



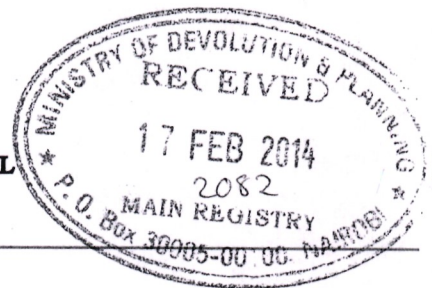
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14<sup>th</sup> February, 2014

1101/2/30

The Principal Secretary,  
State Department of Planning,  
Ministry of Devolution and Planning,  
P. O. Box 30005,  
**NAIROBI.**

**RE: DRAFT REGULATIONS TO THE CONSTITUENCIES  
DEVELOPMENT FUND ACT, 2013**

We refer to this matter and your letter ref. no. MDP 13/3/3/(20) (37) and dated the 11<sup>th</sup> February, 2014.

Enclosed herewith please find one original and three copies of the draft Constituencies Development Fund Regulations, 2014 for your further necessary action. We have made the necessary changes where applicable.

**CATHERINE OCHANDA,  
Principal Parliamentary Counsel.**

**For: Attorney-General.**

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DEPARTMENT OF JUSTICE

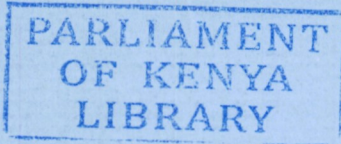
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LEGAL NOTICE NO. ....

**THE CONSTITUENCIES DEVELOPMENT FUND ACT  
(No. 30 of 2013)**

IN EXERCISE of the powers conferred by section 46(1) of the Constituencies Development Fund Act, 2013 the Cabinet Secretary for Devolution and Planning makes the following Regulations-

**THE CONSTITUENCIES DEVELOPMENT FUND REGULATIONS,  
2014**

Citation.

1. These Regulations shall be cited as the Constituencies Development Fund Regulations, 2014.

Interpretation.

2. In these Regulations unless the context otherwise requires-

“accountant” means an officer appointed by the Board to that position;

“financial year” means the period of twelve months ending 30<sup>th</sup> June each year.

“National Assembly Select Committee” means the committee established under section 28 of the Act;

“open public meetings” means the meetings referred to in section 24(3)(a) of the Act;

“ward” has the meaning assigned to it in the Elections Act, 2011.

Approval of nominees to the Board.

3. (1)The National Assembly shall, within twenty one days of receiving the names of the persons nominated to the Board from the Cabinet Secretary, consider the nominations based on the principles under Article 73(2) of the Constitution of Kenya, 2010 and the Pubic Appointments



(Parliamentary Approval) Act, 2011, and approve or reject any of them.

(2) Upon approval of the nominees by the National Assembly, the Cabinet Secretary shall, within fourteen days of receiving the approval cause the names of the approved persons to be published in the Kenya Gazette.

(3) Whenever a vacancy arises in the membership of the Board, the Cabinet Secretary shall within twenty-one days of the vacancy arising submit the names of the persons nominated to fill the vacancy to the National Assembly for approval.

Functions of the  
Constituency  
Development Fund  
Committee.

4. The Constituency Development Fund Committee established in accordance with section 24 of the Act in every constituency shall-

- (a) consider all project proposal from all wards in the constituency and any other projects which the Constituency Development Fund Committee considers beneficial to the constituency;
- (b) consult with the relevant government departments to ensure that cost estimates for the projects are realistic;
- (c) rank project proposals in order of priority while ensuring that ongoing projects shall take precedence;
- (d) ensure that projects proposed for funding fulfil the requirement provided in the Act and relevant circulars;
- (e) monitor the implementation of projects as per the Monitoring and Evaluation framework;
- (f) facilitate the formation of Project Management Committees, project implementation and closure of the project;

- (g) ensure prudent management of the Fund;
- (h) assist the officer of the Board in the constituency in the management of the Fund including keeping of books of account;
- (i) recommend to the Board the removal of a member of the CDFC in accordance with section 24 (14), (15) and (16) of the Act; and
- (j) any other assignment delegated to it by the Board.

Open public meetings for election of constituency committees.

5.(1) The officer of the Board in a constituency, in consultation with the area member of the National Assembly, shall convene an open public meeting for the election of members of the Constituency Development Fund Committee and cause public notices of the meeting to be displayed in all public places in every ward at least fourteen days prior to date of the election.

(2) The officer of the Board in a constituency shall also issue the notices referred to in paragraph (1) to the ward Administrator in the ward and give copies to the elected representative at the ward level.

(3) The notices shall specify the date and the designated areas within the respective wards where the meeting to elect the members of the Constituency Development Fund Committee will be held.

(4) The open public meetings held in a constituency for the purposes of electing members to the Constituency Development Fund Committee shall be held at the designated areas within the respective wards in a constituency.

(5) The officer of the Board in the constituency shall attend all the open public meetings and record the attendance and all proceedings of the meetings and the elections.

Criteria for election.

6. Subject to the provisions of the Act, a person shall qualify to be proposed for election as a nominee to the Constituency Development Fund Committee if the person-

- (a) is a citizen of Kenya;
- (b) resides within the constituency;
- (c) has at least basic reading and writing skills in any of the official languages; and
- (d) is of high integrity.

7. (1) The election of the eight persons referred to in a section 24(3) of the Act shall be conducted in the following manner-

Procedure for electing Constituency Development Fund Committee Members.

- (a) upon the convening of the meeting by the Member of Parliament and the Officer of the Board in the constituency shall take record of all participants;
- (b) the participants shall agree on the mode of conducting elections and the Presiding Officer shall order to elect five people from every ward as required by section 24(3)(b);
- (c) the agreed method and the name of the Presiding Officer shall be included in the minutes of the election proceedings documented by the Presiding Officer of the Board;
- (d) the participants shall elect five members from each ward to be considered for the eight positions provided for in section 24(3)(b);
- (e) the Presiding Officer shall order to elect five members from each ward to be considered for the eight positions provided for in section 24(3)(b);



the voting exercise immediately after the election and the same shall be authenticated by the national government representative present at the meeting;

(f) the Presiding Officer shall forward the names of the persons elected to the officer of the Board in the constituency as required by section 24(3) (b) of the Act.

(g) upon receiving names from all wards, the Member of Parliament in consultation with the officer of the Board in the constituency and the sub-county administrator shall appoint eight persons in accordance with section 24(3)(c).

(2) The persons appointed as committee members shall be required to uphold the principles under Chapter six of the Constitution including-

- (a) accountability for administrative acts;
- (b) transparency;
- (c) observe due care and diligence in provision of public service.

(3) Subject to section 24(11) of the Act, a member of the Constituency Development Fund Committee who is an ex-officio member may at any time resign from office by giving a notice, in writing, to the Board.

The chairperson of the Constituency Development Fund Committee.

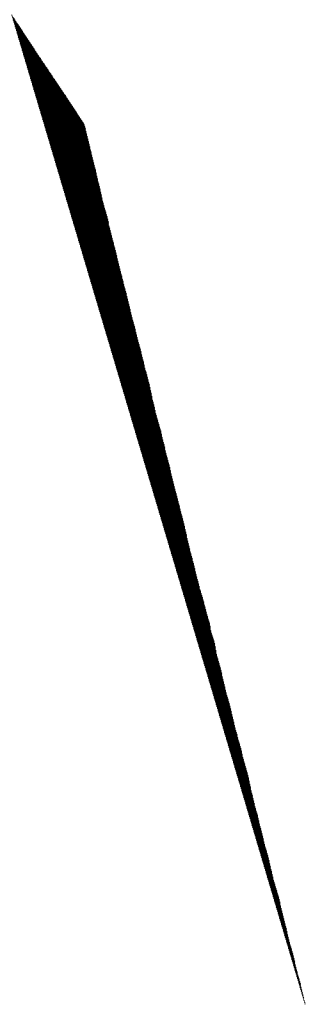
**8.** (1) The Constituency Development Fund shall have a chairperson who shall be elected in accordance with section 24(3)(d) of the Act.

(2) The chairperson of the Constituency Development Fund Committee shall-

- (a) in consultation with the Constituency Development Fund Committee



11



meetings;

- (b) chair Constituency Development Fund Committee meetings in which the chairperson is present;
- (c) be a signatory to the constituency fund bank account;
- (d) in consultation with the Member of Parliament, the Officer of the Board and Sub-county administrator convene open public meetings in every ward for identification at least one in every two years;
- (e) attend County Project Committee meetings;
- (f) table the list of approved constituency projects before the County Project Committee;
- (g) submit constituency project proposals to the Board;
- (h) co-ordinate the compilation of project status every six months.

The secretary to the Constituency Development Fund Committee.

**9.(1)** The Constituency Development Fund Committee shall have a secretary who shall be elected in accordance with section 24(3)(d) of the Act.

(2) The secretary to the Constituency Development Fund Committee shall-

- (a) in consultation with the chairperson and the officer of the Board convene Constituency Development Fund Committee meetings;
- (b) circulate notices of meetings and their the agenda;
- (c) accurately record the proceedings of all

Constituency Development Fund Committee meetings and keep the records in safe custody; and

- (d) receive and undertake all the correspondences on behalf of the Constituency Development Fund Committee.

The treasurer of the Constituency Development Fund Committee.

**10.** (1) The Constituency Development Fund Committee shall elect a treasurer from one of its members appointed pursuant to section 24 (2) of the Act.

(2) The treasurer of the Constituency Development Fund Committee shall-

- (a) be a signatory to the constituency bank account;
- (b) in consultation with the Fund Account Manager table the annual administration, monitoring and evaluation budget before the Committee for approval; and
- (c) be the vice-chairperson of the Constituency Development Fund Tender Committee.

Handing over.

**11.**(1) The Officer of the Board shall preside over the handover from one Constituency Development Fund Committee to the next, and a report on the handover shall be submitted to the Board within fourteen days.

(2) The handover referred to in paragraph (1) shall be in accordance with guidelines issued by the Board.

Guidelines.

**12.** The Board may issue guidelines from time to time to enable the smooth election of the members of the Constituency Development Fund Committee.

Schedule of meetings.

**13.** At the beginning of every financial year, the officer of the Board in consultation with the chairperson of the Constituency Development Fund Committee shall prepare and circulate to all members a proposed schedule of meetings to be held by the Constituency Development Fund Committee in accordance with section 24(12) of the Act and which shall be deliberated on by the members during their first meeting.

Meetings.

**14.(1)** The secretary in consultation with the chairperson shall convene the meetings of the Constituency Development Fund Committee by issuing at least fourteen days written notice and which shall be accompanied by the agenda of matters to be discussed at the meeting.

(2) Notwithstanding paragraph (1), the chairperson shall, upon requisition, in writing, by at least five members convene a special meeting of the Committee at any time to transact any business of the Committee.

(3) The quorum for the conduct of the Constituency Development Fund Committee meeting shall be one half of the total membership.

(4) Meetings of the Constituency Development Fund Committee shall be held in the Constituency office or at a public institution within the constituency that is accessible to all members.

(5) The chairperson shall preside over every meeting in which the chairperson is present but 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) The secretary to the Constituency Development Fund Committee shall ensure that all the proceedings and business of the committee at every meeting are recorded in the minutes.

(7) The minutes referred to in (6) shall be authenticated by the chairperson and secretary by endorsing each page of the minutes and shall be made available for inspection to all members of the Constituency Development Fund Committee.

(8) If a member of the Constituency Development Fund Committee has a direct or indirect personal interest in a matter being considered or is to be considered by the Committee, the member shall as soon as is possible after the relevant facts concerning the matter have come to the knowledge of the member disclose the nature of interest to the Committee.

(9) The disclosure of interest made by a member of a committee under paragraph (8) shall be recorded in the minutes of the meeting of the Committee and the member shall not participate in that particular meeting.

Constituency  
Development Fund  
Committee Sub-  
Committees.

**15.(1)** At its first meeting, the Constituency Development Fund Committee shall establish such sub-committees as it may consider necessary for the conduct of its operations.

(2) When forming the sub-committees the Constituency Development Fund Committee shall ensure representation and gender balance.

(3) Notwithstanding paragraph (1), every Constituency Development Fund Committee shall establish-

(a) Constituency Development Fund Tender Sub-Committee pursuant to the public procurement and disposal laws and regulations for the time being in force; and

(b) Constituency Development Fund Committee Inspection and Acceptance Sub-Committee as required by the Public Procurement and Disposal

LN 141 of 2009

Regulations, 2006;

- (c) The Monitoring and Evaluation Sub-Committee;
- (d) the Constituency Development Fund Bursary Sub-Committee which shall comprise of-
  - (i) five members of the Constituency Development Fund Committee;
  - (ii) co-opted membership of the officer of the Board; and
  - (iii) two national government education representatives in the constituency.
  - (iv) such other members co-opted by the Constituency Development Fund Committee from institutions or religious bodies or representatives of committees of other bursaries within the constituency within the constituency on need basis.

Functions of  
Constituency  
Development Fund  
Bursary Sub-  
Committee.

(3) The Constituency Development Fund Bursary Sub-Committee shall-

- (a) develop a clear criteria for equitable and fair award of bursary fund in the Constituency;
- (b) ensure that the funds allocated are reasonable;
- (c) effectively manage the Bursary Fund;
- (d) ensure timely disbursement of bursaries from the Bursary Fund in accordance with the bursary allocation guidelines developed by the Board from time to time;

- (e) ensure continuity in the award of bursary to beneficiaries;
- (f) prepare a report at the end of every financial year showing the total number of beneficiaries and their progress after award of bursary;
- (g) dissemination of information within the constituency.

Budget,  
Procurement Plan  
and Work plan for  
funds.

No. 18 of 2012

**16.(1)** The officer of the Board shall prepare a detailed budget proposal, procurement plan and work plan for the utilization of funds by the Constituency Development Fund Committee under section 22(6), (7), (8), (9), (10), and (11) of the Act in accordance with the provisions of Public Finance Management Act, 2012 and present them to the Constituency Development Fund Committee for deliberation and approval within thirty days.

(2) The finalized budget proposal, procurement plan and work plan of the Constituency Development Fund Committee shall be forwarded to the Board for approval.

(3) The Constituencies Development Fund Committee may revise the budget, procurement and work plan referred to in (1) above subject to the approval by the Board.

(4) The Budget referred to in paragraph (1) shall show all the Constituency Development Fund Committee's capital and non-capital expenditure.

(5) At the end of every financial quarter, the officer of the Board shall submit returns showing the utilization of funds referred to in (1) above to the Board.

Project  
identification  
meetings.

**17.(1)** The chairperson of the Constituency Development Fund Committee shall convene open public meetings held pursuant to section 24(6) for the purposes of identification and listing of development concerns in the Constituency by

displaying public notices in every ward at least fourteen days before the date of the meetings being held.

(2) The notice shall indicate the time, place and venue of the meeting.

(3) The Officer of the Board shall guide the participants at such meetings in the deliberating, identifying and listing their development priorities and forward the final list prepared at the meeting to the Constituency Development Fund Committee for its consideration.

(4) Upon receipt of the list of development priorities from all wards within the Constituency, the Constituency Development Fund Committee shall consider the lists and rationalize and consolidate the lists.

(5) The Constituency's prioritized list of consolidated Projects shall be submitted to the Board within twenty-one days of approval by the Constituency Development Fund Committee.

(6) Whenever the Board does not approve projects submitted to it by a Constituency Development Fund Committee for whatever reason, it shall return the prioritized list of consolidated projects to the respective Constituency Development Fund Committee and in writing clearly state the reason for the rejection and request for re-submission of suitable projects to be done.

(7) The list of approved projects shall be displayed on public notice boards in every ward within fourteen days of receipt of the approved list from the Board, and shall also be submitted to the County Projects Committee.

Records of Project  
Management  
Committee.

**18.** The records of Project Management Committee established under section 31(1) of the Act shall be maintained by the officer of the Board.



**19.(1)** There shall be established a Project Management Committee for each project in the Constituency in accordance with section 31 of the Act which shall-

- (a) implement projects in consultation with the relevant technical entities;
- (b) maintain a proper record of all minutes, accounting documents and other records of the projects;
- (c) open and maintain an independent bank account for each project;
- (d) prepare returns and to file the same with the Constituency Development Fund Committee on a timely basis;
- (e) account for funds to the Constituency Development Fund Committee; and
- (f) ensure project closure, labelling and handover upon completion.

(2) The existing Project Management Committee shall serve as Project Management Committees for existing institutions and projects including schools, health centres, cattle dips, and water projects, and shall open separate bank accounts for the funds.

(3) Every Project Management Committee shall prepare the requisite budgets and bills of quantities and work plans showing how it intends to utilize the funds given to it for implementing the project, which shall be approved by the Constituency Development Fund Committee before the funds are released.

(4) Every Project Management Committee shall account to Constituency Development Fund Committee for funds allocated to them.

(5) The Constituency Development Fund Committee

shall ensure that the land on which a project located has been secured for public use before the commencement of the project implementation.

Monitoring and evaluation of projects.

**20.**(1) The Board shall issue guidelines for monitoring and evaluation pursuant to Section 31(1) of the Act.

(2) The Monitoring and Evaluation Sub-Committee shall carry out quarterly monitoring and evaluation of projects in the Constituency.

(3) The officer of the Board shall prepare and submit Monitoring and Evaluation report to the Constituency Development Fund Committee for deliberation and thereafter submit it to the Board.

(4) The Constituency Development Fund Committees shall establish measures to ensure sustainability of projects funded under the Act.

Procurement by Constituencies Development Fund Committees and Project Management Committees.

**21.** The public procurement and disposal laws in force and the regulations made thereunder shall apply with respect to any procurement by the Constituency Development Fund Committees and Project Management Committees.

Opening of Constituency bank accounts.

**22.**(1) Pursuant to section 42(1) of the Act, Constituency Development Fund Committees shall open Constituency Accounts in approved banks only, upon official introduction by the Officer of the Board.

(2) The Constituency Development Fund Committees shall only change their approved bank accounts upon the approval of the Board and shall only transact in the new account upon closure of the previous account.

(3) The signatories to the Constituencies Development Fund Committee Bank Account shall be-

(a) the officer of the Board;

(b) At least two members appointed through a resolution recorded in the minutes of the Constituency Development Fund Committee and;

(c) the Chairperson and treasurer of the Constituency Development Fund Committee shall be mandatory signatories.

Opening of bank accounts by Project Management Committees.

**23.**(1) Project Management Committees shall only open Bank Accounts through a resolution recorded in the minutes of the committee, and upon official introduction by the officer of the Board.

(2) Any change of signatories of accounts by the Project Management Committee shall be recorded in the minutes with reasons and forwarded to Constituency Development Fund Committee.

(3) The Constituency Development Fund Committee shall ensure that Project Management Committees open bank accounts in approved banks for each approved project.

(4) The Project Management Committee shall by a resolution recorded in the minutes of the Committee appoint signatories to its bank account.

(5) Every payment or instruction for payment out of the Project Management Committee accounts shall be strictly on the basis of a resolution recorded in the minutes of the Project Management Committee and a cheque and a payment confirmation schedule issued by the officer of the Board.

(6) For the avoidance of doubt all projects that are implemented directly by the Constituency Development Fund Committee shall have their payments made out of the Constituency Fund Account opened in accordance with the Act.

Communication.

**24.** All the communications of the Constituency Development Fund Committee other than the project

submission forms shall be originated by the officer of the Board or the chairperson of the Constituency Development Fund Committee

Complaint handling.

**25.**(1) The Constituencies Development Fund Committee shall establish and maintain a Complaints Register in respect of all complaints received about the operations of the Fund in the Constituency and a status report of the complaints shall be forwarded to the Board at the end of each quarter of a financial year.

(2) The Constituency Development Fund Committee shall ensure that it makes adequate effort to address all complaints made to it before forwarding the same to the Board.

(3) The Board shall issue guidelines to the Constituency Development Fund Committees on mechanisms and procedures for handling complaints and litigations.

Constituency Fund Office.

**26.** (1) Each Constituency Development Fund Committee shall have one designated office within the constituency which shall be easily accessible.

(2) The Officer of the Board shall be the custodian of the Constituency Development Fund Office.

(3) Before initiating the construction or the lease of a constituency office, the Constituency Development Fund Committee shall seek and obtain approval of the Board.

Employees of the Constituency Development Fund Committee.

**27.** (1) The terms of service for employees of the Constituency Development Fund Committee shall conform to the employment laws for the time being in force.

(2) The employees of the Constituency Development Fund Committee shall be responsible to the officer of the Board for the performance of their day to day duties and who shall avail all their records to the Board and update

them regularly.

(3) The Board shall issue guidelines on paragraph (1) to ensure smooth operations of the Constituency Development Fund Committee

Allowances.

**28.** The Cabinet Secretary shall in accordance with the Act issue guidelines on allowances payable to members of the Constituency Development Fund Committees, County Project Committees and any other government officer involved in the management of the Fund.

Revocation.  
LN 34/2004

**29.** The Constituencies Development Fund Regulations, 2004 are revoked.

Dated the 17/02/14....., 2014.



**ANNE WAIGURU,**  
*Cabinet Secretary for Devolution and Planning.*