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REPUBLIC OF KENYA  
THE NATIONAL ASSEMBLY  
THIRTEENTH PARLIAMENT – SECOND SESSION (2023)

COMMITTEE ON NATIONAL GOVERNMENT CONSTITUENCIES  
DEVELOPMENT FUND

REPORT ON THE VETTING OF NOMINEES FOR APPOINTMENT AS  
DIRECTORS TO THE NATIONAL GOVERNMENT CONSTITUENCIES  
DEVELOPMENT FUND BOARD

	
September, 2023	
THE NATIONAL ASSEMBLY PAPERS LAID	
DATE:	14 SEP 2023
	DAY: Thursday
TABLED BY:	Hon Musa Serma, MP Chairperson, Committee on N&CDF
CLERK AT THE TABLE:	Tracy Chebet

Directorate of Audit, Appropriations and Other Select Committees  
Clerk's Chambers  
National Assembly  
Parliament Buildings  
**NAIROBI**

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## **ABBREVIATIONS**

CBS	-	Chief of the Order of the Burning Spear
DCI	-	Directorate of Criminal Investigations
EACC	-	Ethics and Anti-Corruption Commission
HELB	-	Higher Education Loans Board
HR	-	Human Resource
KRA	-	Kenya Revenue Authority
MP	-	Member of Parliament
NASC	-	National Assembly Select Committee
NASCOP	-	National AIDS and STIs Control Programme
NG-CDF Fund	-	National Government Constituencies Development Fund
ORPP	-	Office of the Registrar of Political Parties
PAPAA 2011	-	Public Appointments (Parliamentary Approval) Act, 2011

(iii) Page: Report of the Select Committee on NG-CDF on the Approval Hearings of Hon. John Olago Aluoch, Hon. Janet Marania Teiyaa and Sen. Masitsa Naomi Shiyonga nominated for Appointment to the Board of NG-CDF.

## **CHAIRPERSON'S FOREWORD**

Pursuant to the provisions of Standing Order No. 42, the Speaker of the National Assembly conveyed a Message on Tuesday, 22<sup>nd</sup> August 2023 from the Cabinet Secretary for the National Treasury and Economic Planning, Prof. Njuguna Ndung'u on the nomination of the following three (3) person for appointment to the Board of Directors of the National Government Constituencies Development Fund:

1. Hon. John Olago Aluoch, CBS
2. Hon. Janet Meriana Teiyaa
3. Sen. Masitsa Naomi Shiyonga

The names were committed to the Select Committee on National Government Constituencies Development Fund for vetting.

The Committee undertook approval hearings on Thursday, 7<sup>th</sup> September 2023 in compliance with the Constitution, the National Government Constituencies Development Fund Act, 2015, the Public Appointments (Parliamentary Approval) Act, 2011 and the National Assembly Standing Orders.

I take this opportunity to thank all Members of the Committee for their dedication to duty, the offices of the Speaker and that of the Clerk of the National Assembly for according the Committee the necessary logistical and technical support during the approval hearings. Further, the Committee wishes to thank all the stakeholders who facilitated the approval hearings.

On behalf of Members of the Select Committee on National Government Constituencies Development Fund and pursuant to Standing Order 199 and section 50(5) (d) of the National Government Constituencies Development Fund Act, 2015, it is my pleasure and duty to table to the House the Committee's Report on the approval hearing of Hon. John Olago Oluoch,

Hon. Janet Marania Teiyaa and Sen. Masitsa Naomi Shiyonga as Board of Directors to the National Government Constituencies Development Fund Board.



**Hon. Musa Sirma Cherutich, CBS, M.P.**

**Chairperson**

**Committee on National Government Constituencies Development Fund**

## **EXECUTIVE SUMMARY**

In line with the provisions of Section 15 of the National Government Constituencies Development Fund Act, 2015, Sections 3 and 5(1) of the Public Appointments (Parliamentary Approval) Act, 2011, the Cabinet Secretary for the National Treasury and Economic Planning vide a letter reference *TNTP/SDP/4/52/(39)* dated 16<sup>th</sup> August 2023, submitted the names of the following persons for appointment as directors to the Board of the National Government Constituencies Development Fund:

- (i) Hon. John Olago Oluoch, CBS
- (ii) Hon. Janet Marania Teiyaa
- (iii) Sen. Masitsa Naomi Shiyonga

The Speaker conveyed the Message to the House on Tuesday, 22<sup>nd</sup> August 2023 and subsequently, committed the names of the nominees to the Select Committee on National Government Constituencies Development Fund for approval hearing.

The Committee carried out the approval hearings in accordance with the provisions of the Constitution, the Public Appointments (Parliamentary Approval) Act, 2011, the National Government Constituencies Development Fund Act, 2015 and the National Assembly Standing Orders.

In compliance with Article 118 (1) (b) of the Constitution and Section 6 (4) of the Public Appointments (Parliamentary approval) Act, 2011, the Clerk of the National Assembly placed an advertisement in the Nation and Standard newspapers on Wednesday, 30<sup>th</sup> August 2023.

In the advertisement, the general public was notified of the nomination, submission of memoranda on the suitability of the nominees pursuant to Section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011 and the date, place and time for the approval hearing that was undertaken on Thursday, 7<sup>th</sup> September 2023 in Committee Room on 5<sup>th</sup> Floor. Continental House, Parliament Buildings starting from 10.00 a.m.

The nominees were also notified through the same advertisement to submit clearance certificates from the following agencies: the Ethics and Anti-Corruption Commission, the Kenya Revenue Authority, the Higher Education Loans Board, the Directorate of Criminal Investigations and Office of the Registrar of Political Parties.

By close of business on Tuesday, 5<sup>th</sup> September 2023, the Committee had not received any memoranda contesting or in support of the suitability of any of the nominees.

The Committee undertook the approval hearings for the three nominees on Thursday, 7<sup>th</sup> September 2023 and observed that they met the threshold for appointment as directors to the National Government Constituencies Development Fund Board as stipulated in Section 15 (1) (e) of the National Government Constituencies Development Fund Act, 2015 and Section 8(2) of the Public Appointments (Parliamentary Approval) Act, 2011.

The Committee therefore recommends that the House **APPROVES** the nomination of Hon. John Olago Oluoch, CBS, Hon. Janet Marania Teiyaa and Sen. Masitsa Naomi Shiyonga for appointment as Board of Directors of the National Government Constituencies Development Fund.



## **1.0 PREFACE**

### **1.1 Establishment and Mandate of the Committee**

1. The Select Committee on National Government Constituencies Development Fund (NG-CDF) is a statutory Committee established in accordance with the provisions of Section 50 of NG-CDF Act, 2015 whose functions include:

- (i) Overseeing the implementation of the NG-CDF Act, 2015 and in this respect, shall after every two years submit a report to the National Assembly and where necessary, propose any amendments to the Act with respect to the quantum of funds repayable into the Fund in accordance with Section 4 of the Act;
- (ii) Overseeing the policy framework and legislative matters that may arise in relation to the Fund;
- (iii) Reviewing the framework set out for the efficient delivery of development programmes financed through the Fund;
- (iv) Considering and reporting to the National Assembly, with recommendations, names of persons required to be approved by the National Assembly under this Act; and
- (v) Carrying out any other functions relevant to the work of the Fund.

### **1.2 The Membership of the Committee**

2. The 13<sup>th</sup> Parliament NG-CDF Committee was constituted in October 2022 pursuant to the provisions of the NG-CDF Act, 2015. The Committee comprises of the following Members:

- 1) Hon. Musa Sirma Cherutich, MP (Chairperson)  
(Eldama Ravine, UDA)
- 2) Hon. Kassim Sawa Tandaza, MP (Vice Chairperson)  
(Matuga, ANC)
- 3) Hon. Gideon Ochanda Ogolla, MP (Bondo, ODM)
- 4) Hon. Joshua Aduma Owuor, MP (Nyakach, ODM)
- 5) Hon. Beatrice Kadeversia Elachi, MP (Dagoretti North, ODM)
- 6) Hon. Catherine Nanjala Wambilianga, MP (Bungoma, CWR, FORD-K)
- 7) Hon. John Walter Owino, MP (Awendo, ODM)

- 8) Hon. Joseph H. Maero Oyula, MP (Butula, ODM)
- 9) Hon. Joshua Mbithi Mwalyo, MP (Masinga, Independent)
- 10) Hon. Mark Ogolla Nyamita, MP (Uriri, ODM)
- 11) Hon. Protus Ewesit Akuja, MP (Loima, UDA)
- 12) Hon. Titus Khamala Mukhwana, MP (Lurambi, ODM)
- 13) Hon. Alfred Mutai Kiprono, MP (Kuresoi North, UDA)
- 14) Hon. Antony Njoroge Wainaina, MP (Kieni, UDA)
- 15) Hon. Clive Ombane Gisairo, MP (Kitutu Masaba, ODM)
- 16) Hon. Jane Njeri Maina, MP (Kirinyaga, CWR, UDA)
- 17) Hon. Mohamed Soud Machele, MP (Mvita, ODM)
- 18) Hon. Susan Ngugi Nduyo, MP (Tharaka Nithi, CWR, UDA)

### **1.3 Committee Secretariat**

3. The secretariat supporting the Committee is comprised of the following parliamentary officers:

- |                               |                               |
|-------------------------------|-------------------------------|
| 1) Mr. Erick Nyambati         | Ag. Senior Clerk Assistant    |
| 2) Mr. Mohamed Jelle          | Clerk Assistant III           |
| 3) Ms. Peninnah Simiren       | Legal Counsel                 |
| 4) Mr. Chelang'a Rotich Maiyo | Research & Policy Analyst I   |
| 5) Mr. Yakub Ahmed            | Media relations officer       |
| 6) Ms. Felistus Muiya         | Public Communications Officer |
| 7) Ms. Patience Mbithi        | Hansard Reporter              |
| 8) Ms. Eva Kaare              | Sergeant-at-arms              |
| 9) Ms. Juliet Minayo          | Office Assistant              |

## **2.0 BACKGROUND**

### **2.1 The National Government Constituencies Development Fund Board**

4. The National Government Constituencies Development Fund Board (hereinafter referred to as "the Board") is established pursuant to Section 14 of NG-CDF Act, 2015 as a body corporate.

#### **1) Composition of the Board**

5. The Board of Directors consists of the following, as provided in Section 15 of the NG-CDF Act, 2015–

- (a) the Principal Secretary in the Ministry for the time being responsible for matters relating to national economic policy and planning or a designated alternate, not being below the level of Director of Planning;
- (b) the Principal Secretary in the Ministry for the time being responsible for matters relating to finance or a designated alternate not being below the level of Deputy Director of Budget;
- (c) the Attorney-General or a designated alternate not being below the level of Senior State Counsel;
- (d) the Principal Secretary in the Ministry responsible for matters relating to education or a designated alternate not being below the level of Director;
- (e) seven other persons, three of whom shall be of the opposite gender and at least one shall be a person with disability, qualified in matters relating to finance, accounting, engineering, economics, community development, public affairs, project management, education, security or law appointed by the Cabinet Secretary with the approval of the National Assembly; and
- (f) the Chief Executive Officer who shall be an ex-officio member without a right to vote.

## **II) Functions of the Board**

- 6.** The functions of the Board are provided for under section 16 of the NG-CDF Act, 2015 as follows:
  - (a) to consider project proposals submitted by various constituencies in accordance with the Act, approve for funding those project proposals that are consistent with the Act and disburse funds to the respective constituency operations account with respect to the approved projects;
  - (b) to ensure timely and efficient disbursements of funds to every Constituency;
  - (c) to ensure efficient management of the Fund;
  - (d) to co-ordinate the implementation of inter-constituency projects;
  - (e) to receive and address complaints that may arise from the implementation of the Fund;
  - (f) to encourage best practices in the implementation of projects;
  - (g) to administer the funds and assets of the Board in such a manner and for such purpose as shall promote the best interest of the Board in accordance with the Act to ensure efficient management of the fund; and
  - (h) to perform such other duties as the Board may deem necessary from time to time for the proper management of the Fund.

### **3.0 LEGAL FRAMEWORK OF THE APPROVAL HEARINGS**

7. In considering the nominees for appointment as Board Directors of NG-CDF the Committee took into account the provisions of the Constitution, the NG-CDF Act, 2015, the Public Appointments (Parliamentary Approval) Act, 2011 and the Leadership and Integrity Act, 2012.

#### **3.1 Constitutional and statutory requirements in Parliamentary Approval of Public Appointments**

8. Chapter 6, Article 10, Article 118, and Article 124(4) of the Constitution, the Public Appointments (Parliamentary Approval) Act, 2011, the Leadership and Integrity Act, 2012; the National Government Constituencies Development Fund Act, 2015 provide a framework for the conduct of parliamentary approval of public appointments

##### **3.1.1 The Public Appointments (Parliamentary Approval) Act, 2011**

9. Section 7 of the Public Appointments (Parliamentary Approval) Act, 2011 provides for issues which the National Assembly is supposed to consider in relation to any nomination. These include:
  - (a) the procedure used to arrive at the nominee;
  - (b) any constitutional or statutory requirements relating to the office in question; and
  - (c) the suitability of the nominee for the appointment proposed having regard to whether the nominee's abilities, experience and qualities meet the needs of the body to which the nomination is being made.
10. In addition, Section 6 of the same Act provides direction on the conduct of approval hearings. These include:
  - a) An approval hearing shall focus on a candidate's academic credentials, professional training and experience, personal integrity and background as per Section 6(7).

- b) The criteria specified in the Schedule shall be used by a Committee during an approval hearing for the purposes of vetting a candidate as per Section 6(8).
- c) Any person may, prior to the approval hearing, and by written statement on oath (affidavit), provide the Clerk(s) with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated as per Section 6(9).
- d) A candidate may, at any time, by notice in writing addressed to the Clerk, withdraw from the approval process and the candidate's nomination shall lapse as per Section 6(10).

11. The period for consideration of nomination is prescribed in the Public Appointments (Parliamentary Approval) Act, 2011. Section 8(1) of the Public Appointments (Parliamentary Approval) Act, 2011 provides that the Committee shall consider the nomination and table the report to the House for debate and decision within twenty-eight (28) days from the date on which the notification of nomination was given.
12. Section 9 of the Public Appointments (Parliamentary Approval) Act, 2011 stipulates that where the House does not meet the prescribed timelines, the nominees shall be deemed to have been approved.
13. Pursuant to Section 6(8) of the Public Appointments (Parliamentary Approval) Act, 2011 the criteria for vetting is comprehensively contained in the Questionnaire in the Schedule to the Act. The Questionnaire allows the Committee to obtain information on, among other things:
- a) Name of the nominee to enable the Committee to ascertain the regional background and ethnicity of the nominee.
  - b) Gender of the nominee to enable the Committee to ascertain the gender of the nominee. This is to ensure compliance with Article 27(8) that requires the State to take measures to ensure that no more than two-thirds of members of appointive bodies shall be of the same gender.

- c) Age of the nominee to enable the Committee to ascertain compliance with the provisions of Article 55 of the Constitution on the inclusion of the youth in public appointments.
- d) Nationality of the nominee to enable the Committee to ascertain the nationality of the nominee. This is to ensure compliance with Article 78 of the Constitution which requires certain State officers to be Kenyan Citizens. However, it is worth noting that members to the National Government Constituencies Development Fund Board are not State officers under Article 260 of the Constitution.
- e) Educational background of the nominee.
- f) The employment record of the nominee.
- g) Honours or awards given to the nominee.
- h) Membership of the nominee to professional bodies.
- i) Public office and political affiliations held by the nominee —to enable the Committee to ascertain whether the nominee holds office in a political party. This is to ensure compliance with Article 77(2) of the Constitution which precludes appointed State officers from holding office in a political party.
- j) Information on whether the nominee has been removed from office under Article 75 of the Constitution which prohibits a State officer who has been removed from office under Article 75 (3) of the Constitution from holding any other State office.
- k) Nominee's finances.
- l) Outside commitments that the nominee intends to undertake while in office (if appointed). Article 77(1) of the Constitution prohibits a full-time State officer from participating in any other gainful employment.
- m) Tax compliance status of the nominee.
- n) Potential conflict of interest—Article 75(1) of the Constitution bars State officers from engagements or associations that may give rise to conflict between official or public duties and personal interests.
- o) Whether a nominee has been charged in a court of law in the past three years; and
- p) Whether a nominee has been adversely mentioned in a report of Parliament or a Commission of Inquiry in the past three years.

q) The Questionnaire is largely formulated based on Constitutional and statutory requirements for State officers and other considerations that are of importance to make a determination on the suitability of a nominee.

### 3.1.2 Chapter Six on Leadership and Integrity

**14.** The Committee, in determining the suitability of the nominees, took into consideration the provisions on leadership and integrity outlined under Chapter Six of the Constitution. In particular, the Committee took cognizance of the following provisions-

- 1) Article 73(2) of the Constitution provides that the guiding principles of leadership and integrity include-
  - (a) Selection on the basis of personal integrity, competence and suitability, or election in free and fair elections.
  - (b) Objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favouritism, other improper motives or corrupt practices.
  - (c) Selfless service based solely on the public interest demonstrated by—
    - (i) Honesty in the execution of public duties;
    - (ii) The declaration of any personal interest that may conflict with public duties;
    - (iii) Accountability to the public for decisions and actions; and
    - (iv) Discipline and commitment to service to the people.
- 2) Article 75(1) of the Constitution requires a State officer, whether in public or private life, to behave in a manner that avoids conflict between personal interest and public official duties. Article 75(3) of the Constitution prohibits a State officer who has been removed from office under that Article from holding any other State office.
- 3) Article 77(1) of the Constitution prohibits a full-time State officer from participating in any other gainful employment.



- 4) Article 77(2) of the Constitution prohibits an appointed State officer from holding office in a political party.
- 5) Article 78 (1) of the Constitution disqualifies persons who are not Kenyan citizens and persons holding dual citizenship from appointment as State officers.

### **3.1.3 Article 10(2) of the Constitution on national values and principles of governance**

15. Article 10 (2) of the Constitution provides for the national values and principles of governance which include patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people; human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalised; good governance, integrity, transparency and accountability; and sustainable development.

### **2.1.4 Article 118 of the Constitution**

16. Article 118 of the Constitution obligates Parliament to conduct its business in an open manner, and that its sittings and those of its committees shall be in public; and that Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its committees. It also provides that Parliament may not exclude the public, or any media, from any sitting unless in exceptional circumstances the relevant Speaker has determined that there are justifiable reasons for the exclusion

### **2.1.5 Article 124(4) of the Constitution on parliamentary approval of public appointments**

17. Article 124(4) of the Constitution provides that when a House of Parliament considers any appointment for which its approval is required under the Constitution or an Act of Parliament, the appointment shall be considered by a committee of the relevant House; the committee's recommendation shall be tabled in the House for approval; and the proceedings of the committee and the House shall be in public.

### 3.1.6 The Leadership and Integrity Act, 2012

**18.** Article 73 (2) of the Constitution provides that the guiding principles of leadership and integrity include –

- (a) selection on the basis of personal integrity, competence and suitability, or election in free and fair elections;
- (b) objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favouritism, other improper motives or corrupt practices;
- (c) selfless service based solely on the public interest, demonstrated by —
  - (i) Honesty in the execution of public duties; and
  - (ii) The declaration of any personal interest that may conflict with public duties.
- (d) Accountability to the public for decisions and actions; and
- (e) Discipline and commitment in service to the people.

**19.** In addition, Section 10 of the Leadership and Integrity Act, 2012 provides that a State officer shall, to the best of their ability:

- (a) carry out the duties of the office efficiently and honestly;
- (b) carry out the duties in a transparent and accountable manner;
- (c) keep accurate records and documents relating to the functions of the office; and
- (d) report truthfully on all matters of the organization which they represent.

### 3.1.7 National Government Constituencies Development Fund Act, 2015

**20.** Section 15 (1) (e) of the NG-CDF Act, 2015 provides that the NG-CDF Board shall consist of seven other persons, three of whom shall be of the opposite gender and at least one shall be a person with disability, qualified in matters relating to finance, accounting, engineering, economics, community development, public affairs, project management, education, security or law.

21. Pursuant to section 15(1) (e) of the National Government Constituencies Development Fund Act, 2015 and the above matrix table, the Committee was able to infer that;
- a) In terms of age, all nominees are above the youth bracket and as such the National Government Constituencies Development Fund Board does not have a youth member.
  - b) In terms of gender, section 15 (1) (e) requires that the Cabinet Secretary shall ensure that three of the seven persons appointed by the Cabinet Secretary shall be of the opposite gender. The Board as currently constituted and in addition to the nominees will have an equal number of both male and female until the vacancy left by Dr. Isabel Waiyaki who resigned is filled.
  - c) In terms of professional qualification, section 15 (1) (e) provides for qualifications in matters; finance, accounting, engineering, economics, community development, public affairs, project management, education, security or law. Hon. Aluoch holds a Bachelor of Laws and as such meets the professional requirements. Hon. Janet Teiyaa holds a training in Accounting Technician. Sen. Naomi Shiyonga holds a certificate in monitoring and evaluation which falls under project management. In addition, all nominees are former Member of Parliaments who are qualified in matters community management and public affairs.
  - d) In terms of disability, section 15 (1) (e) provides that out of the seven people one shall be a person with disability. Hon. Janet Teiyaa and Ms. Maria Lekoloto are a registered persons with disability as such the Board will be properly constiuted.

## **4.0 THE APPROVAL HEARINGS**

**22.** The National Assembly was required to conduct an approval hearing of each nominee to ascertain his or her suitability for the position proposed and make an appropriate recommendation.

### **4.1.1 Notification to the Nominees**

**23.** By letters dated 29<sup>th</sup> August, 2023 Ref: NA/DAA&OSC/NG-CDF/2023/(32,33 and 34) the Clerk of the National Assembly, pursuant to Section 6(3) of the Public Appointments (Parliamentary Approval), 2011, notified the nominees of the date, time and venue for the approval hearing. The nominees were required to -

- (a) present their original identity cards, academic and professional certificates and other relevant testimonials. Additionally, the nominees were requested to bring clearance certificates from the Ethics and Anti-Corruption Commission, Kenya Revenue Authority, Higher Education Loans Board, Directorate of Criminal Investigations and the Office of the Registrar of Political Parties.
- (b) fill and present to the Committee the questionnaire in the Schedule to the Public Appointments (Parliamentary Approval) Act, 2011.

### **4.1.2 Notification of the Public**

**24.** Section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011, provides that any person may, prior to the approval hearing, and by written statement on oath, provide the Clerk with evidence contesting the suitability of a candidate to hold the office to which the candidate have been nominated.

**25.** On 30<sup>th</sup> August 2023, the Clerk of the National Assembly placed an advertisement in the Nation and Standard newspapers inviting members of the public to present written statements on oath referred to in Section 6 (9) of the Public Appointments (Parliamentary Approval) Act, 2011. The

written statements were to be submitted on or before **Tuesday, 5<sup>th</sup> September 2023 at 5:00 p.m.**

- 26.** Pursuant to Article 118 of the Constitution, Section 6(4) of the Public Appointments (Parliamentary Approval) Act, 2011 and the National Assembly Standing Orders, the same advertisement notified the public that the Select Committee on National Government Constituencies Development Fund would conduct approval hearings on **Thursday, 7<sup>th</sup> September 2023.**

#### 4.1.3 Clearance and Compliance Requirements

- 27.** Following the referral of the nomination to the Committee, the Clerk of the National Assembly requested information on the nominee from the following statutory agencies:

	<b>Institution</b>	<b>Nature of the information sought</b>
1.	Ethics & Anti-Corruption Commission	Compliance with Chapter 6 of the Constitution
2.	Kenya Revenue Authority	Tax compliance
3.	Higher Education Loans Board	Loans obligation
4.	Directorate of Criminal Investigations	Any criminal charge or conviction
5.	Office of the Registrar of Political Parties	Membership in any political party

- 28.** The Clerk of the National Assembly received responses from various State agencies as follows-

- (a) by a letter dated **6<sup>th</sup> September 2023**, Ref: *KRA/5/1002/5(9591)*, the Kenya Revenue Authority indicated that the nominees were tax compliant;
- (b) by a letter dated **1<sup>st</sup> September 2023**, Ref: *DCI/CRO/SEC/6/7/2/A/VOL XIII/67*, the Directorate of Criminal Investigations indicated that the nominees applied for police clearance certificates and the same were genuinely issued;
- (c) by a letter dated **4<sup>th</sup> September 2023**, Ref: *HELB/RR/112009/V/267*, the Higher Education Loans Board indicated that nominees Hon. Janet Marania Teiyaa and Sen. Masitsa Naomi Shiyonga were not beneficiaries of a GOK/ HELB loan and that Hon. Olago Aluoch CBS had his HELB Clearance Certificate No. 40281 issued in 2012;
- (d) by a letter dated **1<sup>st</sup> September 2023**, Ref: *EACC.7/10/5 VOL XXIV (382)*, the Ethics and Anti-Corruption Commission indicated that the nominees were not under any investigation, nor have they been recommended for any prosecution;
- (e) by a letter dated **1<sup>st</sup> September 2023**, Ref: *RPP/ORG/34 VOL VII (27)*, the Office of the Registrar of Political Parties indicated that the nominees were not officials of any registered political party.

**29.** Additionally, during approval hearing, the nominees also presented before the Committee their clearance certificates from the aforementioned institutions.

#### 4.1.4 Pre-approval Hearing Meeting

**30.** Prior to the approval hearing on Wednesday, **6<sup>th</sup> September 2023**, the Committee held a pre-vetting sitting to agree on the modalities of the approval hearing.

## 4.2 THE APPROVAL HEARINGS OF THE NOMINEES

**31.** In conducting the approval hearings, the Committee was guided by the Constitution, the NG-CDF Act, 2015, the Public Appointments

(Parliamentary Approval) Act, 2011, the Leadership and Integrity Act, 2012 and the National Assembly Standing Orders.

- 32.** The Committee considered the nominees' academic qualifications, employment record and work experience, membership to relevant professional associations, public office, political activities and affiliations, potential conflict of interest, suitability to the position, tax compliance, integrity and other thematic areas relevant to the duties and responsibilities of Board Directors of NG-CDF.

#### **4.2.1 HON. JOHN OLAGO ALUOCH, CBS**

- 33.** **Hon. Olago Aluoch, CBS** appeared before the Select Committee on National Government Constituencies Development Fund on Thursday, **7<sup>th</sup> September 2023** at **10.00 a.m** for the approval hearing. He informed the Committee that:

##### **Nominee background**

- 34.** He is a Kenyan citizen by birth with ID No 0636072, born on 20<sup>th</sup> May 1954 in Kisumu County and does not hold any dual citizenship.

##### **Academic and Professional qualifications**

- 35.** He holds a Postgraduate Diploma in Law from Kenya School of Law and Bachelor of Laws from the University of Nairobi.
- 36.** Employment Record and Work Experience
- (a) He is an Advocate of the High Court of Kenya with forty-four years of experience. He is an accomplished Arbitrator with over ten years of experience in commercial arbitration.
  - (b) He is an immediate former Member of Parliament of Kisumu Town West Constituency, Kisumu County having served from 2008- 2022.
  - (c) His experience as a former Member of Parliament and a Lawyer gives him an edge in understanding the role of the Board and

interpreting the NG-CDF Act, 2015 and its relevant regulations to perform duties of the NG-CDF Board better.

### **Integrity and Leadership**

37. He has never been adversely mentioned in any investigatory report of Parliament or any other Commission of Inquiry in the last three years. He further submitted before the Committee clearance certificates from the Ethics and Anti-Corruption Commission, the Higher Education Loans Board, the Directorate of Criminal Investigations, the Kenya Revenue Authority and the Office of the Registrar of Political Parties.

### **Financial Net Worth**

38. His net worth was estimated at one hundred and seventy-five million Kenya shillings (Kshs. 175M).

### **Professional Associations**

39. He is a member of the Law Society of Kenya, the Chartered Institute of Arbitrators (Kenya Chapter), International Commission of Jurists, West Kenya Law Society, East African Law Society, Agricultural Society of Kenya and Kenya National Chamber of Commerce and Industry.

### **Conflict of Interest**

37. He does not intend to vie for any political seat in the future and as such does not foresee any situation that could cause a conflict of interest in the execution of his duties.

### **Key Issues Arising from the Vetting Process**

38. The Committee posed several questions to the nominee on his knowledge of the NG-CDF and other cross-cutting issues that would affect the performance of the Board.

### **Vision for the Board**



**39.** The nominee informed the Committee that if approved for appointment he will endeavour to develop a strategic direction for the Board that will be people centric and focused on community support through adequate public participation.

**40.** Functional assignment as provided in the Constitution

The nominee underscored the importance of understanding the provisions of the Fourth Schedule to the Constitution on distribution of functions and where such functions are not expressly provided then they are treated as National Government functions and eligible for funding from the NG-CDF. He further informed on the need for a framework for determining such functions to avoid duplication of functions with the County Governments.

**41.** Current allocation to the NG-CDF

The nominee appreciated the current Fund allocation of 2.5% of the National Government share of revenue as allocated by the Division of Revenue Act annually. He noted that the societal impact attributed to the Fund in various sectors including education, security and environment and that there is need to increase the allocation to 5% to improve socio-economic development across the country.

Supreme Court Judgment on the constitutionality of the Fund

The nominee reiterated that the Fund is a National Government Fund that is utilized to support implementation of National Government functions and there is need to protect its existence. He noted that there is an apparent need to entrench the Fund into the Constitution to protect it from further litigation.

**42.** Cross-cutting issues such as climate change

The nominee informed the Committee that climate change is a reality and should be addressed through a multi-agency approach. That government agencies including the NG-CDF should prioritize climate resilient practices in the implementation of projects and programmes.

#### **4.2.2 HON JANET MARANIA TEIYAA**

**43.** Hon. Janet Marania Teiyaa, the nominee for appointment to the position as a Board Director to the NG-CDF, appeared before the Select Committee on National Government Constituencies Development Fund on Thursday, 7<sup>th</sup> September 2023 at 11.00 a.m for approval hearing and informed the Committee as follows:

**44.** The Nominee's background

- (a) She is a Kenyan citizen by birth with National ID No 22998757. She was born on 28 September 1980 in Kajiado County and does not hold any dual citizenship.
- (b) She is a registered Person with Disability with certificate registration number NCPWD/P/249320.

**45.** Academic and Professional qualifications

She studied Accountancy Technician Certificate (Level 1).

**46.** Employment Record and Work Experience

- (a) She has extensive experience in matters relating to Persons with Disabilities having worked with a Community Based Organization known as "Wezeshu Kenya Organization".
- (b) She is an immediate former County Women Member of Parliament of Kajiado County and a former Nominated Member of Parliament to National Assembly in the eleventh Parliament.
- (c) Her experience as a former Member of Parliament enables her to understand the role of the NG-CDF Board in the management of the Fund and its benefits to the communities especially persons living with disability.

**47.** Integrity and Leadership

She has never been adversely mentioned in an investigatory report of Parliament or any other Commission of Inquiry in the last three years. Further, she presented clearance certificates from the Ethics and Anti-Corruption Commission, the Higher Education Loans Board, the

Directorate of Criminal Investigations, the Kenya Revenue Authority and the Office of the Registrar of Political Parties before the Committee.

**48. Financial Net Worth**

Her net worth is estimated at eighty million Kenya shillings (Kshs. 80M).

**49. Conflict of Interest**

She does not intend to vie for any political seat in future and as such does not foresee any situation that could cause a conflict of interest in the execution of her duties.

**50. Key Issues Arising from the Vetting Process**

The Committee posed several questions to the nominee on her suitability for appointment as follows:

**51. Vision for the Board**

The nominee acknowledged that the Board as constituted is guided by a vision and she intends to leverage on the current vision by ensuring that projects and programmes implemented by the Fund across all the constituencies are disability conscious and undertook to reduce the level of marginalization of vulnerable groups such as persons living with disability, women, and youth.

**52. NG-CDF Revenue Share Allocation**

The nominee acknowledged the role of the Fund in improving the livelihoods of people at the constituency level and reiterated that most notable projects across the country are largely NG-CDF funded. She, therefore, informed the Committee that there is need to have a conversation around the allocation taking into consideration the economic growth.

**53. Community projects and other areas eligible for funding**

The nominee submitted that if approved for appointment as Director to the NG-CDF Board, she will ensure that the projects approved meet the needs of the people as per the regulations of the Board. Further, she

informed the Committee that such projects shall be required to support persons living with disability especially school infrastructure and bursary allocation.

#### **4.2.3 SEN. MASITSA NAOMI SHIYONGA**

**54.** Sen. Masitsa Naomi Shiyonga, the nominee for appointment to the position of a Board Director to the National Government Constituencies Development Fund, appeared before the Select Committee on National Government Constituencies Development Fund on Thursday, 7<sup>th</sup> September 2023 at 12.00 noon. for the approval hearing and informed the Committee as follows:

**55.** The Nominee's background

She is a Kenyan citizen by birth with National ID No 11417461 born on 26<sup>th</sup> January 1971 in Kakamega County and does not hold any dual citizenship.

**56.** Academic and Professional qualifications

She holds a Masters in Health Informatics from Wollongong NSW, Australia, a Bachelor in Health Records and Information Management from Mount Kenya University, Diploma in Health Records and Information Management and a Certificate in Health Records and Information Management both from Kenya Medical Training College.

**57.** Employment Record and Work Experience

(a) She is an immediate former Nominated Senator, she informed the Committee that her experience as a former Member of Parliament will enable her to understand the role of the Board in the management of the National Government Constituencies Development Fund Act, 2015 and better relate with the Members of Parliament in addressing challenges they face with the National Government Constituencies Development Fund.

(b) She has extensive experience in matters relating to Health Records having previously worked as a Senior Health Records and Information Manager, Disease Surveillance Response Unit, Ministry of Health, a

Program Manager Monitoring and Evaluation, NASCOP, Nairobi, a Health Records Management Officer, GSU Health Centre, Headquarters in Ruaraka and as a Health Records Officer, Department of Health, Nairobi.

**58. Integrity and Leadership**

She has never been adversely mentioned in an investigatory report of Parliament or any other Commission of Inquiry in the last three years. Further, she submitted clearance certificates before the Committee.

**59. Financial Net Worth**

Her net worth is estimated at fifty million Kenya shillings (Kshs. 50M).

**60. Conflict of Interest**

The nominee notified the Committee that she does not foresee any situation that could cause a conflict of interest in the execution of her duties.

**61. Key Issues Arising from the Vetting Process**

In order to assess the nominee's overall suitability on the position, the Committee examined the nominee on general and specific thematic areas of the fund which she responded as follows:

**62. Vision for the Board**

The nominee informed the Committee that NG-CDF is one of the decentralized funds whose mandate is to address socio-economic development of the people at the constituency level in order to reduce poverty and enhance regional equity. She noted that her vision will be to ensure that the aspirations of the Board are realized through approving projects that respond to the societal needs and guided by an effective monitoring and evaluation.

**63. Supreme Court judgement on the petition challenging the constitutionality of the Fund**

(a) The nominee informed the Committee that she does not agree with the Supreme Court of Kenya judgement as rendered noting that the Fund has tremendously resonated with the public by changing fortunes for the local communities. She further, lauded the

achievements that the NG-CDF has made to the constituencies in the areas of education, security and environment.

- (b) The nominee noted that there is need to protect the fund by amending the laws governing the fund to align to the Constitution for better functioning.

**64.** Data and information management of NG-CDF projects

- (a) The nominee informed the Committee that she has extensive experience in monitoring and evaluation and her skills will be fundamental in supporting the Fund policy on information and data management that will help in the realization of the Board strategic direction.
- (b) She underscored the importance of a sustainable monitoring and evaluation framework for projects approved by the Board.

**65.** Cross-cutting issues on equity and inclusivity

The nominee emphasized that to realize inclusive growth in the society there is need for the Fund to prioritize fair distribution of resources guided by the NG-CDF Act, 2015. Additionally, the Members of Parliament should undertake adequate public participation on project identification to ensure project proposals meet the needs of the society.

## 5.0 COMMITTEE OBSERVATIONS

### 5.1 SPECIFIC OBSERVATIONS

66. Having considered the nominees filled questionnaires pursuant to Section 6(8) of the Public Appointments (Parliamentary Approval) Act, 2011, curricula vitae and oral submissions during the approval hearing, the Committee made various observations regarding the suitability of the nominees for appointment as Directors of NG-CDF Board.

#### 5.1.1 Hon. John Olago Aluoch, CBS

67. The Committee observed THAT,

- (a) The nominee is a former Member of the National Assembly having served for three consecutive terms. He holds a Bachelor of Laws degree from the University of Nairobi and a Postgraduate Diploma in Law from the Kenya School of Law. His experience as a former Member of Parliament and a Lawyer gives him an edge in understanding the role of the Board and interpreting the NG-CDF Act, 2015 and its relevant regulations to perform duties of the NG-CDF Board better. His academic credentials, professional experience thus make him compliant with section 6(7) of the Public Appointments (Parliamentary Approval) Act, 2011 and section 15(1) (e) of the NG-CDF Act, 2015.
- (b) The nominee demonstrated knowledge on topical, policy and technical issues touching on the NG-CDF Fund and has the requisite abilities, qualification and experience to serve as a Director in the NG-CDF Board.
- (c) He has served as a Council Member for the Law Society of Kenya and the East Africa Law Society and has over 40 years of experience in legal practice and management.
- (d) The nominee meets the requirements of Chapter Six of the Constitution on Leadership and Integrity having obtained clearance certificates from Ethics and Anti-corruption Commission (EACC), the

Kenya Revenue Authority (KRA), the Directorate of Criminal Investigation (DCI), the Higher Education Loans Board (HELB) and the Office of the Registrar of Political Parties (ORPP).

- (e) Further, in accordance with Article 78(1) and (2) of the Constitution, the nominee is eligible for appointment as a Board Director of NG-CDF, since he is a Kenyan citizen born in 1954 in Kisumu County and does not hold dual citizenship.
- (f) The nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Article 75(1) (Conflict of interest), Article 76 (Financial probity), Article 77 (Restriction on activities of State officers) and Article 78(2) (Dual Citizenship) of the Constitution.

### **5.1.2 Hon. Janet Marania Teiyaa**

**68.** The Committee observed THAT,

- (a) She is an immediate former Woman Representative for Kajiado County and a Nominated Member of the National Assembly in the eleventh Parliament. Her experience as a former Member of Parliament will enable her to understand the role of the NG-CDF Board in management of the Fund.
- (b) The nominee has over 18 years of experience in community management and leadership especially in matters relating to Persons with Disabilities. She served as Member of Parliament representing persons living with disability and her work with a Community Based Organization known as "Wezesha Kenya" demonstrated her passion on matters concerning Persons with Disability.
- (c) Her experience as patron of the National Government Affirmative Action Fund which is similar to NG-CDF, will enable her efficiently administer the Fund to meet the needs of Persons with Disability, women, and youth.
- (d) The nominee has knowledge in accounting and meets the requirements of Chapter Six of the Constitution on Leadership and Integrity having obtained clearance certificates from Ethics and



Anti-corruption Commission (EACC), the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigation (DCI), the Higher Education Loans Board (HELB) and the Office of the Registrar of Political Parties (ORPP).

- (e) The nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of 75(1) (Conflict of interest), Article 76 (Financial probity), Article 77 (Restriction on activities of State officers) and Article 78(2) (Dual Citizenship) of the Constitution.
- (f) The nominee demonstrated knowledge on topical, policy and technical issues touching on the Fund and has the requisite abilities to serve as a Board Director in NG-CDF.
- (g) In accordance with Article 78(1) and (2) of the Constitution, the nominee is eligible for appointment as a Board Director of NG-CDF since she is a Kenyan citizen born on 28<sup>th</sup> September 1980 in Kajjado County and does not hold dual citizenship.

### **5.1.3 Sen. Masitsa Naomi Shiyonga**

**69.** The Committee observed THAT,

- (a) She is an immediate former Nominated Senator who holds a master's degree in health informatics from the University of Wollongong (NSW) Australia, Bachelor of Health Records and Information Management from Mount Kenya University and a Diploma and Certificate in Health Records and Information Management both from Kenya Medical Training College (KMTC).
- (b) Having served as a former Member of Parliament, she understands the role of the Board and its challenges in administering the Fund. This will enable her to efficiently address complaints raised from the implementation of the NG-CDF Act, 2015.

She has experience in Monitoring and Evaluation having served as a Program Manager in National Aids and STI Control Programme, which will enable her to co-ordinate implementation of projects at

the inter-constituency level in line with Section 16 (d) of the NG-CDF Act, 2015.

- (c) In accordance with Article 78(1) and (2) of the Constitution, the nominee is eligible for appointment as a Board Director of NG-CDF since she is a Kenyan citizen born on 26<sup>th</sup> January 1971 in Kakamega County and does not hold dual citizenship.
- (d) The nominee meets the requirements of Chapter Six of the Constitution on Leadership and Integrity having obtained clearance certificates from Ethics and Anti-corruption Commission (EACC), the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigation (DCI), the Higher Education Loans Board (HELB) and the Office of the Registrar of Political Parties (ORPP).
- (e) The nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Article 75(1) (Conflict of interest), Article 76 (Financial probity), Article 77 (Restriction on activities of State officers) and Article 78(2) (Dual Citizenship) of the Constitution.
- (f) The nominee demonstrated knowledge on topical, policy and technical issues touching on the NG-CDF Fund and has the requisite abilities and experience to serve as a Board Director in the NG-CDF Board.

## **5.2 GENERAL OBSERVATIONS**

**70.** The Committee observed THAT,

- (a) The process of nomination was in line with the Constitution, the Public Appointments (Parliamentary Approval) Act, 2011, the National Government Constituencies Development Fund Act, 2015 and the Leadership and Integrity Act, 2012.
- (b) No memoranda were received from the public in contest of the nomination of Hon. John Olago Aluoch, CBS, Hon. Janet Marania Teiyaa and Sen. Masitsa Naomi Shiyonga for appointment as Board of Directors of the National Government Constituencies Development Fund.

## 6.0 COMMITTEE RECOMMENDATION

71. Having complied with the Constitution, the Public Appointments (Parliamentary Approval) Act, 2011, the National Government Constituencies Development Fund Act, 2015 and the Leadership and Integrity Act, 2012, the Committee recommends that the National Assembly APPROVES the appointment of:

- 1) Hon. John Olago Aluoch, CBS as a Director to the National Government Constituencies Development Fund Board.
- 2) Hon. Janet Marania Teiyaa as a Director to the National Government Constituencies Development Fund Board.
- 3) Sen. Masitsa Naomi Shiyonga as a Director to the National Government Constituencies Development Fund Board.

Sign..........Date..........

**Hon. Musa Sirma Cherutich, CBS**  
**Chairperson**

**Committee on National Government Constituencies Development Fund**