Development Fund Committee** shall be fixed by the Minister with the concurrence of the Constituencies Fund Committee and shall be paid out of the funds set aside for the **Board** under subsection (1).

(5) The accounts of the **Board** shall be audited and reported upon in accordance with the Public Audit Act, 2003.

No.12 of 2003

Insertion of new section 52 and 53 into No 10 of 2003.

40. The principal Act is amended by inserting the following new sections immediately after section 51-

Dispute resolution.

52. (1) All complaints shall be forwarded to the **Board**.

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(2) Disputes shall be referred to the **Board** in the first instance and where necessary an arbitration panel shall be appointed by the Minister who shall consider and determine the matter before the same is referred to court.

(3) Subject to this Act, no person in the management of the Fund shall be held personally liable for any lawful action taken in his official capacity or for any disputes against the Fund.

Transition from
National
Committee to the
Board.

53. (1) In this section-

“commencement day” means the day this Act comes into operation;

“this Act” means this Constituencies Development Fund (Amendment) Act, 2007;

(2) On the commencement day, all the funds, assets and other property both movable and immovable, which immediately before such date were vested in the National Committee, shall by virtue of this subsection, vest in the **Board**

(3) On the commencement day, all rights, powers and liabilities, whether arising under any written law or otherwise which immediately before such day were vested in, imposed on or enforceable against the National Committee shall, by virtue of this subsection, be deemed to be vested in, imposed on or enforceable against the **Board**.

(4) Any reference in any written law or in any document or instrument to the National Committee shall, on and after the commencement day, be construed to be a reference to the **Board**.

(5) The annual estimates of the National Committee for the financial year in which the commencement day occurs shall be deemed to be the annual estimates of the **Board** for the remainder of that financial year.

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(6) The administrative directions made by the National Committee or by the Minister which are in force immediately before the commencement day shall, on and after such day, have force as if they were directions made by the **Board** or the Minister under this Act.

(7) Any person who is an officer or employee of the National Committee shall, immediately before the commencement day shall be deemed to be an officer or employee of the **Board**.

Provided that such person shall, within a period of **six months** from the commencement day, exercise his or her option either to—

- (a) enter into a written contract of service with the **Board** , whereupon his or her service with the Government shall be deemed to have been terminated without right to severance pay but without prejudice to all other remuneration and benefits payable upon such termination; or
- (b) be re-deployed by the Government.

(8) The members of the National Committee and the Officer administering the Fund appointed under sections 5 (2) (e) and 7 (2) of the Act respectively (which sections are herein replaced) shall continue in office as members of the Board and the Chief Executive Officer respectively until when a new Board and Chief Executive Officer are appointed in accordance with this Act

Provided that the appointment of a new Board and Chief Executive Officer in accordance with this Act shall be made within sixty days from the commencement day.

Repeal of First Schedule of No 10 of 2003.

41. The principal Act is amended by repealing the First Schedule and replacing it with the new First Schedule set out in the Schedule hereto.

Replacement of Second

42. The principal Act is amended by repealing the Second Schedule and

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- Schedule of No 10 of 2003. replacing it with the new Second Schedule set out in the Schedule hereto.
- Replacement of Third Schedule of No 10 of 2003. **43.** The principal Act is amended by repealing the Third Schedule and replacing it with the new Third Schedule set out in the Schedule hereto.
- Insertion of Fourth Schedule into No 10 of 2003. **44.** The principal Act is amended by inserting a new Fourth Schedule set out in the Schedule hereto.
- Insertion of Fifth Schedule into No 10 of 2003. **45.** The principal Act is amended by inserting a new Fifth Schedule set out in the Schedule hereto.
- Insertion of Sixth Schedule into No 10 of 2003. **46.** The principal Act is amended by inserting a new Sixth Schedule set out in the Schedule hereto.

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SCHEDULE *(sections 41, 42, 43, 44, 45 and 46)*

FIRST SCHEDULE *(section. 5(5))*

LIST OF ORGANIZATIONS TO NOMINATE PERSONS TO THE BOARD

- The Kenya National Federation of Agricultural Producers.
- The Institution of Engineers of Kenya.
- The Kenya National Chamber of Commerce and Industry.
- The Kenya Episcopal Conference.
- The Kenya National Union of Teachers.
- The National Council of Churches of Kenya.
- The Supreme Council of the Kenya Muslims.
- The Institute of Certified Public Accountants of Kenya

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SECOND SCHEDULE

(section 14)

STANDARD CONSTITUENCY PROJECTS SUBMISSION FORM

Constituency No.....Name.....Financial year.....

Serial No	Name of Project	Amount allocated (Kshs)
Total for the Financial Year		

Member of Parliament.....Signature.....Date.....

Secretary CDF Committee.....Signature.....Date.....

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THIRD SCHEDULE

(section. 15)

STANDARD PROJECTS DESCRIPTION FORM

Constituency Name.....Financial year.....

Project No.....Project Title.....

Amount allocated this Financial Year.....

Brief description of the Project

.....

Sub projects

Number	Title	Amount
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TOTAL.

(attach continuation page if necessary)

Signature.....Date.....

Name.....Position.....

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FOURTH SCHEDULE

(section. 9(3))

STANDARD ANNUAL DISBURSEMENT RETURN FORM

Constituency No.....Name.....Financial year.....

Project No	Project Title	Amount allocated (Kshs)	Amount disbursed (Kshs)	Balance (Kshs)	Unspent to be re-allocated
Totals					

Signature.....Date.....

Name.....Position.....

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FIFTH SCHEDULE

(section. 9(4))

RE-ALLOCATION OF UNSPENT FUNDS

Constituency No.....Name.....Financial year.....

Project No	Project Title	Amount allocated (Kshs)
Total amount re-allocated		

Member of Parliament.....Signature.....Date.....

Secretary CDF Committee.....Signature.....Date.....

SIXTH SCHEDULE*(section .6A)***PROVISIONS AS TO THE CONDUCT OF BUSINESS
AND AFFAIRS OF THE BOARD**Tenure of
office.

1. The Chairperson or a member of the Board other than ex-officio members shall, subject to the provisions of this Schedule, hold office for a period of three years, on such terms and conditions as may be specified in the instrument of appointment, but shall be eligible for appointment for not more than two consecutive terms.

Vacation of
office.

2. (1) A member other than an ex-officio member may-

(a) at any time resign from office by notice in writing to the Minister;

(b) be removed from office by the Minister on recommendation of the Board if the member –

(i) has been absent from three consecutive meetings of the Board without its permission;

(ii) is convicted of a criminal offence that amounts to a felony under the laws of Kenya;

(iii) is incapacitated by prolonged physical or mental illness for a period exceeding six months; or

(iv) is otherwise unable or unfit to discharge his functions.

(2) The Chairperson shall not be removed from office unless such removal is in accordance with sub paragraph (1).

Meetings.

3. (1) The Board shall meet not less than six and not

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more than eighteen times in every financial year and not more than two months shall elapse between the date of one meeting and the date of the next meeting.

(2) Notwithstanding subparagraph (1), the Chairperson may, and upon requisition in writing by at least five members shall, convene a special meeting of the Board at any time for the transaction of the business of the Board.

(3) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board.

(4) The quorum for the conduct of the business of the Board shall be eight members.

(5) The Chairperson shall when present, preside at every meeting of the Board but the members present shall elect one member to preside whenever the Chairperson is absent, and the person so elected shall have all the powers of the Chairperson with respect to that meeting and the business transacted thereat.

(6) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of the votes of the members present and voting, and in case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.

(7) Subject to subparagraph (4), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

(8) Subject to the provisions of this Schedule, the Board may determine its own procedure and the procedure for any committee of the Board and for the attendance of other persons at its meetings and may make standing orders in respect thereof.

Committees of the Board.

4. (1) The Board may establish such committees as it may deem appropriate to perform such functions and responsibilities as it may determine.

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(2) The Board shall appoint the chairperson of a committee established under subparagraph (1) from amongst its members.

(3) The Board may where it deems appropriate, invite any person to attend the deliberations of any of its committees.

(4) All decisions by the committees appointed under subsection (1) shall be ratified by the Board.

Disclosure of interest.

5. (1) A member who has an interest in any contract, or other matter present at a meeting shall at the meeting and as soon as reasonably practicable after the commencement, disclose the fact thereof and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

(2) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.

(3) A member of the Board who contravenes subparagraph (1) shall cease to be a member of the Board upon direction of the Minister.

Contracts and instruments.

6. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal may be entered into or executed on behalf of the Board by any person generally or specially authorized by the Board for that purpose.

Common seal.

7. (1) The common seal of the Board shall be kept in such custody as the Board may direct and shall not be used except on the order of the Board.

(2) The affixing of the common seal of the Board shall be authenticated by the signature of the Chairperson, the Chief Executive Officer and one member nominated by the Board and any document not required by law to be made under seal and all decisions of the Board may be authenticated by the signatures of the Chairperson, the Chief Executive Officer and that member nominated by the Board.

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(3) The common seal of the Board when affixed to a document and duly authenticated shall be judicially and officially noticed and unless and until the contrary is proved, any necessary order or authorization by the Board under this section shall be presumed to have been duly given.

ANNEX 11



CONSTITUENCIES DEVELOPMENT FUND

IMPLEMENTATION GUIDE

Prepared and circulated by National Management Committee



ACKNOWLEDGEMENT

The Constituency Development Fund Implementation Guide is the final output of the consultation process amongst the members of the National Management Committee (NMC) and the Constituency Development Fund (CDF) secretariat. The guide was prepared by a technical subcommittee constituted and coordinated by the NMC.

The CDF secretariat wishes to acknowledge with gratitude, the contributions of all those who have been involved in this process.

Foreword

The Constituency Development Fund Implementation guide has been developed to give guidance to all stakeholders to facilitate the implementation of the Constituencies Development Fund Act, 2003 and the regulations made under the Act. The Constituencies Development Fund was established under the Constituencies Development Fund Act, 2003 with the purpose of taking development projects to the citizens at grass root level within the shortest time possible, in order to alleviate poverty. This strategy was adopted to complement other Government development efforts at the grassroots.

This guide is the first to be issued on the Constituency Development scheme. The guide seeks to operationalise the Constituency Development Fund Act, 2003 has borrowed heavily from Treasury Circular Ref. PPD 2/20/29A/10 dated 18th November, 2004 and simplifying it so that the implementers of the CDF projects may easily understand it.

While the guide has attempted to comprehensively highlight and simplify key issues of the CDF Act, 2003 and the associated CDF Regulations, it should be noted that the guide might not be exhaustive on all issues highlighted in the CDF Act, 2003. Consequently, this guide should be used together with the Act and regulations.

The guide covers the legal and institutional framework through which the Fund operates the financial and procurement procedures, the project identification, planning and implementation, monitoring and evaluation processes.

Lastly, the Constituency Development Fund is one of the many development initiatives being undertaken by the Government to address poverty in the country. It is my hope and prayer that the stakeholders will find this guide useful and use it diligently to implement the Act to realize the desired social and economic change within our economy.

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CONSTITUENCIES DEVELOPMENT FUND**

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CHAPTER ONE - INTRODUCTION AND PURPOSE OF THE GUIDE

1.0 Introduction

The Constituencies Development Fund is established under the Constituencies Development Fund Act, 2003. The Act establishes a fund known as the Constituencies Development Fund where an amount of money equal to and not less than 2.5% of all ordinary Government revenue collected every financial year is paid into.

The purpose of Constituencies Development Fund is to ensure that a specific portion of the national annual budget is devoted to the constituencies for purposes of development and in particular in the fight against poverty at the constituency level.

The regulations/guidelines governing the operations of the Constituencies Development Fund include:

- (a) The Constituencies Development Fund Act, 2003;
- (b) The Constituencies Development Fund (Regulations), 2004;
- (c) The Act governing Public Procurement;
- (d) Government Financial Procedures and Regulations; and
- (e) The circulars issued by the Treasury from time to time

1.1 Purpose of the Implementation Guide

This implementation guide has been developed to give guidance to all stakeholders to facilitate the implementation of the Constituencies Development Fund Act, 2003 and the regulations made under the Act. This guide should be used together with the Act and regulations.

The guide also seeks to provide easily understood guidance and operation instructions on all matters relating to the operation of Constituencies Development Fund.

1.2 Updating of the Implementation Guide

The guide will be updated from time to time in response to any changes that may be necessary in view of the dynamic environment in which the Constituency Development Fund operates.

The usual method of updating the guide will be through circulars from the Ministry of Finance to all stakeholders and by amendment to the

Act where appropriate, as a response to feedback from users and stakeholders.

1.3 Application of the Implementation Guide

The guide shall be used by:-

The National Management Committee
The Constituency Development Committee
The District Projects Committee
The Project Committees and
All CDF stakeholders.

CHAPTER TWO – SUMMARY OF THE ACT, 2003

2.0 Introduction

The Act is divided into the following parts:

2.1 Part I Preliminary

This part sets out the preliminary matters including definition of various terms used in the Act.

2.2 Part II – Establishment of the Constituencies Development Fund

This part establishes the Constituencies Development Fund and sets out the percentage of total ordinary revenue to be availed for the purpose of the Fund.

2.3 Part III – Submission of Constituency Projects Proposals

This part provides that the elected Member of Parliament for each constituency shall be the person responsible for the submission of project proposals for his or her constituency.

2.4 Part IV – Types of Projects

This part provides for the type of projects that are eligible for funding, sets out the minimum and maximum number of projects to be funded under the Act within a given financial year.

2.5 Part V – Constituencies Fund Committee

This part provides for the establishment by the National Assembly of a Select Committee known as the Constituencies Fund Committee to oversee the process of receiving and forwarding project proposals to the Minister for Finance among other functions.

2.6 Part VI – Implementation of Projects

This part provides for the procedure to be followed in the implementation of the constituency based projects.

2.7 Part VII – Constituencies Development Committee

This part establishes the Constituency Development Committees in every constituency.

The CDC shall have a minimum of twelve (12) and a maximum of fifteen (15) members.

2.8 Part VIII – Role of the District Projects Committee

This part defines the role of the District Project Committees as harmonization and approval of projects for onward transmission to the Clerk of the National Assembly.

2.9 Part IX – Finance and Administration

This part specifies the financial and administrative aspects of the management of the Fund. It gives the Chief Executive Officer of the Fund as well as the accounting framework under the Fund.

2.10 Part X – Miscellaneous Provisions

This part provides for issues that seek to ensure proper utilization of funds and gives penalties against any person who misappropriates funds meant for development projects under the Act.

2.11 Part XI – Schedules to the Act.

The First Schedule lists the name of organizations to nominate persons to the National Committee.

The Second Schedule gives a summary of proposed projects from each constituency.

The Third Schedule gives a brief description of projects as contained in the Second Schedule.

CHAPTER THREE

3.0 Institutional Framework

The Constituencies Development Fund Act, 2003 establishes the following committees for proper implementation of the Act.

- (a) The Constituencies Fund Committee;
- (b) The National Management Committee
- (c) The District Projects Committee; and
- (d) The Constituencies Development Committee.

3.1 Establishment of the National Management committee

Section 5 of the Act establishes the National Management Committee consisting of-

- (a) The Permanent Secretary of the Ministry of Finance or his designated alternate,
- (b) The Permanent Secretary of the Ministry of Economic Planning or his designated alternate,
- (c) The Permanent Secretary of the Ministry of Regional Development or his designated alternate,
- (d) The Permanent Secretary of the Ministry of Agriculture or his designated alternate,
- (e) The Clerk of the National Assembly or his designated alternate
- (f) Eight persons appointed by the Minister who are qualified in matters relating to finance, accounting, engineering, economics, rural development, or law; and
- (g) The Officer administering the Fund who is an ex-officio member and secretary to the committee.

3.2 Functions of the National Management Committee

The functions of the National Committee are to -

- (a) Ensure allocation and disbursement of funds to every constituency;
- (b) Ensure prudent management of the Fund;

- (c) Receive and discuss annual reports and returns from the constituencies;
- (d) Ensure the compilation of proper records, returns and reports from the constituencies;
- (e) Ensure timely submission to Parliament of various returns, reports and information as required under the Act; and
- (f) Perform such other duties, as the National Committee, in consultation with the Minister, may deem necessary from time to time for the proper management of the Fund.

3.3 Establishment and Composition of the Constituency Development Committee.

Section 23(1) of the Act establishes the Constituency Development Committee for every constituency and shall have a **minimum of twelve** and a **maximum of fifteen** (implying that the committee may co-opt three persons to the committee) comprising of:

- (a) The elected Member of Parliament for the constituency, who shall be the chairperson
- (b) Two councillors in the constituency;
- (c) One District Officer in the constituency;
- (d) Two persons representing religious organizations in the constituency;
- (e) Two men representatives from the constituency;
- (f) Two women representatives from the constituency;
- (g) One person representing the youth in the constituency and:
- (h) One person nominated from among active NGO'S if any.

The elected Member of Parliament for every constituency shall be the chairperson of the Constituency Development Committee, unless he or she opts out in which case the Committee shall elect one amongst themselves to be the chairperson.

Quorum

The quorum of the Constituency Development Committee shall be one half of the total membership.

3.3.1 Functions of the Constituencies Development Committees

- (a) To deliberate on projects proposals from all locations in the constituency and any other projects, which the Committee considers beneficial to the constituency, including joint efforts with other constituencies.
- (b) To draw up a priority list both immediate and long term, out, of which the list of projects to be submitted to Parliament in accordance with section 12 of the Act shall be drawn from and;
- (c) To ensure that appropriate consultations with the relevant Government Departments is done to ensure that cost estimates for the projects are realistic as possible: and:
- (d) To rank the projects in order of priority,

3.3.2 Term of office of members of the Constituency Development Committee

Section 11 of the Regulations provides that the members of the Constituency Development Committee other than the Members of Parliament, councillors and *ex-officio* members shall hold office for a period not exceeding two years and shall be eligible for re-appointment for one further term of two years.

3.3.3 Vacation of office by members of Constituency Development Committee

Section 12 of the Regulations:

- (a) Any member of the Constituency Development Committee other than the Members of Parliament, a councillor or an *ex-officio* member, may resign his or her office by written notification under his or her hand addressed resignation to the chairman of the committee.

- (b) Any member of the Constituency Development Committee may be removed from office by the Committee if the member-
 - (i) Has been absent for three consecutive meetings of the committee without permission from the chairman; or
 - (ii) Is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors; or
 - (iii) Is convicted of an offence involving dishonesty, fraud or moral turpitude; or
 - (iv) Is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings or to both; or
 - (v) Is incapacitated by prolonged physical or mental illness; or
 - (vi) Is otherwise unable or unfit to discharge his or her functions

3.3.4 Appointment of members of the Constituency Development Committee

- (1) In nominating members of the Constituency Development Committee the elected Member of Parliament shall have regard to-
 - (a) The honesty and integrity of the person's nominated
 - (b) The ability of the person's nominated to read and write
 - (c) The knowledge and experience of the person nominated and
 - (d) The importance of representing the political, gender and ethnic diversity on the Constituency Development Committee.
- (2) The names of persons nominated for appointment shall be submitted to the National Committee through the Clerk of the National Assembly.
- (3)** Within twenty one days after any vacancy arises in the membership of the Constituency Development Committee the elected Member of Parliament shall nominate another person to fill the vacancy, taking into consideration the provisions of paragraph (1) above and thereafter submit the name to

the National Committee in the manner provided under paragraph (2) above.

3.4 Establishment of the Constituencies Fund Committee

Section 27 of the Act establishes a Select Committee of the National Assembly known as the Constituencies Fund Committee consisting of a chairperson and not more than ten other members of Parliament who are not Ministers or Assistant Ministers of Government.

3.4.1 Functions of the Constituencies Fund Committee

- (a) To consider project proposals submitted from various constituencies in accordance with the Act and make appropriate recommendations to the Clerk of the National Assembly;
- (b) To consider and report to Parliament, with recommendations, names of persons required to be approved by Parliament under this Act;
- (c) To consider and recommend to Parliament any matter requiring action by the National Assembly pursuant to the provisions of this Act;
- (d) To oversee the implementation of the Act and in this respect, shall after every two years submit a report to the National Assembly, and where necessary, propose any amendments to this Act, in particular, with respect to the percentage of ordinary revenue repayable into the Fund in accordance with section 4 of the Act;
- (e) To oversee the policy framework and legislative matters that may arise in relation to the Fund;
- (f) To continually review the framework set out for the efficient delivery of development programmes financed through the Fund; and
- (g) To carry out any other functions relevant to the work of the Fund.

3.5 Establishment of District Projects Committee

Section 39 of the Act establishes, for every district, a committee known as the District Projects Committee whose main function is to coordinate the implementation of projects financed through the Fund

3.5.1 Composition of the Districts Projects Committee

The committee shall comprise of the following:

- (a) The members of Parliament in that district, whether elected or nominated.
- (b) All chairpersons and mayors of local authorities in the district;
- (c) The District Commissioner of the district;
- (d) The District Development Officer of the district who is the Secretary to the Committee;
- (e) The chairpersons of the Constituencies Development Committee; and
- (f) The District Accountant of the district.

All District departmental heads in a district under whose docket the various projects fall may attend District Projects Committee meetings as ex-officio members, at the invitation of the District Projects Committee.

3.5.2 Functions of the District Projects Committee

- (a) To coordinate the implementation of projects financed through the Fund;
- (b) To ensure that no duplication of projects occur particularly where it is prudent to combine efforts on projects designed to benefit a large section or sector of a community traversing several constituencies in a district; and
- (c) To examine the list of projects submitted and recommend the list of projects for onward transmission to the Clerk through the Member of Parliament for that constituency.

CHAPTER FOUR - PROJECT IDENTIFICATION, PLANNING AND IMPLEMENTATION

4.0 Introduction

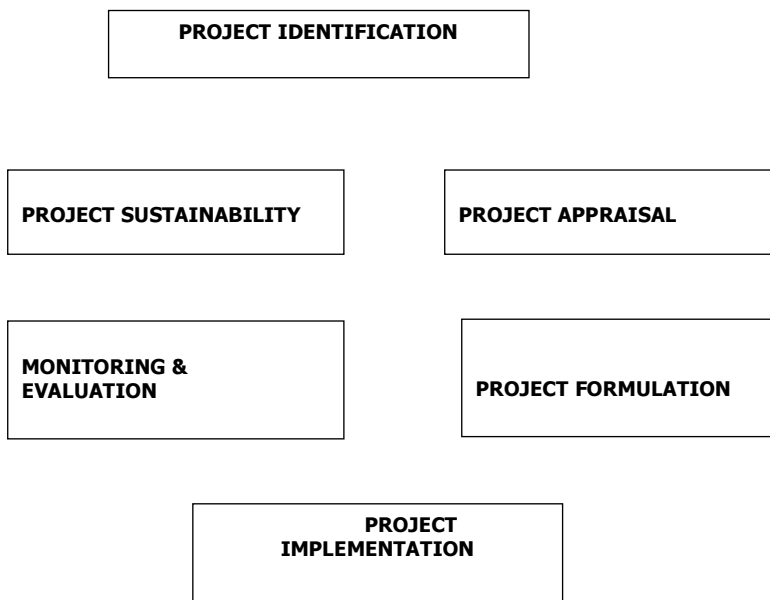
Section 23(3) of the CDF Act 2003, provides for each location to come up with a list of priority projects to be submitted to the Constituency Development Committee. The Act in Section 38 also provides for community representation in any project

undertaken within their respective constituencies or areas. The community should therefore nominate knowledgeable representative(s) who can identify and formulate projects that can have a lasting and significant socio-economic impact on the community.

4.1 Project Cycle of CDF projects

CDF projects like other projects undergo a project cycle.

CDF PROJECT CYCLE



4.2 Project Identification.

Section 23(2&3) provides for the elected Member of Parliament for every constituency shall within the first year of a new parliament and at least once every two years thereafter convene locational meetings to deliberate on development matters for the location, the constituency and the district and prepare a list of priority projects to the Constituency Development Committee. It is during these locational meetings that development needs for the constituency should be identified, deliberated on and prioritised.

4.3 Project Planning or Formulation

Section 21 of the CDF Act stipulates that all projects to be financed by the Constituencies Development Fund should be community based in order to ensure that the prospective benefits are availed to a widespread cross-section of the inhabitants of a particular area. Therefore, the location meetings in consultation with other key grassroots community members should be involved in setting of the projects objectives, identifying activities to be carried out, determining the resources required, time frames, responsibilities, expected outputs, success indicators and how monitoring and evaluation should be conducted.

The Constituency Development Committee and the District Projects Committee will also contribute to this process by ensuring that the projects submitted to the Constituencies Fund Committee are focused and address core poverty issues and that the desired outcome of the project can be achieved before onward transmission to the next stage (Section 23, 43).

4.4 Project Management and Implementation

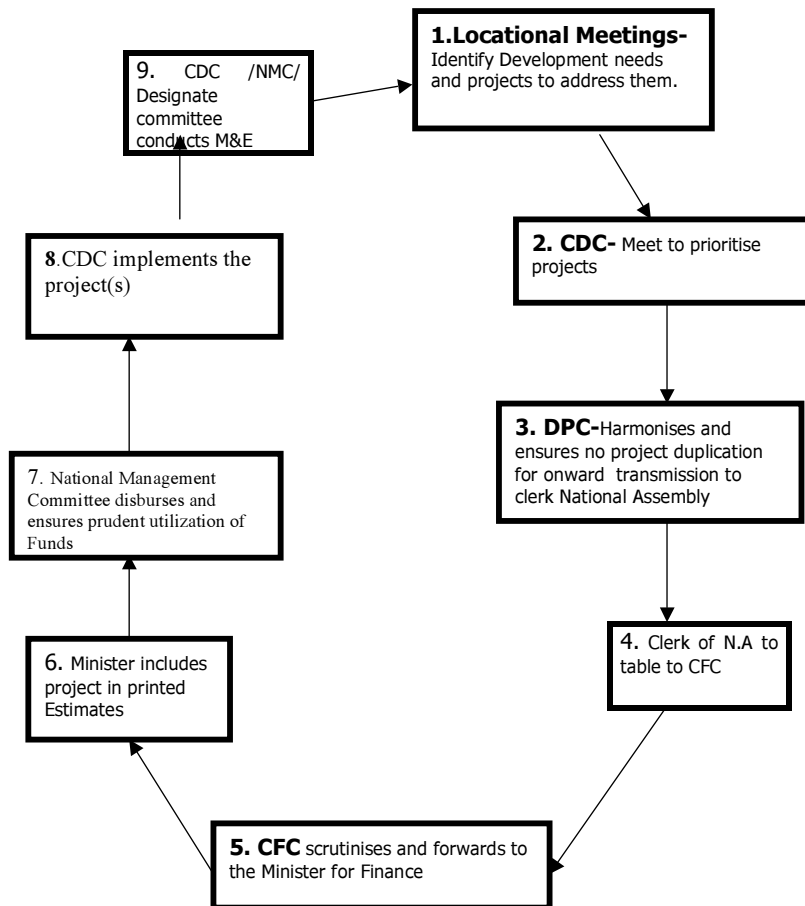
For multi-sector projects involving different government departments, the Act provides that the government department under which the project is listed in the printed estimates shall take lead in the implementation of the project. The community should participate at this stage to ascertain that project goals are accomplished using allocated resources and within specified time frames.

4.5 Project Sustainability

The Constituency Development Committee should ensure that projects are self-sustainable for long-term benefits of the community.

4.6 Diagrammatic Illustration of CDF Project Cycle

As illustrated in the diagram, CDF projects are conceived at the locational meeting stage when this meeting deliberates on development matters for the location, constituency and the entire district. The project then progressively goes through the cycle to completion.



4.7 Project Identification, Planning and Implementation checklist

In the process of project identification, planning and implementation the implementers should ensure the following:

- (a) Is the project identification process correct?
- (b) Are project objectives clear?
- (c) Do project objectives relate to properly identified needs?
- (d) Is there a plan for feasibility study before the project is implemented?
- (e) Are project outputs adequately identified and specified?
- (f) Are delivery dates for project inputs specified?
- (g) Are time frames for monitoring and evaluation specified?

- (h) Are there guidelines to manage variations and time extension relating to the project?
- (i) Is there an independent committee to manage the project?
- (j) Does the committee incorporate all the project stakeholders?

1.8 Conclusion

Projects should be properly formulated in order to meet their intended objectives.

A strong implementable monitoring and evaluation mechanism should be designed to provide for feedback mechanism to appraise the stakeholders on the progress being made

The project committee should develop evaluation tools specifying key success indicators against which you base judgments of successful or failed projects.

CHAPTER FIVE - FINANCIAL PROCEDURES

5 Introduction

The Officer Administering the Fund under the direction of the National Committee and in consultation with the Minister for Finance manages the Constituencies Development Fund. The functions of the National Committee include prudent management of the fund; allocation and disbursement of funds among others as provided for in section 6 of the Act.

The functions of the Officer Administering the Fund include supervision and control of the day to day administration of the fund, keeping proper books of accounts among others as provided for under section 7 of the Act.

All constituencies expenditures are administered from the District Headquarters, where records of amounts received by each constituency and the record of expenditure is maintained by the DDO as provided for in section 33 of the Act.

The DDO shall prepare and maintain on a monthly basis the records of expenditure in respect of every project under this Act and shall submit annual returns to the National Management committee not later than **sixty** days after the end of every financial year

The records of expenditures shall be submitted to the National Committee within **thirty** days after the close of each financial year. This is important because no disbursements for the succeeding financial year shall be made into the constituency accounts until the returns are duly received according to (section 8(4) of the Act).

5.1 CDF Funds Flow

The Minister for Finance (The Treasury) releases funds to the National Account held at Central Bank of Kenya. Once the National Management Committee receives the proposals, funds are then released to the account submitted by Constituency Development Committee. Subsequent to the release of funds an Authority to Incur Expenditure (A.I.E) is issued to the District Development Officer in two equal tranches to enable expenditures to be incurred. The release of funds to each constituency will vary according to the poverty index, in accordance with section 19 of the CDF Act, 2003. The DDO in conjunction with the District Accountant release projects grants on receipt of the work plans from the CDC.

5.2 Eligible Projects for Funding

The projects submitted for funding under this Act shall be community based in order to ensure that the prospective benefits are available to a wide cross-section of the inhabitants of a particular area.(Section 21 (1) of the Act).

5.2.1. Statutory Provisions for Funding

There are expenditures specifically recognised in the Act, such as-

- (a) Office running expenses – not more than 3% of the funds allocated for the constituency in any financial year (section 21(7) of the Act).
- (b) Emergency reserve of 5% as provided for in section 11 of the Act.
- (c) Education bursary of not more than 10% of the funds allocated for the constituency in any financial year as provided for in section 25(2) of the Act

After the above expenditures have been taken into account, the remaining amount can be allocated to other projects in such a way that no projects of a similar nature takes up funds exceeding 50% of the total annual allocation (section 22(3) of the Act).

5.3 Accessing of Funds by Constituency Development Committee

The funds to be released to the projects from the Constituency Development Fund will be treated as grants. They will be released on the basis of work plans drawn by the respective project management committees and approved by the Constituency Development Committee. The release of these grants will be subject to fulfilment of the following:

- (a) Establishment of Management Committees by the Recipients.
- (b) Adequate capacity of the recipients to process procurement and keep records for accounting purposes.

Once a minuted resolution has been passed by the Constituency Development Committee, a copy of the minutes is passed on to the District Development Officer who shall then draw and sign payment voucher, as the AIE holder. Once the voucher is completed a cheque is drawn in the name of the funded project and signed by the authorised signatories.

5.4 Constituency Account

A bank account shall be opened and maintained in the name of the constituency in a commercial bank, approved by the Minister, for every constituency in accordance with section 45 of the Act into which all funds shall be kept.

The bank account shall be separate from that of the District treasury.

The signatories to the account shall be:

- (a) Two nominees of the District Projects Committee one of whom shall be the District Accountant whose signature on every cheque shall be mandatory
- (b) The treasurer of the Constituency Development Committee
- (c) The secretary of the Constituency Development Committee

None of the signatories shall be Members of Parliament or councillors.

5.5 Accounts and Audit

Section 34 of the Act provides that all funds received under the Act shall be audited and reported upon by the Controller and Auditor General. It is the duty of the Officer Administering the Fund to ensure that full accounts are kept of all transactions for which he is responsible and cause proper accounts to be maintained and such other records as may be necessary. He should also prepare and submit to the Controller and Auditor General the annual fund accounts within the prescribed time.

Any surplus realised as a result of non- utilisation of funds in any financial year shall be retained in the Fund account. The receipts, earnings, accruals and the balance of the Fund at the close of each financial year shall not be paid into the Consolidated Fund but shall be retained for the purpose for which the Fund is established. In case of winding up of the Fund, any balance and assets standing to the credit of the Fund shall be credited to the Exchequer.

It will be the duty of the Controller and Auditor General to:

- (a) Satisfy himself that all moneys released to the Fund have been applied to the purpose for which they were so intended and that the expenditure conforms to the government financial regulations and procedures.
- (b) Require from Officer Administering the Fund any explanation or information to enable him discharge his duties
- (c) Authorize any officer on his behalf to conduct any inquiry, examination or audit, and such officer shall report to the Controller and Auditor General.
- (d) Have access to all records, books, vouchers, documents, cash, stores or other Fund property in possession of any officer.

5.6 Important Books to be Maintained by the CDC and Project Committees

- (i) Duplicate cash book for recording all monies that are received and those that are paid out.
- (ii) A ledger book for recording details of purchase.
- (iii) A folder to keep original copies of invoices/cash sales receipts. These will have supportive documents such as quotations and minutes of the project committee.
- (iv) The cheque book where a current account is maintained.
- (v) The folder for maintaining bank withdrawal slips where a savings account is maintained.
- (vi) The folder to maintain copies of approved work plans.
- (vii) Each project to have a folder to maintain progress reports.
- (viii) A copy of CDF Act and Regulations. A copy of guidelines on management/accounting.
- (ix) A secure place for keeping all accountable documents under lock and key.
- (x) A folder for maintaining bank statements.

Note: *Sample of documents to be availed*

CHAPTER SIX - PROCUREMENT PROCEDURES

6.0 Introduction

“Procurement” means the acquisition by purchase, rental, lease, hire purchase, license, tenancy, franchise, or by any other contractual means of any type of works, services goods or property.

Any institution public or voluntary established for the general welfare of the public or community-procuring using public funds shall be regarded as a public entity/ procuring entity.

6.1 Application of Existing Government Procurement Regulations to CDF Projects

- (i) Section 31 of the CDF Act, 2003, stipulates that all works and services relating to projects under this Act shall be sourced (procured) using the existing public procurement regulations in order to promote economy and efficiency;
- (ii) All Constituency Development Committees, District Project Committees and Project Committees shall be recognised as public entities/procuring entities.

6.2 Establishment of CDF Tender Committees

- (i) All Project Committees, Constituency Development Committees and District Projects Committees shall establish tender committees through which procurement shall be adjudicated/ conducted.
- (ii) The three tier tender committees may be referred as Project Tender Committee (lower), Constituency Development Tender Committee (middle) and District Projects Tender Committee (upper).
- (iii) Once established, the tender committees should be left alone to carry out their work independently without any influences.
- (iv) The primary responsibility for public procurement rests with each procuring entity and that committee member/officials concerned are accountable for any decisions that they may reach and any loss arising out of their failure to abide by the regulations.
- (v) The accountability of a procuring entity should not only be reflected in the record of expenditure but also in the delivery of services on the ground.

6.2.1 District Projects Tender Committee

The District Projects Tender Committee (DPTC) shall be composed of all the members of the District Projects Committee (DPC) except the Members of Parliament and councillors.

6.2.2 Membership Structure

Chairman:

The chairman shall be elected among members of the committee

Members:

- (a) The District Commissioner of that district;
- (b) The chairpersons of the Constituency Development Committees
- (c) The District Accountant of the district.

Secretary:

The District Development Officer of the district shall be the secretary of the committee.

Quorum The quorum shall be one half of the members of the committee

6.2.3 Role and Responsibility of the District Projects Tender Committee

- (a) To award contracts through open tender, restricted tenders, requests for proposals or direct procurement where the contract value is above Kshs. 10,000,000.00 per item, (may adjudicate on tenders below the threshold provided the project proposal is within its mandate or where it oversees common projects cross cutting the constituencies.)
- (b) To award contracts through open tender for renting, hiring, letting or sub-letting of buildings and other facilities of a constituency above Kshs. 10,000,000.00 per item,
- (c) To approve bids through open tender for sale or disposal of stores/ equipment etc.
- (d) To approve variations of contract conditions previously awarded by the Committee.

6.3. Constituency Development Tender Committee

The Constituency Development Tender Committee (CDTC) shall be composed of seven members from the Constituency Development Committee (CDC). The Members of Parliament and Councillors shall not be members of the Constituency Development Tender Committee.

6.3.1 Membership Structure

- | | | |
|------------------|---|---|
| Members | - | One District Officer in the Constituency |
| | - | Treasurer of the Constituency Development Committee |
| | - | Five members elected from the Constituency (Development Committee |
| Chairman | - | The chairman shall be elected from among members of the committee |
| Secretary | - | The CDC Secretary shall be the secretary to the tender committee |
| Quorum | - | The quorum shall be formed by four members of the committee. |

6.3.2 Role and Responsibility of Constituency Development Tender Committee: -

- (a) To award contracts through open tender, restricted tenders, requests for proposals or direct procurement where the contract value is between Kshs5,000,000.00 and Kshs. 10,000,000.00 per item,(may adjudicate on tenders below the threshold provided the project proposal is in the approved list)
- (b) To award contracts through open tender for renting, hiring, letting or sub-letting of buildings and other facilities of the constituency within the threshold set in (a) above.
- (c) To approve bids through open tender for sale or disposal of stores/equipment etc.
- (d) To approve variations of contract conditions previously awarded by the Committee.

6.4 Projects Tender Committee

- (a) With respect to project committees, there already exist some established procuring entities (e.g schools, colleges, hospitals, health centre etc.) within the definition of public entities through which, procurement shall be conducted.
- (b) Each project committee shall process its procurement if it has adequate capacity and keep records for accounting purposes and members are conversant with accounting procedures etc.
- (c) Where a project committee does not have the required capacity for procurement assistance will be sought from relevant Government departments in the district.
- (d) The Projects Tender Committee shall be composed of not less than five members and not more than seven members. The chairman, treasurer and secretary shall be elected among members for those projects that an established procuring entity does not exist.

6.4.1 Role and Responsibility of Projects Tender Committee

- (a) To award contracts through request for quotation or direct procurement where the contract value is below Ksh. 5,000,000.00 per item (all procurement by the projects committee above Kshs. 100,000.00 shall be tabled at the projects tender committee for adjudication)
- (b) To approve sale or disposal of stores/ equipment whose value is below Kshs. 5,000,000.00
- (c) To approve variations of contract conditions previously awarded by the Committee

6.5 Introduction of Items on the Agenda

- (a) The secretary to the tender committee shall ensure that the agenda for each procurement is prepared after proper analysis of the bids and tabled at the tender committee meeting for adjudication and award.
- (b) The funds for the resultant expenditure shall be confirmed before the adjudication and award to avoid committing the procuring entity to obligations without the corresponding funds.

6.6 Awarding of Tenders

- (a) The tender Committees shall discuss and award tenders above Kshs. 100,000.00 per item taking into account all the information that has been made available to them on a particular procurement.
- (b) The tender committee may review its decision if there is new information.
- (c) The tender committees shall not split orders to avoid a procurement method.
- (d) Decisions shall be reached by consensus but in case of voting, by simple majority, in case of a tie, the chairman shall have a second vote.
- (e) Tender committee decisions shall be collective responsibility
- (f) The departmental heads who are ex-officio members attending tender committee deliberations are not eligible to vote.
- (g) The tender committees should endeavour to carryout market surveys before adjudicating on tenders to ensure that the cost estimates are realistic.
- (h) The cost estimates for technical items may be obtained from the technical departments.
- (i) Market intelligence information may also be obtained through any mode of communication provided the information obtained is confirmed in writing.
- (j) The procurement should not be expenditure driven but should be based on realistic estimates. Savings on projects should be paid or maintained into the respective constituency account as provided for in the Act.
- (k) The tender committee may grant authority for immediate communication if the procurement is urgent in order for the procurement process to proceed after tender award before the confirmation of the minutes.
- (l) The tender committee authority for immediate communication shall have a brief description of the award, date of the meeting awarding the contract, minute number, and names of the committee members present. The chairman, secretary and at least one committee member must sign the authority.
- (m) No procurement decisions shall be made outside the tender committee.

6.7 Thresholds/Ceilings

The procurement thresholds for the tender committees are as follows:

	Threshold/Ceilings	Implementing / tender committee	Procurement Method
1	0 – 100,000/=	All tender committees depending on the project being implemented	Direct Procurement or request for quotation
2	Between Kshs. 100,000 and Kshs. 5,000,000	All tender committees depending on the project being implemented	Request for quotation or alternative Procurement method appropriate
3	Between Kshs. 5,000,000 and Kshs.10, 000,000	Constituency Development Tender Committee and the District Projects Tender Committee (if the DPTC is implementing a project cross cutting the Constituencies)	Open tender or alternative Procurement method appropriate
4	Above Kshs. 10,000,000	District Projects Tender Committee	Open tender or alternative Procurement method appropriate

Note

- (i) The threshold above sets out the maximum contract value the Projects Tender Committee and the Constituency Tender Committee shall adjudicate on.
- (ii) The Constituency Tender Committee and the District Tender Committee may adjudicate on tenders below the set thresholds provided the item(s) are reflected in their approved project proposal or:
- (iii) A tender committee may procure items for the lower tender committees to benefit from the economies of scale applicable to large volume purchase.

6.8 Procurement Process

Procurement process/ cycle starts with the initiation of procurement by the procuring entity and entails the following:

6.8.1 Procurement Planning

- (i) Planning is an integral process in procurement and it is used by the procuring entities as a tool outlining the broad procurement processes involved for a particular project. The

- procurement plan covers the entire period of the project. The project period may cover one financial year or several financial years.
- (ii) The minute details of a procurement plan or the implementation aspects should be enumerated in a work plan showing the phases of the project, the time frames within which specific procurement activities are to be undertaken, the persons assigned these tasks in order to achieve the desired results.
 - (iii) The work plan should be based on the approved project proposals and to which funds have been allocated and disbursed.
 - (iv) Procurement will be undertaken on the basis of the work plans drawn by the respective tender committee.

The work plan should have the following details (where applicable):

- (a) Contract package (Goods/ works or services);
- (b) Estimated cost;
- (c) Procurement Method; and
- (d) Dates for completion of key procurement activities.

The format for procurement plan on which the work plan may be derived is shown in annex VII

6.8.2 Notifications of Existing Procurement Opportunities and Participation of the Community in Procurement

- (i) After the projects have been approved and funds allocated and disbursed, the exiting procurement opportunities shall be notified to the inhabitants of the area to enable them express interest for participation in the intended procurement.
- (ii) The notification may be through public pronouncements in local meetings, notices placed in public places, print and broadcast media, as well as, the internet or whichever is feasible etc.
- (iii) The notice should indicate the specific item description or requirement and the qualification necessary for the bidders to be invited to quote/ tender and details where and when the expression of interest must be submitted
- (iv) This may be used as the pre-qualification list.

6.8.3 Advertisement for Requirements

- (i) The procurement of goods, works or services not exceeding Kshs. 5,000,000.00 per single item in a financial year may be advertised through public pronouncements in local meetings, notices placed in public places, print and broadcast media, as well as, the internet or whichever is feasible etc.
- (ii) The advertisement should indicate when quotations/ tenders are to be collected/ bought and returned.
- (iii) The mode, place and date of advertisement shall be indicated/ minuted by the tender committee.
- (iv) The procurement of goods, works or services exceeding Kshs. 5,000,000.00 per single item in a financial year shall be advertised in at least two newspapers of nation wide circulation for a minimum period of 21 days before tenders are closed/ opened.
- (v) Procurements requiring international tendering shall be advertised for a minimum period of 42 days before the tenders are closed/ opened.
- (vi) The advertisement shall set out the requirement for qualification/ participation in the tendering process.

6.8.4 Closing Date and Time

The bidders should be given reasonable time within which to fill and return their bids. The closing date and time of the quotation/ tender should be clearly indicated on the quotation form or on the tender advertisement notice.

6.8.5 Submission of Bids

The bids should be returned and placed at a central place at the offices of the procuring entity, in a secure tender/ quotation box with two padlocks whose keys shall be kept by two different responsible designated committee members/ officers.

6.8.6 Quotation/Tender Opening

- (i) The quotations or tenders shall be opened by at least three authorised committee members/ officers.
- (ii) The names of the bidders who returned bids, their prices and the compliance or non compliance to tender /quotation conditions shall be read out during the tender/ quotation opening and the same recorded in the minutes for the tender opening.
- (iii) The committee members/ officers present shall sign the bids opened. Interested bidders should be allowed to witness the opening.

6.8.7 Scheduling/Technical Evaluation

A price comparison schedule should be prepared to determine the lowest bidder. For specialised items requiring technical evaluation, the department where the project falls should be consulted for the preparation of the specifications/ bills of quantity (BOQs) and evaluation e.g. water pumps, generators, computers etc.

6.8.8 Contract Awards

Awards should be made to the lowest evaluated bidder meeting the tender/ quotation conditions including the stated delivery period etc. in case of standardised or off the shelf items. In case of specialised items, awards should be made to the best-evaluated bidder. Warranty may be required for specialised items.

6.8.9 Notification of Award

- (i) The successful bidder shall be notified before the purchase/ service order is placed for a contract whose value does not exceeds Kshs. 100,000.00.
- (ii) Where the contract value exceeds Kshs. 100,000.00, the procuring entity shall inform the successful bidder who should confirm the acceptance of the contract. The correspondence should be in writing.
- (iii) The unsuccessful bidders shall be simultaneously notified as the successful bidder is being notified
- (iv) A summary of the award shall be placed on the notice board at the offices of the procuring entity immediately the award is made showing the name and address of the bidder who won the contract and the contract price.

6.8.10 Contract Agreement

- (i) A contract agreement shall be entered between the procuring entity and the successful bidder for any contract whose value exceeds Kshs. 100,000.00.
- (ii) All parties to the contract shall perform their part failure to which the defaulting party shall be liable for breach of contract.
- (iii) The contract agreement ends when both parties to the contract perform their specified obligations or when both parties mutually agree to terminate the same.

6.9 Payments

Payments shall only be made upon certification of receipt of goods or performance of services or on completion of the stated works by designated committee member/officer.

All payment vouchers should be accompanied by (where applicable):

- (i) The original receipt or invoice from the supplier/ contractor
- (ii) Copy of delivery note certified by authorised persons
- (iii) Copy of contract documents
- (iv) Copy of minutes of the respective tender Committee
- (v) Copy of declaration form for purchase of supplies/ works and services

The procuring entities should ensure that suppliers/ contractors etc. are paid promptly to avoid payment of interest on over due amounts and also to bring down prices and to lower the cost of doing business.

6.10 Procurement Procedures/Methods

6.10.1 Open Tendering –Advertisement

Open tendering is the preferred public procurement procedure. The procurement of goods, works and services, the value of which is in excess Kshs. 5,000,000.00 per item in a financial year should be advertised with a view to reaching a wide spectrum of potential tenderers/bidders in the respective constituency or district.

6.10.2 Other Procurement Methods

The respective tender Committee may approve the use of a procurement method other than open tendering as follows:

1. Restricted Tendering

The Constituency Development Tender Committees and District Projects Tender Committees may use restricted tendering procedure when:

- (i) Procuring complex or specialised goods, works and the competition for the contract should be limited to a few qualified candidates.
- (ii) The time and cost required to examine and evaluate a large number of tenders would be disproportional to the value of the goods, works or services
- (iii) The respective tender committee shall give a written report to the Treasury (Ministry of Finance) in respect of every procurement made under restricted tendering procedure.

- (iv) The tenders should be addressed to a minimum of three candidates.
- (v) The respective tender committee may use a list of pre-qualified candidates/bidders of another procuring entity.
- (vi) The value of the goods, works or services shall not exceed:
 - (a) Kshs. 10,000,000.00 for Constituency Development Tender Committee
 - (b) Kshs. 20,000,000.00 for District Projects Tender Committee
- (vii) Where the contract value exceeds Kshs. 20,000,000.00, authority shall be sought from the Treasury (Ministry of Finance)

2. Direct Procurement

- (i) Direct procurement is by definition, a non-competitive method. As such, it must be restricted to cases where no reasonable alternative exists to dealing with just one candidate/bidder.
- (ii) Those exceptional situations might arise in relation to catastrophes, necessitating an urgent need or requiring urgent action, and in the case of minor add-ons to contracts won through a competitive procedure.
- (iii) The Projects Tender Committee, Constituency Development Tender Committee and the District Tender Committee may use Direct procurement where the contract value does not exceed Kshs. 300,000.00
- (iv) Where the contract value exceeds Kshs. 300,000.00, authority shall be sought from the Treasury (Ministry of Finance) for direct procurement.

NB: An **urgent need** may be defined as the need for the goods, works or services, where there is an imminent threat to public health, welfare, or safety, or an imminent threat of damage to property and so engaging in tendering proceedings or other procurement methods would therefore not be practicable.

3. Request for Proposals

- (i) The request for proposals method is designed particularly for consulting services or other services for which it is not feasible for the procuring entity to formulate precise or final specifications.
- (ii) Such situations may arise in design/ construction and/ in procurement of high technology items such as sophisticated information technology equipment and services.
- (iii) A minimum of three quotations must be obtained.

4. Request for Quotations

This method is quite adequate for relatively small purchases of standardised goods; works and services provided the estimated value per item in one financial year does not exceed Kshs 5,000,000.00. The Projects Tender Committee, Constituency Development Tender Committee and the District Projects Tender Committee may use request for quotations from as many candidates as possible but not less than three.

The purchase order shall be placed with the candidates / bidders who meets the requirements and who quote the lowest evaluated price.

6.11 Provision of Tender Documents

- (i) All procuring entities shall use standard tender documents prepared for use by all procuring entities within the public sector. A list of the said documents is as per annex III.
- (ii) Where the cost of producing tender documents is high, the tender committee may charge a small fee to off set the expenses of production of the BOQ'S etc.
- (iii) The cost should be reasonable but should not be used to discourage potential bidders.

6.12 Bid Bond/ Tender Security

- (i) The tender committee may request for bid bonds particularly for tenders attracting bidders from outside the constituency or district. The bid bond requested should be of reasonable value and should not be too high to discourage effective competition.
- (ii) The bid bond should be of fixed amount and should not exceed 2.5% of the estimated contract value.
- (iii) The bid bonds should be returned to the bidders immediately the procurement process is concluded.

6.13 Business Questionnaire

The bidders should be requested to fill in the business questionnaire if necessary in order to determine the identity of the bidders and their capacity. (Refer to Annex V).

6.14 Stores Control/ Book Keeping Procedure

6.14.1 Receipt of Goods

The delivery/ receipt of goods or items shall be recorded in stock register i.e S13 by responsible designated persons. The goods should be kept in a safe and secure place to avoid damage or theft.

6.14.2 Issue of Goods

The goods received shall be issued from the stores by use of stock register i.e S11. A responsible designated person shall enter the entries in the stock register in the records everyday. The entries into the register shall be made in *ink* and *not* in *pencil*.

The procuring entities may use counter register book with appropriate columns in order to monitor the usage, balance, price etc as per *annex vi*.

6.14.3 Disposal of Stores and Equipment

According to CDF Act, 2003 section 30(3), in the event of disposal of items procured by the Constituency Development Committees for whatever reasons, the amount realised shall be paid into the account of that constituency.

The advertisement for disposal shall be done in similar manner as the advertisement for procurement. For disposal of equipment the technical department shall be consulted for valuation to be down to determine the reserve price. Items should not be sold below the reserve price.

6.15 Records of Procurement

The procurement records shall be prepared and kept for a period of 6 (six) years by the procuring entity from the date each procurement proceedings is concluded, for reference. The procuring entity shall retain the original documents for auditing purposes as provided by section 34 of the CDF Act, 2003, the record shall be maintained by the secretary of the tender committee.

6.16 Filing of Procurement Records

The procuring entity shall maintain files for the following documents (where applicable) for effective audit trail in the procurement process:

1. Supplier register
2. Project proposal reflected in the printed estimates
3. Procurement plans/ work plans
4. Bills of Quantities/ specifications/requirements for each procurement
5. Quotation register/ file
6. Quotations/tenders/ bids received and analysed
7. Tender opening minutes
8. Price Comparison Schedules
9. Market Survey Reports
10. Tender Committee Agenda file (for every member)
11. Tender Committee - Minute file (for every member)
12. Immediate Communication file
13. Delivery notes/ Certificates of completion
14. Contract Agreement register
15. Stores records etc.

All accountable records shall be kept under lock and key while not in use. The documents shall be handled by authorised persons only.

The procuring entities are encouraged to maintain and keep their records where applicable by use of computer as a back up.

6.17 Declaration form for purchase of supplies/ works and services

Due to the rural set up, there may be cases where the suppliers/ contractors/ artisans or service providers are unable to furnish cash sale receipt(s) or invoice(s) for one reason or the other. The procuring entities may use the declaration form for purchase as shown in annex VII.

Authorised persons should certify this form. A copy of this form may be used for payment purposes.

6.18 Partially completed works/services

Given that the main objective of the Fund is to alleviate poverty at the grassroots and bearing in mind that some activities or works may require substantial amount of capital, the local artisans or service providers may be:

Paid piece meal for the work done/goods supplied to enable them have the funds to proceed with the deliveries or uncompleted works/ services.

6.19 Handing over/ Taking over procedure

Once the tenure of the committee member(s) comes to an end for whatever reasons, the outgoing committee member particularly those

handling procurements records and other accountable documents and the incoming committee member(s) and who are to handle the said records must sign for the records being handed over/ taken over. All the records shall be documented including the closed documents / closed files, the ones in use and the leaf pads/ pages used and unused.

6.20 General

6.20.1 Consultative Forum

The public procurement regulations established a forum for a dialogue between candidates and the procuring entities on all issues regarding the status of business between them with a view to improving their relationship. All stakeholders should take advantage of this forum for the benefit of all.

6.20.2 Role of the Appeals /Review Board

The Appeal/ Review Board is established as a forum for the stakeholders to air their complaints where tenders have not been awarded fairly.

Tenderers/ bidders are therefore encouraged to forward complaints as directed by the Appeals/Review Board.

6.21 Transparency and Accountability

The procuring entity shall ensure that there are clear separation of responsibilities of different committees/ committee members/ officers pertaining to the procurement process i.e initiation, adjudication of contracts, commitment of funds, receipt and issue of goods, services or works.

The procuring entity may only terminate a procurement process before entering into a contract if it is for the public good.

The procuring entity shall take steps as are necessary to ensure that the goods, services or works procured conform to the technical specifications set out in the bidding documents.

The procuring entities shall conduct asset inventories on a regular basis and shall maintain up to date records of all assets and property acquired using resources of the Fund.

CHAPTER SEVEN- MONITORING AND EVALUATION

7.0 Introduction

The CDF Act, 2003, envisages that the projects being implemented under the Fund will be subjected to M&E on a regular basis. Section 30(4) of the Act stipulates that the CDC shall be responsible for monitoring the implementation of the projects and may designate a sub-committee, a location committee or a project committee, the functions of monitoring on-going project. Section 6 of the Act clearly spells out the functions of the National Management Committee, which is prudent management of the Fund for successful implementation of the projects. Section 8 mandates this committee to approve all disbursements to constituency projects while section 32 requires departmental heads to oversee the progress of projects under their jurisdiction. This therefore calls for a system of tracking progress on a continuous basis.

Consequently, as the Act provides, there is need for Monitoring and Evaluation of projects on a continuous basis to oversee their successful implementation. The following is a checklist of some of the specific project aspects to be monitored:

1. Institutional Framework

- Existence of CDC as evidenced by the records of minutes of the meetings and other records;
- Functionality of the office evidenced by the physical space, bank transactions, tender records;
- Existence of project committees for specific projects;
- Existence of project tender committees (as evidenced by tender committee minutes)
- Authenticity of records maintained by NMC
- Evidence of the interface between CDC and evidence of expenditure on the 3% and 5% administrative and emergency funds respectively.

2. Project Parameters

Physical examination of the projects:

- Project proposals
- Projects title
- Project purpose
- Brief description of the project
- Work Plans

Start date
 Expected completion date
 Amount spent
 Project status
 Total Project cost
 Balance required to complete the project
 Co-financing
 Implementer/Contractor
 Likely impact on beneficiaries (Social Economic)

NB: The community need to appreciate that Monitoring and Evaluation are participatory processes that involve all project stakeholders in collecting, processing and communicating information to assist in decision-making. The purpose of this exercise is to ensure that the project objectives are being accomplished at every stage as the project goes through the cycle.

The exercise should be a continuous feedback system, on going throughout the life of a project or programme (taking along all stakeholders), and it should involve the overseeing or periodic review of each activity at every level of implementation to ensure that:

Inputs are ready on time
 Work plans are followed as closely as possible
 Adjustments can be made, and corrective actions taken, where necessary
 People, who need to know, are kept informed
 Constraints and risks can be foreseen, and timely solutions found
 Resources are used efficiently and effectively
 Best practices are identified and followed.

7.1 General Monitoring and Evaluation Checklist

- a. Does the project have objectives, which clearly state its purpose and desired outcomes?
- b. Is there a written project document?
- c. Is the expenditure progress of the project monitored, especially before making further expenditure commitments?
- d. Have you developed performance indicators and evaluation procedures to review projects and assess their final outcomes?
- e. Are all evaluations and their outcomes documented and used to assist with necessary project adjustments?
- f. Does the project have any negative consequences, which were not intended or anticipated in its design?

- g. What were the responses of the project beneficiaries to the inputs, services, or other forms of benefits and impact provided by the project?

ANNEX I**Constituency Development Fund****NO. 10****SECOND SCHEDULE****(Sec. 14)****STANDARD CONSTITUENCY PROJECTS SUBMISSION FORM**

Name of Constituency----- Financial Year-----

District-----Province-----

SERIAL NUMBER	NAME OF PROJECT	COST ESTIMATES In Kshs.
TOTAL FOR THE YEAR Kshs. -----		-----

1. Name of Member of Parliament----- Signature-----

2. Name of Member of Constituency Development Committee -----

Signature-----

3. Name of Chairman Of District Project Committee -----

Signature-----

Date-----

ANNEX II

Constituency Development Fund

NO. 10

**THIRD SCHEDULE
PROJECTS DESCRIPTION FORM**

(S. 15) **STANDARD**

(To be completed in consultation with District departmental head)

Constituency----- District-----Province-----

Project Number-----Project Title-----

Relevant Government Department-----
-

Status of the project (tick one) New-----Extension-----On-going-----

Rehabilitation-----

Brief Statement on the progress at the time of submission

Financial Year under reference 1ST July-----to 30th June -----

Original Cost Estimates, in kshs. -----dated-----

Amount allocated last financial year-----

Person completing form: Signature -----

Name -----

Position -----

Date -----

ANNEX III - Standard Procurement Documents

Standard procurement documents, which have been established through a standardization process, are to be used for all or most procurement of items by all Public Procuring Entities.

Some of the standard documents are obtainable from the Government Printer, while others and/or all of them may be printed by individual organizations. Further advice may be sought from the Treasury (Ministry of Finance). The documents include the following: -

1. Request for Quotations Form
2. Procurement Requisition Form
3. Local Procurement Order
4. Local Service Order
5. Order Amendment Form
6. Tender Register
7. Register of Samples
8. Confidential Business Questionnaire
9. Application for Adjudication of Tender/Quotation
10. Board of Survey Form
11. Disposal Certificate
12. Destruction Certificate

The following tender documents are maintained as separate documents

13. Standard Tender Document for Procurement of Works (Building and other Associated Civil Engineering Works).
14. Standard Tender Document for Procurement of Works (Roads, Bridges, Water etc).
15. Standard Tender Document for Procurement of Works (Electrical and Mechanical)
16. Standard Tender Document for Procurement of Small Works.
17. Standard Tender Document for Procurement of Goods.
18. Standard Tender Document for Request for Proposals (Selection of Consultants)

**ANNEX IV
 FORMAT FOR AGENDA/ MINUTE WRITING FOR TENDER COMMITTEE**

AGENDA/ MINUTE NO.-----
ITEM DESCRIPTION-----
ALLOCATION IN PRINTED ESTIMATES FOR THE ITEM/PROJECT-----
AMOUNT SPENT (if any)----- **BALANCE AS PER** (insert date)
ESTIMATED COST-----**ACTUAL COST**-----**SAVING/VARIANCE**-----
DATE QUOTATION SENT OUT/ TENDER ADVERTISED-----
CLOSING/OPENING DATE -----
NO. OF BIDDERS INVITED/BOUGHT DOCUMENTS-----
NUMBER & NAME OF BIDDERS WHO RESPONDED- returned documents
PRICE COMPARISON SCHEDULE
COMMENTS BY THE SECRETARIAT
MARKET SURVEY REPORT- SUMMARY(Where applicable)
TECHNICAL EVALUATION REPORT- IN BRIEF (Where applicable)
TENDER COMMITTEE COMMENTS/ REMARKS
TENDER COMMITTEE DECISION/AWARD

ITEM DESCRIPTION -----
AWARDEE M/S ----- P.O.BOX-----
CONTRACT SUM -----
RETENSION SUM----- (where applicable)
DELIVERY PERIOD/ COMPLETION PERIOD-----
WARRANTY PERIOD (in case of machines, plant/ equipment where applicable)
MAINTENANCE CHARGES/SERVICE CONTRACT/TRAINING ELEMENT etc(Where applicable)
REMARKS (brief comments for awarding the selected supplier/ contractor)
IMMEDIATE COMMUNICATION (if it is sought and granted depending on the urgency of the procurement)

ANNEX V**CONFIDENTIAL BUSINESS QUESTIONNAIRE**

You are requested to give the particulars indicated in Part I and either Part 2 (a), 2 (b) or 2 (c) whichever applies to your type of business.

You are advised that it is a serious offence to give false information on this form

<p><i>Part I- General :</i></p> <p>Business Name</p> <p>Location of business premises.....</p> <p>Plot No. Street/Road.....</p> <p>Postal Address.....Tel. No.....</p> <p>Nature of business.....</p> <p>Current Trade Licence No.....Expiring date.....</p> <p>Maximum value of business which you can handle at any one time : K£.....</p> <p>Name of your bankers.....Branch</p>
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Part 2 (a) – Sole Proprietor																					
Your name in full.....Age.....																					
Nationality.....Country of origin.....																					
*Citizenship details.....																					
Part 2 (b) Partnership																					
Given details of partners as follows:																					
	<table border="0"> <thead> <tr> <th style="text-align: left;"><i>Name</i></th> <th style="text-align: left;"><i>Nationality</i></th> <th style="text-align: left;"><i>Citizenship Details</i></th> <th style="text-align: left;"><i>Shares</i></th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>2.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>3.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>4.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> </tbody> </table>	<i>Name</i>	<i>Nationality</i>	<i>Citizenship Details</i>	<i>Shares</i>	1.	2.	3.	4.
<i>Name</i>	<i>Nationality</i>	<i>Citizenship Details</i>	<i>Shares</i>																		
1.																		
2.																		
3.																		
4.																		
Part 2 (c) – Registered Company:																					
Private or Public.....																					
State the nominal and issued capital of company-																					
Nominal K£.....																					
Issued K£.....																					
Given details of all directors as follows:-																					
	<table border="0"> <thead> <tr> <th style="text-align: left;"><i>Name</i></th> <th style="text-align: left;"><i>Nationality</i></th> <th style="text-align: left;"><i>Citizenship Details</i></th> <th style="text-align: left;"><i>Shares</i></th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>2.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>3.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> </tbody> </table>	<i>Name</i>	<i>Nationality</i>	<i>Citizenship Details</i>	<i>Shares</i>	1.	2.	3.				
<i>Name</i>	<i>Nationality</i>	<i>Citizenship Details</i>	<i>Shares</i>																		
1.																		
2.																		
3.																		
Date	Signature of Candidate.....																				

*if Kenya Citizen, indicate under "Citizenship Details" whether by Birth, Naturalization or Registration.

ANNEX VI

FORMAT FOR STOCK REGISTER

	Date of Receipt	Description of Items	Cash Sale Receipt No.	Invoice No.	Unit Price	Total Qty Received	Total Price	Name, ID & Sign. of Receiver	Declaration No. & Date	Qty Received as per 7
1	2	3	4	5	6	7	8	9	10	11

NB: 1-10 Receipt Side
11-15 Issues Side

ANNEX VII

FORMAT FOR DECLARATION FORM FOR PURCHASES OF SUPPLIES AND SERVICES

Entry No. in Stock Register	Date of Receipt	Name, ID and Sign. Of person supplying or providing service	Item Description	Total Value	Name, ID and Signature of Person purchasing	Remarks

Constituency-----**Project Name**-----
-----**Financial Year**-----

Date-----

Authorised by (1) ----- **Signature-**

----- **(2)** ----- **Signature-**

ANNEX VIII**FORMAT FOR PROCUREMENT PLAN****Constituency** -----

Project Name -----

--

Financial Year -----

-

S/NO	Item Description	Unit of Issue	QTY	Estimated Cost	Procurement Method	Quo./ Tender Preparation Date	Quo./ Tender Submission Date	CDC/DPC Approval Date	Rem (Min Ref.)

ANNEX IX**FORMAT FOR TENDER/ QUOTATION REGISTER**

No. Allocated to Quo/ tender	Item Description	Unit Of Issue	Total Quantity	Date Sent out or Advertised	Names of bidders invited	Closing Date	Names of Bidders Who Responded	Quo/Tender Opened by	Re

**ANNEX X
CONSTITUENCY DEVELOPMENT COMMITTEE CONTRACT AGREEMENT
(WORKS)****CONTRACT for**-----

AN AGREEMENT made the -----day of -----in
the year----------**BETWEEN**-----

(herein called the 'Contractor') on one part and -----Constituency
Development Committee (CDC) or -----

Projects Committee (PC) (herein called the 'Employer') of the other part where it is
mutually agreed that the Contractor will provide the services of:-----

1. The contractor will execute and complete the above motioned works shown upon the description referred in the Bill of Quantities.
2. The ----- CDC or PC will pay the contractor the sum of **Kshs.** -----
(herein referred to as 'Contract Sum') or such other sum as shall become payable subject to:
3. The Contractor is liable to undertake the said works under any circumstances or conditions at the above cost, without breach.
4. Retention of 10% will be paid ----- months after completion of the contract and issue of final certificate acknowledging satisfactory workmanship/completion of works.

Name ----- Signature -----
Stamp-----
(Contractor)

Witnessed by

Name ----- Signature-----
Stamp-----
(Contractor Representative)

In the presence of CDC OR PC officials of P.O. BOX -----

Name ----- Signature-----
Designation-----

Name ----- Signature-----
Designation-----

Name ----- Signature-----
Designation-----

**ANNEX XI
CONSTITUENCY DEVELOPMENT COMMITTEE CONTRACT AGREEMENT
(GOODS)**

CONTRACT for-----

AN AGREEMENT made the -----day of -----in
the year-----

-----**BETWEEN**-----
----- (herein called the 'Supplier') on one part
and -----Constituency Development Committee (CDC) or -----

Projects Committee (PC) (herein called the 'Employer') of the other part where it is mutually agreed as follows;

1. The supplier hereby agrees to supply and deliver the items specified as per Quotation/Tender No. -----
2. In Consideration of the said supply and delivery the CDC or the PC hereby agrees to pay the sum of **Kshs.**-----

----- (herein referred to as 'Contract Sum') to the supplier at the rates or prices respectively set out in the Quotation/Tender form and payments shall be under the following terms:-

3. The deliveries shall be made by the supplier upon orders signed by -----

4. This agreement is subjected to the General Conditions of the contract hereafter stated.
 - (a) The supplier shall not give, bargain, sell or otherwise dispose of the contract or any part without prior notice in writing to the Employer.
 - (b) The supplier warrants all items delivered to be free from defect of material or workmanship and this warrant shall survive any inspection, delivery, acceptance or payment by the Employer.
 - (c) The items delivered shall be of quality, standard or specifications described in the tender or quotation, otherwise the Employer has the right to reject the inferior items.
 - (d) Should the supplier fail to supply any of the items on the dates or within the period(s), the supplier shall be made liable to make good to the

employer all loss and damage occasioned by such failure, including any reasonable price (whether greater than the appropriate contract price or not) paid by the Employer in purchasing the items on which defaults have been made, from a source other than the supplier.

- (e) The contract shall be terminated by either party through a notice of one month.
- (f) The contract shall be considered as contract made in Kenya and subject to the Laws of Kenya.

Name ----- Signature -----
 Stamp-----
 (Supplier)

Witnessed by

Name ----- Signature -----
 Stamp-----
 (Suppliers Representative)

In the presence of CDC OR PC officials

Name ----- Signature-----
 Designation-----

Name ----- Signature-----
 Designation-----

Name ----- Signature-----
 Designation-----



ANNEX XII
DOCUMENTS THAT FORM PART OF THE CONTRACT AGREEMENT DOCUMENT
ARE (where applicable)

Letter of Acceptance

Tender/ Quotation Document

Conditions of Contract

Specifications

Drawings

Priced Bills of Quantities etc.

ANNEX XIII

CDF PROJECT REPORTING FORMAT

DISRICT

CONSTITUECY

FINANCIAL

YEAR

PROJECT CODE	PROJECT NAME	SECTOR	DIVISION	LOCATION/ SUBLOCATION	AMOUNT ALLOCATION IN KSHS.	AMOUNT SPENT
-------------------------	-------------------------	---------------	-----------------	----------------------------------	---	---------------------

SIGNED BY

.....

CDC CHAIRMAN

CDC SECRETARY

ANNEX XIV

CDF FINANCIAL REPORTING FORMAT

DISRICT

CONSTITUECY **FINANCIAL**
YEAR

PROJECT CODE	PROJECT NAME	ALLOCATION		TOTAL ALLOCATION IN KSHS.	AMOUNT SPEND IN KSHS.	BALANCE	REMARKS (COMMENTS ON ADDITIONAL FUNDING REQUIRED; IF ANY)
		1 st HALF	2 ND HALF				

SIGNED BY

.....
CDC CHAIRMAN
CDC TREASURER

**THE CONSTITUENCIES DEVELOPMENT FUND (AMENDMENT) ACT,
2007**

**An Act of Parliament to amend the Constituencies Development
Fund Act, 2003**

ENACTED by the Parliament of Kenya, as follows-

Short title and
commencement.

1. This Act may be cited as the Constituencies Development Fund (Amendment) Act, 2007, and shall come into operation on such date, being not later than thirty days from the date of assent, as the Minister may, by notice in the Gazette, appoint.

Amendment of
section 2 of No
10 of 2003.

2. The Constituencies Development Fund Act, 2003, in this Act referred to as the “principal Act” is amended in section 2 –

(a) by inserting the following new definitions in proper alphabetical sequence-

“**Board**” means the Constituencies Development Fund **Board** established by section 5 ;

“**Board**” means Board of Management of the Constituencies Development Fund **Board** established by section 5 (3);

“**Chairperson**” means the Chairperson of the Board appointed under section 5(4);

“**Chief Executive Officer**” means the Chief Executive Officer of the Board appointed under section 7

“**National Account**” means the Constituencies Development Fund account maintained under section 46”;

“**officer of the Board**” means an officer of the **Board** appointed under section 44;

“project” means an eligible development project as described in the Act;

“project committee” means a committee or board of persons elected or nominated to implement a project or manage an institution, including a committee existing prior to the establishment of the Fund, and which is assuming the responsibility of implementing a project funded under the Act;

“sub-project” means one of similar activities lumped together into one project for purposes of sections 21 and 22 of the Act;

“youth” means a person who has attained the age of eighteen years and has not attained the age of thirty five years.

- (b) by deleting the definition of “National Committee”;
- (c) by deleting the word “finance” appearing in the definition of “Minister” and substituting therefor the word “planning”;
- (d) by inserting the word “Fund” immediately after the word “Development” in the definition of “Constituency Development Committee”;
- (e) by inserting the word “fund” immediately after the word “constituency” in the definition of “constituency account”.

Amendment of
section 4 of No
10 of 2003.

3. Section 4 of the principal Act is amended-

- (a) in subsection (1) by deleting the words “Officer administering the Fund under the direction of the National Committee” and substituting therefor the word “**Board**”.
- (b) in subsection (2) by deleting the words “National Committee” and substituting therefor the words “**Board**”.
- (c) in subsection (3) by deleting the words “for approval in accordance with this Act before the beginning of the financial year to which the budget relates” and substituting therefor the words “by various constituencies in accordance with the Act”.

Replacement of section 5 of No 10 of 2003.

4. The principal Act is amended by repealing section 5 and replacing it with the following new section-

Establishment of the **Board**

5. (1) There is established a **Board** to be known as the Constituencies Development Fund **Board**.

(2) The **Board** shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of-

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) borrowing money or making investments; and
- (d) doing or performing all other acts or things for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

(3) The **Board** shall be administered by a Board of Management which shall consist of -

- (a) the Permanent Secretary of the Ministry for the time being responsible for matters relating to economic planning or his designated alternate, not being below the level of Director of Planning;
- (b) the Permanent Secretary of the Ministry for the time being responsible for matters relating to finance or his designated alternate, not being below the level of Director of Budget;
- (c) the Clerk of the National Assembly or his designated alternate not being below the level of Deputy Clerk;

- (d) the Attorney General or his designated alternate not being below the level of Senior State Counsel;
- (e) eight persons, qualified in matters relating to finance, accounting, engineering, economics, community development, or law, appointed by the Minister in accordance with subsection (5);
- (f) four persons, qualified in accordance with paragraph (e), appointed by the Minister to achieve any regional imbalance that may not be achieved pursuant to the process under subsection (5);
- (g) the Chief Executive Officer who shall be an ex-officio member and secretary to the Board.

(4) The Minister shall appoint the Chairperson of the Board from amongst the eight persons appointed in accordance with paragraph (e) of subsection (3).

(5) The organizations listed in the First Schedule shall each submit names and curriculum vitae of four nominees, two of whom shall be men and two women, and out of the thirty two names submitted, the Minister shall, taking into account regional balance of the people of Kenya, appoint nine persons, at least one from each of the eight organizations and at least a third of the appointees to be from either gender, to be members of the Board.

(6) The names and curriculum vitae of persons nominated to be appointed as members of the Board, pursuant to sub-section (5) and the name of the person proposed to be appointed as the Chief Executive Officer

shall be submitted to Parliament for approval before the appointments are made.

Amendment of section 6 of No 10 of 2003.

5. Section 6 of the principal Act is amended-

(a) in subsection (1)-

- (i) by deleting the words “National Committee” and substituting therefor the words “**Board**”;
- (ii) by deleting the words “allocation and” appearing in paragraph (a) and substituting therefor the words “timely and efficient”;
- (iii) by deleting the word “prudent” appearing in paragraph (b) and substituting therefor the word “efficient”;
- (iv) by deleting paragraph (e);
- (v) by deleting paragraph (f);
- (vi) by inserting the following new paragraphs immediately after paragraph (d)-

- (e) to receive and address complaints and disputes and take any appropriate action;
- (f) to consider project proposals submitted from various constituencies in accordance with the Act, approve for funding those projects proposals that are consistent with this Act and send funds to the respective constituency fund account of the approved projects;
- (g) to perform such other duties as the Minister, with the concurrence of the Constituencies Fund Committee, may deem necessary from time to time for the proper management of the Fund.

(b) by deleting subsection (2) and substituting it with the following new subsection-

(2) Where any issues of policy arise in the course of the performance of its functions under this Act, the **Board** shall refer the same to the Constituencies Fund Committee for directions in accordance with section 27(4) (e).

Insertion of new section 6A into No 10 of 2003.

6. The principal Act is amended by inserting the following new section immediately after section 6-

Conduct of business and affairs of the Board.

6A. (1) The conduct and regulation of the business and affairs of the Board shall be as provided in the Sixth Schedule.

(2) Except as provided in the Sixth Schedule, the Board may regulate its own procedure.

Replacement of section 7 of No 10 of 2003.

7. The principal Act is amended by repealing section 7 and replacing it with the following new section-

Chief Executive Officer of the Board.

7 (1) There shall be a Chief Executive Officer of the **Board** who shall be appointed by the Board on a competitive basis and whose terms and conditions of service shall be determined by the Board in the instrument of appointment or otherwise in writing from time to time.

(2) No person shall be appointed under this section unless such person-

- (a) has a university degree in finance, accounting, engineering, economics, community development, law or a related field from a recognized university;
- (b) has at least ten years' working experience in the relevant field.

(3) The Chief Executive Officer shall-

- (a) be the secretary to the Board; and
- (b) subject to the directions of the Board, be responsible for the day to day management of the affairs and staff of the **Board**.

Amendment of section 8 of No 10 of 2003.

8. Section 8 of the principal Act is amended-

- (a) by deleting the words “approved by the National Committee” appearing in subsection (1) and substituting therefor the words “minuted by the **“Board”**”;
- (b) by deleting the words “provided for in the printed estimates prepared for projects under ” appearing in subsection (2) and substituting therefor the words “submitted by the constituencies in accordance with the procedures outlined in ”;
- (c) by inserting a new subsection immediately after subsection (3) as follows-

(3A) Notwithstanding the provisions of subsection (3), payments for a joint project as outlined in section 22 (4) or joint procurement, may be made directly to a supplier or to an account established for the purpose with due concurrence of the Constituencies Fund Committee”;

- (d) by deleting the words “National Committee” appearing in subsection (4) and substituting therefor the word **“Board”**;
- (e) by deleting subsection (6).

Amendment of section 9 of No 10 of 2003.

9. Section 9 of the principal Act is amended-

- (a) by deleting subsection (1) and substituting therefor the following new subsection-

(1) The Minister, with the concurrence of the Constituencies Fund Committee, shall for each financial year allocate funds to each constituency in accordance with section 19.

- (b) by inserting the words “without the approval of the **“Board”**” at the end of subsection (2).
- (c) by deleting subsection (3) and substituting therefor the

following new subsection-

(3) At the end of each financial year, every constituency shall submit a return in the form set out in the Fourth Schedule showing for each project, the amount allocated, the amount disbursed and any unspent funds no longer needed for that project and intended to be re-allocated.

(d) by inserting the following new subsections immediately after subsection (3) -

(4) Every constituency which has unspent funds at the end of the financial year shall, in the form set out in the Fifth Schedule, submit a request to the **Board** detailing how they intend to re-allocate the unspent funds.

(5) Unspent funds for re-allocation in accordance with subsections (3) and (4) may be allocated to any eligible project and such project may be new or ongoing at the end of the end of the financial year.

(6) For the avoidance of doubt, a return shall be made for the current financial year and every previous financial year on which some funds remain unspent

Amendment of
section 10 of
No 10 of 2003.

10. Section 10 of the principal Act is amended-

- (a) by deleting the words “for the purposes for which the Fund is established” appearing in subsection (1) and substituting therefor the words “in the constituency fund account”;
- (b) by deleting the words “funds returned into the accounts in accordance with section 9 (3)” appearing in subsection (2) and substituting therefor the words “retained in the account”.

Amendment of
section 11 of
No 10 of 2003.

11. Section 11 of the principal Act is amended by renumbering the existing provision as subsection (1) and inserting a new subsection as follows-

- (2) The Constituency Development Fund Committee

shall determine the allocation of the emergency reserve and may re-allocate such reserve to other projects at the end of the financial year, in accordance with the Act.

Amendment of section 12 of No 10 of 2003.

12. Section 12 of the principal Act is amended by deleting the words “Clerk” and “him” appearing in subsection (2) and substituting therefor the words “**Board** and “it” respectively.

Amendment of section 13 of No 10 of 2003.

13. Section 13 of the principal Act is amended by deleting the word “Clerk” and substituting therefor the word “**Board**”.

Amendment of section 14 of No 10 of 2003.

14. Section 14 of the principal Act is amended by deleting the words “cost estimates of” appearing in subsection (2) and substituting therefor the words “amounts allocated to”.

Amendment of section 15 of No 10 of 2003.

15. Section 15 of the principal Act is amended by deleting subsection (2) and substituting therefor the following new subsection-

(2) The Minister may, with the concurrence of the Constituencies Fund Committee, amend any of the Schedules to this Act.

Replacement of section 16 of No 10 of 2003.

16 The principal Act is amended by repealing section 16 and replacing it with the following new section-

Approval of projects.

16 (1) The list of projects received by the **Board** pursuant to section 12 shall be tabled for review at a meeting of the **Board**.

(2) The **Board** shall scrutinize and approve for funding those projects proposals that are consistent with the Act.

(3) Where the **Board** does not approve a proposal submitted to it under this section, it shall refer the matter to the Constituencies Fund Committee giving reasons as to why it has declined the proposal.

(4) The Constituencies Fund Committee shall within fourteen days of receipt of the reference under subsection (3), make a decision on whether the proposal should be recommended for funding or not and the decision of the Constituencies Fund Committee shall be final.

Replacement of section 17 of No 10 of 2003.

17. The principal Act is amended by repealing section 17 and replacing it with the following new section-

Discretion of Constituency Development Fund.

17. The allocation of funds to various projects in each constituency is the responsibility of the Constituency Development Fund Committee to be exercised at its own discretion within the provisions of this Act.

Amendment of section 18 of No 10 of 2003.

18. Section 18 of the principal Act is amended by deleting the words “in accordance with section 17 shall be numbered by the Officer administering the Fund” and substituting therefor the words “shall be numbered by the **Board** and the serial numbers of all projects in a constituency shall bear the number of the constituency as delineated by the Electoral Commission of Kenya.”

Amendment of section 21 of No 10 of 2003.

19. Section 21 of the principal Act is amended-

(a) by inserting the words “and may include the acquisition of land and buildings” at the end of subsection (2);

(b) by inserting the words “other than as provided for in subsections (9),(10) and (11)” at the end of subsection (3);

(c) by deleting the words “National Committee” appearing in subsection (5) and substituting therefor the words “Constituency Development Fund Committee”;

(d) by deleting subsection (7) and substituting therefor the following new subsection-

(7) Notwithstanding the provisions of subsection (3), up to a maximum of three per centum of the total annual allocation for the constituency may be used for administration and such use shall be listed in the Second Schedule as a project.

(e) by inserting the following new subsections immediately after subsection (7) -

(8) Development projects may include the acquisition of vehicles, machinery and other equipment.

(9) An appropriate amount not more than three per

centum of a constituency’s annual allocation may be allocated to recurrent expenses of vehicles, equipment and machinery and be listed as a project provided that such items do not belong to a separate entity.

(10) Sports activities may be considered as development projects for purposes of this Act but shall exclude cash awards provided that the allocation to such activities does not exceed two per centum of the total allocation of the constituency in that financial year.

(11) Monitoring and evaluation of ongoing projects and capacity building of various operatives may be considered as a development project provided that not more than two per centum shall be allocated for this purpose.

(12) Environmental activities may be considered as development projects for purposes of this Act provided that the allocation to such activities does not exceed two per centum of the total allocation of the constituency in that financial year.

(13) Each of the projects shall be listed on the Second Schedule including the emergency item under section 11 and, where applicable, the activities under subsections (6), (7), (8), (9), (10), (11) and (12) of this section.

Amendment of section 22 of No 10 of 2003.

20. Section 22 of the principal Act is amended-

- (a) by deleting the word “twenty” appearing in subsection (1) and substituting therefor the words “twenty five”;
- (b) by deleting subsection (2) and substituting therefor the following new subsection-

(2) Any projects to be funded under unspent funds at the end of the financial year may be lumped together as one project with sub projects, where applicable, for the purpose of subsection (1);

(c) by deleting subsection (3), and substituting therefor the following new subsection-

(3) Project activities of a similar nature in a particular constituency may be combined and considered as one project for purposes of subsection (1) provided that the sub projects are listed in the Third Schedule.

Amendment of
section 23 of
No 10 of 2003.

21. Section 23 of the principal Act is amended-

(a) in subsection (1)-

(i) by deleting the words “thirty days of a new Parliament ” and substituting therefor the word “ sixty days of a new Parliament or a by election”;

(ii) by inserting the following new paragraphs immediately after paragraph (h)-

(i) a maximum of three other persons from the constituency such that the total number does not exceed fifteen;

(j) an officer of the **Board** seconded to the Constituency Development Fund Committee by the **Board**, who shall be ex-officio.

(b) by inserting the following new subsections immediately after subsection (6) -

(7) The term of office of the members of the Constituency Development Fund Committee shall be three years renewable but shall come to an end upon the appointment of a new Constituency Development Fund Committee in a manner provided for in this Act.

(8) Whenever there is a new Member of Parliament through a general election or by-election, the new Member of Parliament shall constitute and convene a new Constituency

Development Fund Committee;

Provided that-

- (a) the Constituency Development Fund Committees existing prior to a parliamentary election or by election shall continue in office until a new Constituency Development Fund Committee is constituted after the election or by election in a manner provided for under this Act; and
- (b) the list of projects shall not be changed other than at the end of the financial year or in accordance with this Act.

(9) The officer of the **Board** shall be the custodian of all records and equipment of the constituency during the term of Parliament and during transitions occasioned by general elections or a by election.

(10) Whenever a vacancy occurs in the Constituency Development Fund Committee by reason of resignation, incapacitation or demise of a member then the Member of Parliament shall fill the vacancy from the same category of persons where the vacancy has occurred.

(11) The Constituency Development Fund Committee shall meet at least twelve times in a year and not more than twenty four times in every financial year including sub-committee meetings.

(12) The Constituency Development Fund Committee shall, at its discretion, determine the quantum of installments to various projects in the constituency, taking into account the disbursement received and the requirements of different projects.

Amendment of section 24 of No 10 of 2003.

22. Section 24 of the principal Act is amended by deleting the word “Minister” appearing in subsection (2) and substituting therefor the word “**Board**”

Amendment of
section 25 of
No 10 of 2003.

23. Section 25 of the principal Act is amended by deleting subsection(2) **and substituting therefor the following-**

(2) Notwithstanding the provisions of subsection (1), an education bursary scheme, mocks and continuous assessment tests shall be considered as a development project for purposes of the Act provided that such a project shall not be allocated more than fifteen per centum (15%) of the total funds allocated for the constituency in any financial year”

Amendment of
section 26 of
No 10 of 2003.

24. Section 26 of the principal Act is amended by renumbering the existing provision as subsection (1) and deleting the words “National Committee” and substituting therefor the word **“Board”**.

Amendment of
section 27 of
No 10 of 2003.

25. Section 27 of the principal Act is amended-

(a) by inserting the words “provided that the term of office of the members of the committee shall be three years renewable or upon the appointment of a new committee in a manner provided for in this Act, whichever comes earlier” at the end of subsection (2);

(b) by deleting paragraph (a) of subsection (4) and substituting therefor the following new paragraph-

(a) to determine the allocation and distribution to each constituency, of the amounts collected under section 4(2) and the utilization of any unspent funds intended for use by the **Board** under this Act.

(c) by inserting the following new subsection immediately after subsection (4) –

(5) The Committee may make reports other than the statutory report stated in sub section 4 (d) to appraise the National Assembly on various matters relating to the Fund and to seek various approvals as required by the Act.

Repeal of
section 28 of

26. The principal Act is amended by repealing section 28 and replacing

No 10 of 2003. it with the following new section-

Monthly reports on projects and disbursements.

28. The **Board** shall, on a monthly basis, submit a report to the Constituencies Fund Committee detailing-

- (a) a summary of the project proposals received from the constituencies in the preceding month and indicating the approval status of such projects; and
- (b) a summary of the status of disbursements of funds to the constituencies for that preceding month;
- (c) a summary of the status of disbursements from the Treasury to the National Account.

Replacement of section 29 of No 10 of 2003.

27. The principal Act is amended by repealing section 29 and replacing it with the following new section-

Funding of listed projects.

29. The **Board** shall ensure that the list of projects forwarded to it by each constituency is, upon approval, funded in accordance with the Act.

Amendment of section 30 of No 10 of 2003.

28. Section 30 of the principal Act is amended-

- (a) by deleting the words “relevant department of Government in the district” appearing in subsection (1) and substituting therefor the words “project committee in each case, with the assistance of the relevant department of Government”;
- (b) by deleting the words “in the printed estimates” appearing in subsection (2).
- (c) by inserting the following new subsections immediately after subsection (4) –
 - (5) All fixed and movable assets, including equipment bought under this Act shall be the property of the **Board** to be insured in the name of the **Board**.

Provided that-

- (a) such property shall bear the name and number of the constituency as delineated by the Electoral Commission of Kenya; and
- (b) equipment bought for institutions shall remain the property of those institutions.

(6) Any proceeds that may accrue from the disposal of any asset acquired pursuant to subsection (5) shall be credited to the account of the constituency from whose funds the asset was acquired.

Amendment of section 31 of No 10 of 2003.

29. Section 31 of the principal Act is amended by deleting subsection (2).

Replacement of section 33 of No 10 of 2003.

30. The principal Act is amended by repealing section 33 and replacing it with the following new section-

Record of receipts and disbursement.

33. The officer of the Board in every constituency shall compile and maintain a record showing all receipts and disbursements on a monthly basis in respect of every project and sub-project under this Act and shall-

- (a) table such record at a meeting of the Constituency Development Fund Committee in every month ; and**
- (b) submit a summary of the record for the year to the Constituency Development Fund Committee not later than sixty days after the end**

of every financial year.

Amendment of section 36 of No 10 of 2003.

31. Section 36 of the principal Act is amended-

- (a) by deleting the word “shall have the power to” appearing in subsection (1) and substituting therefor the word “may”;
- (b) . by deleting the word “shall” appearing immediately before the words “attend each” in subsection (2) and substituting therefor the word “may”.

Amendment of section 39 of No 10 of 2003.

32. Section 39 of the principal Act is amended by deleting subsection (2).

Amendment of section 40 of No 10 of 2003.

33 Section 40 of the principal Act is amended-

- (a) by inserting the word “Fund” immediately after the word “Development” appearing in paragraph (e) of subsection (1)
- (b) by deleting the word “two (2)” appearing in subsection (3) and substituting therefor the word “three (3)”;
- (c) by deleting the words “ every three months” appearing in subsection (5) and substituting therefor the words “annually but not more than six (6) times in a year”;
- (d) by deleting subsection (6) and substituting therefor the following new subsection-
 - (6) All District Project Committees existing prior to a parliamentary election shall stand dissolved upon the dissolution of Parliament.
- (e) by deleting the words “and all Constituency Development Committees shall be constituted within thirty” appearing in subsection (7) and substituting therefor the words “shall be constituted within sixty”;

Replacement of section 43 of No 10 of 2003.

34. The principal Act is amended by repealing section 43 and replacing it with the following new section-

District Projects Committee to prepare list.

43. The District Projects Committee shall, at the beginning of every financial year, prepare

and circulate to the various Constituency Development Fund Committees in that district, a list of other Government allocations for various projects in the district.

Provided that the existence of another allocation by Government to a project in the constituency shall not be used as a reason to deny either approval or funding of any project consistent with this Act.

Replacement of section 44 of No 10 of 2003.

35. The principal Act is amended by repealing section 44 and replacing it with the following new section-

Staff of the Board .

44 The **Board** may appoint such officers and other staff as are necessary for the proper management of the Fund and discharge of its functions under this Act, upon such terms and conditions of service as it may determine.

Provided that the principal management structure of the **Board** shall be established or varied by the **Board** with the concurrence of the Constituencies Fund Committee.

Amendment of section 45 of No 10 of 2003.

36. Section 45 of the principal Act is amended-

- (a) by inserting the word “Fund” immediately after the word “Development” appearing in subsection (3);
- (b) by deleting subsection (5) and substituting therefor the following new subsection-

(5) Every payment or instruction for payment out of the constituency fund account shall be strictly on the basis of a minuted resolution of the Constituency

Development Fund Committee.

- (c) by inserting the word “fund” immediately after the word “constituency” appearing in subsection (6);

- (d) by deleting the words “shall be returned to the Fund in accordance with section 9” appearing in subsection (7) and substituting therefor the words “retained in the account until the end of the financial year when they may be reallocated in accordance with this Act”;
- (e) by deleting the words “National Committee” appearing in subsection (8) and substituting therefor the words “**Board**”

Amendment of section 46 of No 10 of 2003.

37. Section 46 of the principal Act is amended-

- (a) by deleting the words “the Officer administering the Fund and two other persons appointed by the National Committee from amongst its members” appearing in subsection (2) and substituting therefor the words “Chief Executive Officer and three other persons appointed by the Board from amongst its members”.
- (b) by deleting subsection (3) and substituting therefor the following new subsection-

(3) The signing instructions shall be such that the signature of the Chief Executive Officer shall be mandatory on all payment cheques and or instruments intended for actual release of money from the fund, plus any two of the other three signatories.

Amendment of section 47 of No 10 of 2003.

38. Section 47 of the principal Act is amended-

- (a) by deleting the words “for projects in each constituency shall be kept and updated every month by the Officer administering the Fund” appearing in subsection (1) and substituting therefor the words “to every constituency shall be kept and updated every month by the **Board**”;
- (b) by deleting subsection (2). and substituting therefor the following new subsection-

(2) The disbursement of funds to the constituency fund account shall be effected at the beginning of the first quarter of each financial year with an initial amount equivalent to twenty-five of the annual allocation for the constituency and thereafter the constituency fund account shall be replenished in three equal installments at the beginning of the second, third and fourth quarters of the financial year.

(d) by inserting the following new subsection immediately after subsection (2) –

(3) The Minister shall table an annual report on the activities, operations and expenditure under the Act.

Replacement of section 48 of No 10 of 2003.

39. The principal Act is amended by repealing section 48 and replacing it with the following new section-

Finances of the Board.

48. (1) The expenditure for running the **Board** and related purposes shall be set aside at the beginning of the financial year and not more than three per centum of the total allocation to the Fund in the financial year may be used for this purpose, the annual budget of which shall be approved by the Minister with the concurrence of the Constituencies Fund Committee, and expenses shall not be incurred until such approval is accorded.

(2) The **Board** shall, at the end of each financial year, submit to the Constituencies Fund Committee a statement showing the balance or shortfall, if any, arising out of its approved annual budget for that year and the **Board** shall, with the concurrence of the Constituencies Fund Committee, determine the manner in which such balance or shortfall shall be spent or met respectively.

(3) The personal emoluments of Government

officers working or involved in the management of the Fund shall be provided for under the recurrent expenditure of Government but any other emoluments or payments to such officers from the Fund shall be determined by the **Board** with the concurrence of Constituencies Fund Committee.

(4) Sitting and other allowances for the members of the District Projects Committee **and Constituency Development Fund Committee** shall be fixed by the Minister with the concurrence of the Constituencies Fund Committee and shall be paid out of the funds set aside for the **Board** under subsection (1).

(5) The accounts of the **Board** shall be audited and reported upon in accordance with the Public Audit Act, 2003.

No 12 of 2003

Insertion of new section 52 and 53 into No 10 of 2003.

40. The principal Act is amended by inserting the following new sections immediately after section 51-

Dispute resolution.

52. (1) All complaints shall be forwarded to the **Board**.

(2) Disputes shall be referred to the **Board** in the first instance and where necessary an arbitration panel shall be appointed by the Minister who shall consider and determine the matter before the same is referred to court.

(3) Subject to this Act, no person in the management of the Fund shall be held personally liable for any lawful action taken in his official capacity or for any disputes against the Fund.

Transition from National Committee to the **Board**.

53. (1) In this section-

“commencement day” means the day this Act comes into operation;

“this Act” means this Constituencies Development Fund (Amendment) Act, 2007;

(2) On the commencement day, all the funds, assets and other property both movable and immovable, which immediately before such date were vested in the National Committee, shall by virtue of this subsection, vest in the **Board**

(3) On the commencement day, all rights, powers and liabilities, whether arising under any written law or otherwise which immediately before such day were vested in, imposed on or enforceable against the National Committee shall, by virtue of this subsection, be deemed to be vested in, imposed on or enforceable against the **Board** .

(4) Any reference in any written law or in any document or instrument to the National Committee shall, on and after the commencement day, be construed to be a reference to the **Board**.

(5) The annual estimates of the National Committee for the financial year in which the commencement day occurs shall be deemed to be the annual estimates of the **Board** for the remainder of that financial year.

(6) The administrative directions made by the National Committee or by the Minister which are in force immediately before the commencement day shall, on and after such day, have force as if they were directions made by the **Board** or the Minister under this Act.

(7) Any person who is an officer or employee of the National Committee shall, immediately before the commencement day shall be deemed to be an officer or employee of the **Board**.

Provided that such person shall, within a period of **six months** from the commencement day, exercise his or her option either to—

- (a) enter into a written contract of service with the **Board** , whereupon his or her service with the Government shall be deemed to have been

terminated without right to severance pay but without prejudice to all other remuneration and benefits payable upon such termination; or

(b) be re-deployed by the Government.

(8) The members of the National Committee and the Officer administering the Fund appointed under sections 5 (2) (e) and 7 (2) of the Act respectively (which sections are herein replaced) shall continue in office as members of the Board and the Chief Executive Officer respectively until when a new Board and Chief Executive Officer are appointed in accordance with this Act

Provided that the appointment of a new Board and Chief Executive Officer in accordance with this Act shall be made within sixty days from the commencement day.

Repeal of First Schedule of No 10 of 2003.

41. The principal Act is amended by repealing the First Schedule and replacing it with the new First Schedule set out in the Schedule hereto.

Replacement of Second Schedule of No 10 of 2003.

42. The principal Act is amended by repealing the Second Schedule and replacing it with the new Second Schedule set out in the Schedule hereto.

Replacement of Third Schedule of No 10 of 2003.

43. The principal Act is amended by repealing the Third Schedule and replacing it with the new Third Schedule set out in the Schedule hereto.

Insertion of Fourth Schedule into No 10 of 2003.

44. The principal Act is amended by inserting a new Fourth Schedule set out in the Schedule hereto.

Insertion of Fifth Schedule into No 10 of 2003.

45. The principal Act is amended by inserting a new Fifth Schedule set out in the Schedule hereto.

Insertion of Sixth Schedule into No 10 of 2003.

46. The principal Act is amended by inserting a new Sixth Schedule set out in the Schedule hereto.

SCHEDULE *(sections 41, 42, 43, 44, 45 and 46)***FIRST SCHEDULE** *(section. 5(5))***LIST OF ORGANIZATIONS TO NOMINATE PERSONS TO THE BOARD**

- The Kenya National Federation of Agricultural Producers.
- The Institution of Engineers of Kenya.
- The Kenya National Chamber of Commerce and Industry.
- The Kenya Episcopal Conference.
- The Kenya National Union of Teachers.
- The National Council of Churches of Kenya.
- The Supreme Council of the Kenya Muslims.
- The Institute of Certified Public Accountants of Kenya

THIRD SCHEDULE

(section. 15)

STANDARD PROJECTS DESCRIPTION FORM

Constituency Name.....Financial year.....

Project No.....Project Title.....

Amount allocated this Financial Year.....

Brief description of the Project
.....
.....
.....

Sub projects

Table with 3 columns: Number, Title, Amount. Contains 6 rows of dotted lines for data entry.

TOTAL.

(attach continuation page if necessary)

Signature.....Date.....

Name.....Position.....

FOURTH SCHEDULE

(section. 9(3))

STANDARD ANNUAL DISBURSEMENT RETURN FORM

Constituency No.....Name.....Financial year.....

Project No	Project Title	Amount allocated (Kshs)	Amount disbursed (Kshs)	Balance (Kshs)	Unspent to be re-allocated
Totals					

Signature.....Date.....

Name.....Position.....

SIXTH SCHEDULE

(section .6A)

**PROVISIONS AS TO THE CONDUCT OF BUSINESS
AND AFFAIRS OF THE BOARD**

Tenure of office.

1. The Chairperson or a member of the Board other than ex-officio members shall, subject to the provisions of this Schedule, hold office for a period of three years, on such terms and conditions as may be specified in the instrument of appointment, but shall be eligible for appointment for not more than two consecutive terms.

Vacation of office.

2. (1) A member other than an ex-officio member may-

- (a) at any time resign from office by notice in writing to the Minister;
- (b) be removed from office by the Minister on recommendation of the Board if the member –
 - (i) has been absent from three consecutive meetings of the Board without its permission;
 - (ii) is convicted of a criminal offence that amounts to a felony under the laws of Kenya;
 - (iii) is incapacitated by prolonged physical or mental illness for a period exceeding six months; or
 - (iv) is otherwise unable or unfit to discharge his functions.

(2) The Chairperson shall not be removed from office unless such removal is in accordance with sub

paragraph (1).

Meetings.

3. (1) The Board shall meet not less than six and not more than eighteen times in every financial year and not more than two months shall elapse between the date of one meeting and the date of the next meeting.

(2) Notwithstanding subparagraph (1), the Chairperson may, and upon requisition in writing by at least five members shall, convene a special meeting of the Board at any time for the transaction of the business of the Board.

(3) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board.

(4) The quorum for the conduct of the business of the Board shall be eight members.

(5) The Chairperson shall when present, preside at every meeting of the Board but the members present shall elect one member to preside whenever the Chairperson is absent, and the person so elected shall have all the powers of the Chairperson with respect to that meeting and the business transacted thereat.

(6) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of the votes of the members present and voting, and in case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.

(7) Subject to subparagraph (4), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

(8) Subject to the provisions of this Schedule, the Board may determine its own procedure and the procedure for any committee of the Board and for the attendance of other persons at its meetings and may make standing orders in respect thereof.

Committees of

4. (1) The Board may establish such committees as it

the Board. may deem appropriate to perform such functions and responsibilities as it may determine.

(2) The Board shall appoint the chairperson of a committee established under subparagraph (1) from amongst its members.

(3) The Board may where it deems appropriate, invite any person to attend the deliberations of any of its committees.

(4) All decisions by the committees appointed under subsection (1) shall be ratified by the Board.

Disclosure of interest.

5. (1) A member who has an interest in any contract, or other matter present at a meeting shall at the meeting and as soon as reasonably practicable after the commencement, disclose the fact thereof and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

(2) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.

(3) A member of the Board who contravenes subparagraph (1) shall cease to be a member of the Board upon direction of the Minister.

Contracts and instruments.

6. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal may be entered into or executed on behalf of the Board by any person generally or specially authorized by the Board for that purpose.

Common seal.

7. (1) The common seal of the Board shall be kept in such custody as the Board may direct and shall not be used except on the order of the Board.

(2) The affixing of the common seal of the Board shall be authenticated by the signature of the Chairperson, the Chief Executive Officer and one member nominated by the Board and any document not required by law to be made under seal and all decisions of the Board may be

THE **CDF** SOCIAL AUDIT GUIDE

A Handbook for Communities

The Constituency Development Fund (CDF) was introduced in Kenya in 2003 as a home-grown initiative to address inequalities in development around the country. Since it was introduced, numerous CDF projects have come up throughout the country. We hope this handbook will assist all who use it to effectively track CDF expenditure in their local area.

This handbook is intended for the training of groups and individuals with an interest in monitoring CDF expenditure. The handbook is designed to assist the user understand the way CDF works, and how to participate effectively in the various stages of the CDF project cycle. It also discusses how members of the public can effectively monitor CDF expenditure through a social audit.

In this handbook, we will draw on the social audit model of the Mazdoor Kisan Shakti Sangathan (MKSS)—a peasants' and workers' union in India—which pioneered a simple but highly effective method for conducting social audits through public forums. This handbook has benefited from input from the International Budget Program, which boasts wide experience in public expenditure tracking from different parts of the world. This handbook was designed based on the input of local civil society organisations and CDF institutions around the country.



Open Society Initiative for East Africa

The building of vibrant and tolerant democracies in East Africa—with governments that are accountable to a nation's people—is a priority for the Open Society Initiative for East Africa (OSIEA).

OSIEA supports and promotes public participation in democratic governance, the rule of law, and respect for human rights in Kenya by awarding grants, developing programs, and bringing together diverse civil society leaders and groups.

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