



TRANSITION AUTHORITY

**SPECIAL REPORT TO THE SENATE
ON THE STATUS OF IMPLEMENTATION OF
TRANSITION AUTHORITY'S MANDATE**

OCTOBER 2015

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CHAPTER ONE: INTRODUCTION AND BACKGROUND

1.1 Introduction

This Special Report is written in fulfilment of resolutions arrived at in a meeting held between the Transition Authority (TA) and the Senate on the implementation of TA's mandate and other emerging issues related to devolution in Kenya.

This report gives the highlights of the achievements, challenges and emerging issues faced by the Authority, while undertaking its responsibility as envisaged by the Act. It has also brought to the fore some of the challenges facing devolution and proposed areas where the Senate can intervene given its role as per Article 96(1) of the Constitution. This is to ensure the gains made are jealously safeguarded, protected and defended to ensure sustainability of the devolved units.

1.2 Background

The Transition Authority (TA) is established under section 4 of the Transition to Devolved Government Act (TDGA), 2012 to facilitate and coordinate the transition to a devolved system of government pursuant to the Section 15 of the Sixth Schedule to the Constitution of Kenya (CoK) 2010. Drawing from this mandate, the TA is required to oversee the implementation of devolution over a period of three years from the date of the first General Election under the Constitution. In so doing, the TA is obligated to uphold fidelity to the Constitution while exercising its functions and powers as provided for under the TDGA, 2012.

The country adopted the *Big Bang* approach to devolution (such that by 4th of March, 2013 Kenya was highly centralised but by 5th of March, 2013 the country was highly devolved and the local government system became defunct) over the recommended gradual and incremental approach. Kenya's transition process is earmarked to be covered in two phases over a period stretching between June 2012 and March 2016. Phase 1, which commenced in March 2012, ended with the March 4, 2013 General Elections; while Phase 2, which began on March 5, 2013, is currently ongoing and is expected to end no later than March 2016.

1.3 Mandate

According to section 7(2) of the TDG Act 2012 the specific functions that TA was mandated to undertake include:

- a) Facilitate the analysis and the phased transfer of the functions provided under the Fourth Schedule to the CoK 2010 to the National and County Governments;
- b) Determine the resource requirements of each of the functions;
- c) Develop a framework for the comprehensive and effective transfer of functions as provided under Section 15 of the Sixth Schedule to the CoK 2010;
- d) Co-ordinate with the relevant state organ or public entity in order to:
 - i) Facilitate the development of the budget for County Governments during phase of the transition period;
 - ii) Establish the status of the ongoing reform processes, development programs and projects and make recommendations on the coordinated management, reallocation or transfer to either level of government during the transition period;
- e) Prepare and validate an inventory of all the existing assets and liabilities of government, other public entities and local authorities;
- f) Make recommendations for the effective management of assets of the national and county governments;
- g) Provide mechanisms for the transfer of assets which may include vetting the transfer of assets during the transition period;
- h) Pursuant to section 15 (2)(b) of the Sixth Schedule to the Constitution, develop the criteria as may be necessary to determine the transfer of functions from National to County governments, including; such criteria as may be necessary to guide the phased or asymmetric transfer of functions to county governments and the criteria to determine the transfer of previously shared assets, liabilities and staff of the government and the local authorities;
- i) Carry out an audit of the existing human resource of the government and local authorities;
- j) Assess the capacity needs of the national and county governments;

- k) Recommend the necessary measures required to ensure that the national and county governments have adequate capacity during the transition period to enable them undertake their assigned functions;
- l) Co-ordinate and facilitate the provision of support and assistance to national and county governments in building their capacity to govern and provide services effectively;
- m) Advice on the effective and efficient rationalization and deployment of the human resources to either level of government;
- n) Submit monthly reports to the Commission for the Implementation of the Constitution and the Commission on Revenue allocation on the progress in the implementation of the devolved system of Government.
- o) Perform any other function as may be assigned by national legislation.

In furtherance to subsection 7(2)(o), other functions of Transition Authority as provided in other laws include;

- i) Section 134 (2) of County Government Act 2012 provides that after the repeal of CAP 265, all issues that may arise as a consequence of the repeal shall be dealt with and discharged by the body responsible for matters relating to transition.
- ii) County Government Act 2012, section 138 (3) provides that TA in consultation with Public service Commission and relevant Ministries facilitate deployment, transfers and secondment of staff to the national and county governments.
- iii) Urban Areas and Cities Act section 54 (1) provides that Urban areas and cities to be assessed and classified during the Transition period.
- iv) Public Finance Management (PFM) Act 2012, Second Schedule section 13 provides that all issues that may arise on the repeal of CAP 265 that are related to PFM Act shall be dealt with and discharged by the body responsible for matters relating to Transition.

Further to the above, the Objective and Purpose of the Act under Section 3 mandates the Authority to provide for policy and operational mechanisms during the transition period to audit, verify and transfer to national and county governments of;

- (i) Assets and Liabilities
- (ii) Human Resources
- (iii) Pensions and other staff benefits of employees of the government and local authorities; and
- (iv) Any other connected matters.

In addition, Section 3(e) of the Act requires the Authority to provide for closure and transfer of public records.

The Fourth Schedule to the TDGA, 2012 further requires the Authority to do the following;

- (i) Audit local authority infrastructure in the counties, to establish the number and functionality of plant and equipment in Local Authorities;
- (ii) Audit the government infrastructure in the counties, to establish the number and functionality of plant and equipment for the purpose of vesting them to either level of government;
- (iii) Facilitate civic education, to ensure civic education on devolution is commenced and coordinated;
- (iv) Facilitate the preparation of county profiles, to ensure that the profiles of counties are produced published and publicized;
- (v) Provide for mechanism that will secure assets and liabilities held by the Local Authorities.

Section 16(1) of the TDGA, provides that TA shall issue guidelines to State implementation plans.

1.4 Rationale

The Transition Authority (TA) is required to implement the Transition to a devolved system of government in Two Phases. During Phase One, TA spent substantial time to set up the administrative structures and operationalising its secretariat, therefore began implementing its activities late.

Drawing also from the electioneering period in 2012 and the misunderstanding of devolution by stakeholders, TA took a long time to access requisite data and information from the Ministries, Departments and Agencies of the then Central Government to support analysis, costing and transfer of functions, audit of assets and liabilities of government and local authorities, manage the transfer of human resources to either level of government and prepare the county development profiles amongst others. This, therefore, saw almost the entire Phase One activities offloaded to Phase Two of the transition period. However, Phase Two was no better.

During Phase Two of the transition period, TA spent almost the entire 2013 inaugurating and operationalising the County Governments amidst calls for its disbandment owing to misunderstandings of the operationalisation of a system of devolved government by different stakeholders in Kenya. This was coupled with inadequate budget to undertake a comprehensive audit of assets and liabilities and preparation of an inventory of these assets and liabilities for both the National and County Governments; analyse and transfer all functions; cost all functions to determine the adequate resources required to perform the functions; comprehensively coordinate civic education at both levels of government; resolve emerging issues emanating from the transfer of functions to the County Governments; co-ordinate and sustain capacity building for the County Governments, amongst others.

Apart from just the inadequate budget, there have been continuous delays in the release of funds after the withdrawal of the vote. This has affected the smooth flow of funds, thus made implementation of planned activities delayed for months. The cumulative effect has been the delayed delivery of TA's mandate as required by the timelines set by the institution and legislations as activities are continuously rolled over.

To this end, the following activities are still pending due to the above mentioned challenges:

- a) The auditing of public assets and liabilities for the defunct Local Authorities, for the Devolved Functions, for National Government and for State Corporations and Parastatals.
- b) Validation of the inventory of the public assets and liabilities for the defunct Local Authorities, for the Devolved Functions, for National Government and for State Corporations and Parastatals.
- c) Transfer of the assets and liabilities to the relevant level of government.
- d) The analysis and transfer of pending functions as per the Fourth Schedule to the Constitution and those performed by government parastatals and corporations.
- e) Determination of the resource requirements for functions for the 13 remaining sectors under phase two
- f) Resolution of emerging issues from transfer and implementation of concurrent functions.
- g) Setting up of the County Pension Scheme to safeguard benefits of the county staff and facilitate declaration of County Public Service.
- h) Classification of Urban Areas and Cities
- i) Resolution of emerging human resource management issues during the transition period;
- j) Establish the status of ongoing reform processes, projects and programs and recommend transfer and management to either levels of government.
- k) To implement the civic education curriculum on devolution
- l) Facilitate closure and transfer of public records and information to either level of Government.
- m) To ensure that the National and county governments have adequate capacity to govern and undertake their functions effectively.

Against this background, the pending work to be done by TA is still core and transitional in nature. TA, therefore, requests Parliament to consider extending the transition period by at least 3 years to ensure the completion of these activities so critical to the nation in terms of facilitating the devolved system of government.

Drawing from the three- year experience in facilitating and coordinating the transition process, adequate time is required to complete the pending work and handle the emerging issues in transiting to a devolved system of government. The TA has already amassed a wealth of experience and competencies over time and this will take any successor institution a long time to build and interruptions of the transition process will be imminent. The trust and rapport that TA has built with the two levels of government will also be lost in the management of the core transitional activities that are still pending, if the transition period is not extended.

Extension of the Transition period will guarantee the sustenance of the devolution momentum. There is also need to manage the transition from the current county administration to the next after the 2017 General Elections. The TA successfully inaugurated the 47 county governments after the March 4th 2013 General Elections and ensured limited interruption of service delivery. It is prudent that the same transition mechanism be present to oversee handing over process and induction of the new county administration in 2017.

1.5 Comparative studies on the implementation of the devolved system of governance

There are some vital lessons that Kenya can learn from other countries that have implemented devolution due to their historical experiences, adopted the big bang approach to decentralization and devolution and the timelines for the implementation.

1.5.1 Case study of Indonesia

One crucial lesson learnt is that for successful implementation of transition from a highly centralised government to devolved governments, adequate time is of essence. Indonesia had attempted to decentralize for the first time during colonial times of early 1920s. The other attempts were in 1950 and 1957 which all failed due to short transitional timelines. The successful attempt was in 2001 which adopted the Big Bang approach. Previous decentralization attempts were thwarted by limited transition period, regional political unrest, and rivalry of constituting agencies while key ministries were outright obstructionists as they felt they had everything to lose from decentralization and from the deconcentrated authority.

1.5.2 Case study of South Africa

The devolution in South Africa started with 1994 revolution kept the provincial form of government for the sub-national entity, but sub-divided the existing provinces as well as absorbed the former homelands. The transition process in South Africa had taken a considerable period of time.

1.5.3 Case study of Bolivia

The decentralization process in Bolivia perhaps offers Kenya the best lesson as it was implemented in a period of relative peace. It started in 1982 when civil societies groups began mobilizing support of political decentralization citing state of disequilibrium between rural and urban areas in terms of development. The main objective was to give indigenous citizens access to local power and resources closer to the people, a mirror situation of Kenya.

The decentralization reform process in Bolivia took a new turn with the adoption in 1994 of the Law of Popular Participation (LPP), a piece of legislation that encompasses a comprehensive set of territorial, political, administrative and fiscal aspects. This law brought two significant changes: Transfer of functions and resources to the regions; and power and authority to established devolved units. This transition process continued until the general elections of 2005 which brought power to the people after a period of 11 years.

1.5.4 Case study of Philippines

The transition period envisaged in Philippines was two decades after which a survey conducted indicated greater improvement in areas of governance (legislation, transparency and citizen participation); administration (development planning, revenue generation, resource allocation and utilization, financial accountability); social services (health/nutrition, education, housing/basic utilities. Peace/security and disaster preparedness; Economic development (agriculture/fisheries, entrepreneurship, business and industry promotions; Environmental development (natural resources management, waste management and pollution control). Other key areas showed great improvement.

From the above case studies, it is evident that for devolution to work and to be implemented seamlessly, various factors must be taken into account. One of the critical requirements is ensuring systems and structures put in place are functioning. Second is to ensure that the body mandated to oversee devolution is given adequate resources and a considerable period of time to ensure full transition. Finally, co-operation and consultation between the various levels of government that is based on mutual trust, respect and interdependency is paramount.

CHAPTER TWO: STATUS OF IMPLEMENTATION OF TA'S MANDATE

One of the main tenets and indicators of implementation of devolution and in particular transition is the effective analysis and transfer of devolved functions to the County Governments. Towards this end, TA developed a functional analysis framework to guide the analysis and unbundling process and transferred a number of functions. The Authority has successfully carried out three phases of transfer of functions to County Governments viz: Legal Notice No. 16 of 1st February, 2013, Kenya Gazette Supplement No. 116 (Legal Notices No. 137 – 183) of 9th August 2013 and Legal Notice No. 33 of 17th March, 2014.

TA has continuously facilitated key strategic interventions variously involving sector stakeholders to obviate emerging transition challenges related to functional definitions, and implementation for example betting, casinos and other forms of gambling and pre-primary education among other functional areas. Consequently, TA has commenced engagements with the Regional Development Authorities to clearly unbundle their functions and the budgetary resources attached to them.

The Authority inducted the Interim County Treasury teams on the constitutional and legal framework of public financial management, planning, budgeting, budget execution, accounting and reporting and issued several guidelines. TA in collaboration with the former Ministry of Finance prepared the 2012/2013 (March - June 2013) budget for the county governments. Also TA also facilitated the preparation of county profiles and ensured they are validated, published and publicized in all the counties. Also in consultation with the former Ministry of Planning National Development and Vision 2030, TA prepared and issued guidelines on preparation of the County Integrated Development Plans (CIDPs) in May 2013. The guidelines assisted counties in their preparation of annual development plans, sectoral plans, and the CIDPs.

In addition, in collaboration with the Physical Planning Directorate of the Ministry of Lands, Housing and Urban Development, TA prepared guidelines for preparation of county spatial plans. Further, the Authority undertook the initial assessment of urban areas and cities.

The transfer of political and administrative power should be accompanied by sufficient financial powers to Sub-National Governments with a view to improving access, efficiency and responsiveness of service delivery, promote participation and empower citizens to demand accountability and performance. To this end, as a transitional measure although the resources were assigned based on the institutional arrangements prior to devolution, TA has commenced the process of getting the realistic costs of service delivery. The process is currently going on in five sectors.

Concerning audit of assets and liabilities, a moratorium on Transfer of Assets was publicized in a bid to secure public assets during the transition period and a mechanism and criteria for transfer of assets and liabilities between the two levels governments was developed. An inventory of assets and liabilities of defunct local authorities have been compiled with assets worth Ksh. 140 Billion identified. The public participation and validation exercise is underway in all the Counties.

To operationalize the county governments and ensure a seamless delivery of services during the transition period, TA conducted a quick readiness assessment to establish county capacity needs and their preparedness for functions uptake .It also developed a national capacity building framework and released guidelines and advisories required to operationalize the County Assemblies. TA also audited the staff for the defunct local authorities and the devolved functions and is currently involved in Capacity Assessment and Rationalization of the Public Service (CARPS) which aims at providing a well-organized structure at both levels of government based on mandates and functions. On establishment of county pension scheme, the Authority prepared and presented the report to stakeholders recommending establishment of an Umbrella Scheme through an Act of Parliament.

To strengthen the capacity of the interim County treasuries, TA inducted the Interim County Treasury teams on the constitutional and legal framework of public financial management, planning, budgeting, budget execution, accounting and reporting and issued several guidelines during the transition period. Further, the Authority undertook the initial assessment of urban areas and cities.

TA has spearheaded civic education on devolution activities which plays a key role in enlightening the general populace. In addition, TA has developed and piloted a curriculum on civic education on devolution and public participation, produced civic education/IEC materials on devolution, sensitized the public and a reference database for Government and Non- State Actors who wish to engage in civic education. The main challenge has been insufficient budgetary allocation, uncoordinated and incongruent initiatives by various Stakeholders.

2.1 Achievements

The following are the specific achievements of the Authority:

- a) All functions previously performed by defunct local authorities and most of the devolved functions as per the Fourth Schedule to the Constitution have been unbundled, analyzed and transferred.
- b) Sensitized public officers to ensure that provision of services is not interrupted.
- c) Successfully prepared for and inaugurated county governments.
- d) Developed a mechanism for coordination of the transition process including the recruitment and deployment of Interim County Transition Teams to assist county governments in establishing prerequisite capacity, as well as identification of offices.
- e) Prepared a mechanism for effective transfer of assets between the two levels of government.
- f) A moratorium on transfer of public assets issued and implemented to safeguard assets and liabilities during the transition period.
- g) An interim unaudited inventory of assets and liabilities in place and shared with the county governments.
- h) Asset Management Information System (AMIS) procured and data on Assets, Liabilities and staff information uploaded.
- i) An inventory of all human resource for both the defunct local authorities and government staff at the county level prepared and shared with the county governments.
- j) Draft advisory on rationalization and staff deployment prepared and shared with the Counties.
- k) Quick Readiness Assessment to determine the readiness of the counties to take up the devolved functions was undertaken.

- l) All Governors, Deputy Governors, Speakers, County Assembly Members and County Public Service Boards have been inducted.
- m) National Capacity Building Framework developed.
- n) Guidelines on County Integrated Development Plans, spatial and sector plan developed in consultation with relevant ministries and disseminated.
- o) County profiles developed, launched and disseminated.
- p) Classification of urban areas and cities on-going.
- q) Mechanism for coordination of civic education activities developed in consultation with relevant stakeholders.
- r) Advisories, guidelines, publications, regulations and standing orders developed and disseminated.

2.2 Pending Activities

Despite the success in executing its mandate, TA has encountered a number of challenges and bottlenecks that include inadequate funding, slow review/realignment of laws touching on devolved functions, slow response on request for data on various functions, disagreement and delayed consensus building on pertinent issues like county pension scheme and court cases concerning functional definitions and assignment of concurrent functions like Roads, betting. These challenges have led to TA to have pending works in relation to the tight transition timelines.

These include the following:

- i. The auditing of public assets and liabilities for the defunct Local Authorities, for the Devolved Functions, for National Government and for State Corporations and Parastatals.
- ii. Validation of the inventory of the public assets and liabilities for the defunct Local Authorities, for the Devolved Functions, for National Government and for State Corporations and Parastatals.
- iii. Transfer of the assets and liabilities to the relevant level of government.
- iv. The analysis and transfer of pending functions as per the Fourth Schedule to the Constitution and those performed by government parastatals and corporations.
- v. Determination of the resource requirements for functions for the 13 remaining sectors under phase two

- vi. Resolution of emerging issues from transfer and implementation of concurrent functions.
- vii. Setting up of the County Pension Scheme to safeguard benefits of the county staff and facilitate declaration of County Public Service.
- viii. Classification of Urban Areas and Cities
 - ix. Resolution of emerging human resource management issues during the transition period;
 - x. Establish the status of ongoing reform processes, projects and programs and recommend transfer and management to either levels of government.
 - xi. To implement the civic education curriculum on devolution
 - xii. Facilitate closure and transfer of public records and information to either level of Government.
- xiii. To ensure that National and county governments have adequate capacity govern and undertake their functions effectively

CHAPTER THREE: CHALLENGES

In the discharge of its mandate, TA has encountered several challenges which are both internal and external.

3.1 Challenges to TA as an Institution

- i) Inadequate funding to achieve the TA mandate. This financial year (2013/2014), TA was allocated a paltry 5% of what was requested. This is hardly enough to cover recurrent cost given that TA pays top-up allowances for Interim County Staff of currently about 500 persons.
- ii) Unavailability and/or slow response from Ministries to provide requisite data for TA to undertake its functions especially information on assets, liabilities and devolved functions.
- iii) Duplicating and overlapping mandates on capacity building between TA and Ministry of Devolution and Planning,
- iv) Threats to the independence of the Authority given that the TA budget vote was put under the Ministry of Devolution and Planning.
- v) Political interference especially during the clamour for transfer of functions.
- vi) Inadequate capacity: Due to limited resources, TA was only able to bring on board technical officers in June 2013, almost a year after the Authority was established.
- vii) Challenge of managing high and unrealistic expectations of the perceived benefits of the devolved governments by stakeholders, especially the Counties.
- viii) Time Constraint: The *'Big Bang approach to devolution'* and the time allocated for transiting power, function and resources remain a big challenge to the Authority.
- ix) Structural challenges: The Authority comprise of 17 Members, nine of which were competitively recruited, vetted by parliament and appointed by the president, Six permanent secretaries including the Head of Public Service, The PS Treasury and the Attorney General as an ex-official and a Secretary competitively recruited by the Board. The heavy representation of the national government made it very difficult for the board to make impartial decisions

3.2 Challenges to Devolution

- a) The “*big bang approach towards devolution*” keeping in mind the complexities of devolution.
- b) Lack of national policies, norms and standards to guide the counties in implementing the devolved functions. The Ministries have been slow in developing them and where drafts exist, there is an attempt to claw back county functions.
- c) Lack of proper records in relation to government assets to facilitate the audit of the assets by TA.
- d) Inadequate up-to date HR and other public records.
- e) Inadequate capacity in central support services (HR, Finance, and Administration etc).
- f) Overlapping and duplicating county and national structures
- g) Lack of appreciation and in some cases rejection of defunct local authority staff and those performing devolved functions by County governments
- h) Moulding the old structures into new structures
- i) Resistance to change by public officers.

CHAPTER FOUR: CONCLUSION

The Transition Authority has covered a lot of ground despite the challenges highlighted above. However, there is still outstanding work to be done for the Authority to fully achieve its assigned mandate according to the Transition to Devolved Government Act, 2012.

The Authority was set up in July 2012 and County Governments were inaugurated in March 2013 hardly a year into TA's existence. The legal, political and economic challenges were glaring and impeded TA's operations. Therefore, the exit of TA when too much work is pending will not be prudent and cost effective to the country. The County Governments are still young and are in the process of establishing the requisite structures and systems; and still need support and guidance to be fully operational.

It is also important to note that the issue of Transfer of Assets and Liabilities, which is a key component of devolution, is still outstanding. The two levels of government need an impartial umpire to midwife this process and TA is that umpire. The role of an independent arbiter during the transition to the devolved system of government cannot be over-emphasized and cannot be substituted by another body which does not have the institutional memory, technical knowhow, experience.

More specifically, TA requests the Senate to consider extending the transition period by at least 3 years to ensure the completion of core pending transitional activities. Extension of the Transition period will guarantee the sustenance of the devolution momentum. There is also need to manage the transition from the current county administration to the next after the 2017 General Elections.

In addition, the Authority requests the Senate to facilitate allocation of adequate resources, in order to fulfil its mandate. It is evident from other jurisdictions (case studies quoted) that the body mandated to oversee devolution should be given adequate resources and a considerable period of time to ensure full transition.

ANNEXES

1. Annex 1: Status of implementation of TA mandate
2. Annex 2: Pending activities
3. Annex 3: Detailed Work plan for pending activities

Annex 1: Status of Implementation of TA Mandate

Mandate as per TDGA Act and other legislations(Focus on section 7 (2))	Achievements	Pending Activities	Challenges/Emerging issues
<p>1. Section 7(2) (a):- Facilitate the analysis and the phased transfer of the functions provided under the Fourth Schedule to the Constitution to the national and county governments</p>	<p>Functional Analysis (Unbundling) The Transition Authority unbundled the functions of both levels of government specifically functions being performed by the line Ministries and prepared a comprehensive report on the same. TA also unbundled functions domiciled in agencies in the Ministry of Water (Water Service Boards (WSBs); WASREB, WRMA, WTF, NWCPC, and WAB), Environment and Natural Resources and Regional Development Authorities The report is a working document and TA updates it from time to time. This is in view of the fact that functional analysis is not a one off activity but rather a continuous policy dialogue process that leads to the following key outcomes Achievement of clarity in the functional and competency assignment between the national and county governments; Determination of the service level gaps in respect of each competency; Determination of the expected performance</p>	<p>Unbundling the functions of two hundred and five (205) state corporations/Parastatals/Agencies domiciled in the following sectors:- Sports, Culture and Arts; Energy; Agriculture; Mining; Education; Health; Lands; Devolution and Planning; Transport and Infrastructure; Interior and National Coordination; Industrialization; Labour, Social Security and Services; East Africa, Commerce and Tourism;</p>	<p>Inadequate information and slow response by the MIDAs Lack of service Norms and standards Outdated legal and regulatory framework and Policy not aligned to devolved system of government Political pressure to transfer all functions at once Conflict of functions outlined in the Executive order No. 2 vis a vis the Forth Schedule</p>

Mandate as per TDGA Act and other legislations(Focus on section 7 (2))	Achievements	Pending Activities	Challenges/Emerging issues
	<p>level;</p> <p>Allocation of funds to levels of government according to their service delivery mandates;</p> <p>Identification of capacity and capability constraints;</p> <p>Development of a short, medium to long term capacity building programme; and,</p> <p>Review the organization of national government to reflect the assignment of functions under the CoK 2010.</p>		
	<p>Phased Transfer of Functions:-</p> <p>TA has carried out three phases of transfer of functions.</p> <p>Phase I:- Legal Gazette Notice No.16 of 1st February, 2013 (functions initially performed by the defunct Local Authorities)</p> <p>Phase II:- Kenya Gazette Supplement No. 116 (Legal Notices No. 137-183) of 9th August, 2013</p> <p>Phase III:- Legal Notice No. 33 of 17th March, 2014</p>		
	Transferred Functions to County	Functions under State Corporations in the	The performance of Fish Health

Mandate as per TDGA Act and other legislations(Focus on section 7 (2))	Achievements	Pending Activities	Challenges/Emerging issues
	<p>Governments:-</p> <p>Agriculture, including:-</p> <p>crop and animal husbandry;</p> <p>livestock sale yards</p> <p>county abattoirs</p> <p>plant and animal disease control; and</p> <p>Fisheries.</p>	<p>Agriculture Sector.</p>	<p>Certification Function is contested by the National Government</p> <p>Interim licensing regime under AFFA is a major challenge in implementation of devolved functions</p> <p>Some counties have signed illegal agreements to convert ATCs and AMSs for other purposes e.g HomaBay has converted the ATC into a University.</p>
	<p>County health services including in particular:-</p> <p>county health facilities and pharmacies;</p> <p>ambulance services;</p> <p>promotion of primary healthcare;</p> <p>licensing and control of undertaking that sell food to the public;</p> <p>veterinary services (excluding regulation of the profession);</p>	<p>Functions funded under global funds such as malaria, TB, HIV/AIDS, immunization, vaccines, and other specialized commodities including family planning.</p>	<p>financing of level 5</p> <p>HR (payroll despite TAs advisory to delay transfer of payroll); training, promotions</p> <p>Facility Improvement Fund (FIF) usage</p> <p>Delayed maternity fund reimbursement</p> <p>Procure of commodities</p> <p>Delay in policy and laws</p>

Mandate as per TDCA Act and other legislations(Focus on section 7 (2))	Achievements	Pending Activities	Challenges/Emerging issues
	cemeteries, funeral parlors and crematoria; and refuse removal, refuse dumps; and solid waste disposal		Role of KEMSA in the devolved system need to be defined TA has undertaken an assessment of delivery of health functions by counties and made clear recommendations on how to improve service delivery. The assessment report is enclosed (Annex 1)
	Control of air pollution, noise pollution, other public nuisances and outdoor advertising	N/A	Delay in operationalization of the function at the county level Limited capacity(Finance, structure, equipment, HR) Role of NEM/A in the devolved system is not clear
	Cultural activities, public entertainment and public amenities including- Betting, casinos and other forms of gambling Racing	Libraries managed by Kenya National Library Services	The licensing of casinos (Public Gaming License) emerged as a contentious issue between the National Government and the County Governments The Nairobi City County Government

Mandate as per TDGA Act and other legislations(Focus on section 7 (2))	Achievements	Pending Activities	Challenges/Emerging issues
	<p>Liquor licensing</p> <p>cinemas</p> <p>video shows and hiring</p> <p>libraries managed by the local authorities</p> <p>museums</p> <p>sports and cultural activities and facilities and</p> <p>county parks, beaches and recreation facilities</p>		<p>enacted an Act and asked the industry players to get license from the county</p> <p>Association of Gaming Operators of Kenya (AGOK) contested the matter and filed a case in court and the matter is still pending in court.</p> <p>TA sent a draft legal notice to the AG to libraries among other functions appealed and approved by senate. This has been contested and it's in court.</p>
	<p>County transport including-</p> <p>County roads</p> <p>Street lighting</p> <p>Traffic and parking</p> <p>Public road transport and</p> <p>Ferries and harbours, excluding the regulation of international and national shipping and matter related thereto.</p>	<p>Roads managed by KURA and KeRRA</p>	<p>Delays in the enactment Laws to facilitate classification of roads and other related matters (KURA, KeRRA)</p> <p>Pending court case on roads function.</p> <p>Disputes in ferries and harbors</p>

Mandate as per TDGA Act and other legislations(Focus on section 7 (2))	Achievements	Pending Activities	Challenges/Emerging issues
	Animal control and welfare including:- Licensing of dogs; and Facilities for the accommodation, care and burial of animals	N/A	N/A
	Trade development and regulation, including:- Markets; Trade licenses (excluding regulation of professions); Fair trade practices; Local tourism; Cooperative societies;	N/A	Operationalization of the weights and measures function due to capacity(human, infrastructure and structures) challenges
	County Planning and Development including:- statistics land survey and mapping boundaries and fencing housing and	electricity and gas reticulation and energy regulation	Consensus on which institution should perform which functions has not been arrived at. This is due to: Overlap of functions between the various institutions e.g Ministry and NLC; CGs and NG; NLC and CGs Delayed enactment of laws in the

Mandate as per TDGA Act and other legislations(Focus on section 7 (2))	Achievements	Pending Activities	Challenges/Emerging issues
			<p>sector</p> <p>Inadequate clarity in the structural arrangements in delivery of functions</p> <p>Housing-Management of pool housing function is unclear</p> <p>Delayed alignment of laws to the CoK, 2010</p> <p>The counties face challenges in delivering the survey, mapping, housing functions</p>
			<p>Counties have an agreement schedule with REA on implementation of rural electrification projects during the transition period.</p>
	<p>Pre-primary education, village polytechnics, home craft centres and child care facilities</p>		<p>Transfer Capitation cost for trainees not done by NG</p> <p>Inadequate funding of these functions at both levels of government</p> <p>Delayed absorption and salaries of polytechnic staff (ESP instructors) by the CG</p> <p>Some county governments are</p>

Mandate as per TDGA Act and other legislations(Focus on section 7 (2))	Achievements	Pending Activities	Challenges/Emerging issues
	Implementation of specific national government policies on natural resources and environmental conservation, including soil and water conservation: and forestry.	Further Unbundling of the functions of State Corporations in the forestry sector including KFS, RDAs, and water and sanitation sector institutions.	Lack of policy and legislative framework to operationalize the function.
	County Public Works and Services, including:- Storm water management systems in built-up areas; and water and sanitation services	Transfer of functions performed by water sector institutions Further engagement with the water sector institutions	There are overlaps in delivery of these functions by many institutions in the water and regional development sector. Specifically, Functions of Regional Development Authorities (RDAs), Water Service Boards (WSBs), National Water Conservation and Pipeline Corporation (NWCP) and the county governments overlap.
	Fire Fighting Services and Disaster Management		Lack of policy and legislative framework to operationalize the function.

Mandate as per TDGA Act and other legislations(Focus on section 7 (2))	Achievements	Pending Activities	Challenges/Emerging issues
	Control of Drugs and Pornography	Further unbundling of the functions	Duplication in implementation between NACADA and the CGs Lack of policies and legislative to effectively operationalize the function
	Ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level.	Further unbundling of the transfer of certain components of the function including community development and social development	Ambiguity in definition given its cross cutting nature. Operationalization and financing of the function The function not yet costed.
	Strategic Interventions on emerging challenges Following the transfer of functions TA has continued to provide strategic guidance on key emerging challenges following transfer of functions. For instance:-Education sector(Secondment of ECDO Officers to the Counties; Implementation of Fish health certification function, Implementation of AFFA Regulations under the Crops Act; Agriculture)	More issues emerging from the devolved functions (Deployed of devolved sports officers to Sports Kenya as per the Sports Act, 2013; the i.e in Sports)	Alignment of the relevant laws to the CoK, 2010
2. Section 7(2) (b):- Determine the	Budgeting for functions based on historical costing	Costing of functions of the remaining 13 sectors	Inadequate resources to undertake this function.

Mandate as per TDGA Act and other legislations(Focus on section 7 (2))	Achievements	Pending Activities	Challenges/Emerging issues
<p>resource requirements for each of the functions.</p>	<p>The Transition Authority in collaboration with the Commission on Revenue Allocation is undertaking the costing of functions to determine the realistic quantum or proportion of funds and other resources necessary for the performance of the functions assigned to the National and County Governments.</p> <p>This being a complex exercise and the fact that it will be the first time realistic costing is being undertaken in Kenya in order to inform resource sharing and it will be conducted in phases. The first phase comprises the costing of functions in the following sectors:-</p> <ul style="list-style-type: none"> Health Environment and natural resources water and Irrigation Agriculture, livestock and fisheries Roads and infrastructure Foreign Affairs and International trade <p>The draft final report is in place.</p>		<p>Complexity of the process</p>
<p>3. Section 7(2) (c):- Develop a framework</p>	<p>A comprehensive framework was developed to guide the Ministries, Department, and Agencies undertake functional analysis and competencies</p>	<p>Development of a framework for analysis and competency assignment of concurrent</p>	<p>MDAs have not been adhering to guidelines to collect and collate the information requested by the TA to</p>

Mandate as per TDGA Act and other legislations(Focus on section 7 (2))	Achievements	Pending Activities	Challenges/Emerging issues
for the comprehensive analysis and effective transfer of functions.	assignment. This framework draws from international experience and includes a criteria for functional analysis and competency assignment, the process of undertaking the tasks including the structures for gathering information and decision making, costing of functions, development of sectoral policies, development of norms and standards for each sectors, guidelines for development of transition implementation plans and guidelines for delivery of functions and performance management framework.	functions	inform proper analysis and transfer of functions
4. Section 16(1) The Transition Authority shall issue guidelines to State implementation plans	Developed and issued Transition Implementation Plans (TIPs) guidelines to the MDAs and County Governments to prepare their Transition Implementation Plans	Submission of TIPs by state Corporations/Parastatals/Agencies	Slow response in Submission of Transition Implementation Plans (TIPs)
5. Section 7 (2) (e) of the TDGA: Prepare and validate an inventory of all the existing assets and liabilities of Government, other public entities and defunct local	Prepared unaudited inventory of assets and liabilities of all the 175 defunct local authorities	Audit of assets and liabilities of all the 175 defunct local authorities	Inadequate budgetary allocations to undertake audit of assets and liabilities of all the 175 defunct local authorities

Mandate as per TDGA Act and other legislations(Focus on section 7 (2) authorities	Achievements	Pending Activities	Challenges/Emerging issues
	Collected data on assets of the office of the president and deputy president	The collected data is to be physically verified and audited to prepare a validated inventory of assets of the office of the president and deputy president	Inadequate budgetary allocations to undertake physical verification and audit of assets and liabilities of the office of the president and deputy president
	Collected data from 25 out of 41 National Government Departments	To collect the remaining data from 16 department of national government, physically verify and audit all the data on assets from the 41 departments	Slow response by the departments to submit the data on assets and liabilities to TA
	Collected data on assets and liabilities of 138 out of 297 National Government state corporations/Agencies	To collect the remaining data from 159 state corporations/agencies of national government, physically verify and audit all the data on assets from the 41 departments	Slow response by the state corporations/agencies to submit the data on assets and liabilities to TA
	Installed an Assets Management Information System (AMIS) where data on all public assets and liabilities is being uploaded to offer security of the data and also make it readily accessible on user rights basis to either level of government	To link it with the current government information system and all the outstanding data before being uploaded should be audited so that there are secured in AMIS	The need for adequate collaboration between the relevant government departments and agencies to finalize the linking of AMIS to the existing government information systems
6. Section 7 (2)(f) of the TDGA: Provide mechanism for the transfer of assets which may include vetting the transfer of assets during	Developed the mechanism for transfer of assets and liabilities between the two levels of government	Validation of the developed mechanism through stakeholders engagement and development of regulations to operationalize it	

Mandate as per TDGA Act and other legislations(Focus on section 7 (2))	Achievements	Pending Activities	Challenges/Emerging issues
<p>the transitional period</p> <p>7.TDGA 7 (2) (i) Audit of existing human resource of the Government and Local Authorities ;and</p> <p>8. 7(m) Advise on the effective and efficient rationalization and deployment of human resource to either level of government</p> <p>9. CGA 138 (3) mandates the TA in consultation with PSC and relevant ministries to facilitate and coordinate the deployment transfer and secondment of staff to national and county government.</p>	<p>Audit of human resources of defunct Local Authorities Staff and those performing devolved functions was done in 2013 and information shared with the respective county government to facilitate planning and deployment of staff</p> <p>Comprehensive biometric registration for all public officers in the national and county governments undertaken in 2014 to facilitate rationalization, deployment and secondment of national and County government employees.</p> <p>Carried out joint Capacity Assessment and rationalization of the public service (CARPS) which includes institutional and organizational review; functional analysis; skills assessment and identified gaps, surplus, overlaps and duplications</p>	<p>Rationalization and deployment of staff</p> <p>Finalization and implementation of CARPS report</p> <p>Establishment of county pension scheme and declaration of County Public Services</p> <p>Confirmation and absorption of seconded staff</p>	<p>Continued recruitment by both levels of government before rationalization and redeployment of existing staff.</p> <p>Recruitment for positions already filled by the seconded staff</p> <p>Low morale/motivation by staff owing to job insecurity</p> <p>Disparities in salaries for officers performing same function</p> <p>Establishment of 47 public services poses a big challenge in the human resource Management including inter-county portability, transfers, training and promotions.</p> <p>Delays in enacting a legislation to operationalize Article 235 and 236. This has resulted in misinterpretation of CGA Section 138.</p> <p>Premature transfer of the payroll in 2013 Delays in release of exchequer</p> <p>Disruption of service delivery through industrial action due to:</p>

Mandate as per TDGA Act and other legislations(Focus on section 7 (2))	Achievements	Pending Activities	Challenges/Emerging issues
10. Section 3(d)(iv) Provide for policy and operational mechanism during the transition for the transfer of human resources, pensions and other staff benefits	Facilitated development of A County Governments Retirement Scheme Bill, 2015 Five bills developed by various stakeholders including CoG, National Treasury, LAPTRUST and Senate have been harmonized into one County Government's Retirement Bill, 2015	Engagement of key stakeholders by Senate on the proposed Bill Enactment of the County Governments Retirement Scheme Bill, 2015 to facilitate transfer of service and Protection of pension benefits.	Managing competing interests and as a result 5 Bills were developed. Delay in enacting the County Governments Retirement Scheme Bill has impacted on deployment, transfer of staff and declaration of counties as Public Services
11. TDGA 7 2 (j), (k) Assess the capacity needs of national and county governments	Conducted County readiness assessment which resulted in identification of capacity gaps and development of intervention plans	Strengthening the capacity of the County Government structures.	

Mandate as per TDGA Act and other legislations(Focus on section 7 (2))	Achievements	Pending Activities	Challenges/Emerging issues
<p>and recommend measures required to ensure that national and county governments have adequate capacity during the transition period to enable them undertake their assigned functions</p>	<p>Coordinated and facilitated the development of National Capacity Building Framework (NCBF) to provide a mechanism for coordination and facilitation of capacity building and technical support to either level of government</p> <p>Facilitated establishment of administrative structures including administration, Finance, Accounts, Human resource, Supply chain and audit units and equip them with staff.</p>		
			<p>The CPSB/CASB lack the required operational autonomy and financial resources</p> <p>Most boards are yet to build the required capacity to effectively deliver their function independently</p> <p>Some CASB are not properly constituted and are operating without the independent member</p>

Mandate as per TDGA Act and other legislations(Focus on section 7 (2))	Achievements	Pending Activities	Challenges/Emerging issues
	<p>Facilitated capacity enhancement of county assembly through training of speakers and MCAs.</p> <p>Facilitated preparation of necessary working tools and documents for county assemblies including maces, interim standing orders and speakers' rules.</p> <p>Developed and issued advisories and administrative guidelines on management of public records, human resource management, and employment of ward staff.</p>	<p>Facilitate operationalization of further decentralized units</p>	
		<p>Strengthening the capacity of the County Governments on policy making and legislation</p> <p>Facilitate establishment of the Office of County Attorney Bill</p>	

Mandate as per TDGA Act and other legislations(Focus on section 7 (2))	Achievements	Pending Activities	Challenges/Emerging issues
<p>12. Fourth schedule of the TDGA 2012 1(k)</p> <p>Provide for closure and transfer of public records and information</p>	<p>Survey of records in all the forty seven counties conducted to establish the status of records, vital records, the capacity of counties to manage records(human resource, infrastructure, systems)</p> <p>Facilitated transfer of Human resource records from national government to the counties</p>	<p>Dissemination of survey report</p> <p>Survey of national government records</p> <p>Guidelines on closure and transfer of records developed</p> <p>Sensitization of Counties on records management</p> <p>Appraisal of records</p> <p>Closure and transfer of public records</p>	<p>Damping of local authorities records</p> <p>Misplacement of vital records</p> <p>Lack of adequate capacity in the counties to manage records(human resource, infrastructure, systems)</p>
<p>13. TDGA 7(2)(d)(i)</p> <p>facilitate the development of the initial county governments budgets and ensure that such budgets are agreed upon</p>	<p>Facilitated and prepared the 2012/2013 (March - June 2013) Budget for the county governments.</p> <p>Facilitated the preparation of the County Transition Appropriation Act, 2013 Act.</p>	<p>Evaluation of the spending of Ksh. 3.2 billion sent to the counties for office development during the 2012/2013 financial year.</p>	<p>Some counties are yet to fully account for the money</p>

Mandate as per TDGA Act and other legislations(Focus on section 7 (2))	Achievements	Pending Activities	Challenges/Emerging issues
<p>14. TDGA 7(2) (d)(ii) Establish the status of ongoing reform processes, development programmes and projects and make recommendations on the management, reallocation or transfer to either level of government during the transition period.</p>	<p>Disbursed 3.2 Billion for infrastructural development</p> <p>Compiled data on ongoing projects and programmes in the County Development Profiles.</p>	<p>Assessment of the extent to which the County governments have taken over and completed the projects.</p> <p>Consolidation of the inventory of other ongoing projects programmes and reform process and transfer to either level of government.</p>	<p>There are many stalled projects</p>
<p>15. TDGA Fourth Schedule Phase One 1 (i)Facilitate the development of county public finance management system</p>	<p>Facilitated the enactment of the County Governments Public Finance Management Transition Act, 2013</p> <p>Facilitated rollout of IFMIS and GPAY to the county governments</p> <p>Inducted the Interim County Treasury teams on the constitutional and legal framework of public financial management, planning, budgeting, budget execution, accounting and reporting. Prepared and issued guidelines on-</p>	<p>Facilitate enactment of core revenue raising legislations by counties.</p> <p>A comprehensive assessment of PFM implementation during the transition period.</p>	<p>IFMIS adoption by the counties in terms of human resource capacity, Connectivity, down times, generation of reports from IFMIS and inadequate office space and ICT equipment.</p> <p>Implementation of multiple revenue management systems (LAFOMS and other systems)</p> <p>Financial systems not cascaded to lower administrative level.</p>

Mandate as per TDGA Act and other legislations(Focus on section 7 (2))	Achievements	Pending Activities	Challenges/Emerging issues
	<p>Budget preparation and execution to the Country Treasuries.</p> <p>operationalisation of county financial management systems.</p> <p>Opening and management of county bank accounts.</p> <p>Designation of receiver and collector of revenue and guidelines on designation of accounting officers.</p> <p>Conducted a Fiduciary Mock Audit conducted in a sample of ten (10) counties to help in the preparation of the <i>County Budget Operational Manual and Internal Audit manual</i> by the National Treasury.</p> <p>Conducted fact finding missions on public financial management challenges in six (6) counties to identify capacity gaps to inform capacity building interventions by the National Treasury.</p>		
16.Section 54, of the UACA , 2011	Assessed the 135 urban areas and cities as per the UACA, 2011.	Classification of the Urban Areas and Cities upon enactment of the law.	<p>Delayed classification has been a challenge in the management of urban areas and cities.</p> <p>Delayed appointment of City</p>

Mandate as per TDGA Act and other legislations(Focus on section 7 (2))	Achievements	Pending Activities	Challenges/Emerging issues
<p>17.TDGA 2012, <i>Fourth Schedule 1(g): facilitate civic education, to ensure civic education on devolution is commenced and coordinated;</i></p> <p>CGA 2012 sections 98-101 ;137.</p>	<p>Prepared draft amendments to the UACA, 2011.</p> <p>Prepared Draft Regulations to the (UACA) 2011.</p>	<p>Setting up of management and administrative structures for the Urban Areas and Cities.</p> <p>Planning and Financing framework of the Urban Areas and Cities.</p>	<p>management Board for Kisumu has affected effective management of the city.</p> <p>Most urban areas have appointed the administrators although there are conflicts and overlaps with the Sub County and ward administrators and sectors and departments within the counties.</p>
	<p>Set up an inter-agency Committee for civic education comprising of Ministry of Devolution and Planning, Commission for the Implementation of the Constitution, Office of the Attorney General and Department of Justice, Council of Governors and Non State Actor(Uraia Trust and Amkeni Wakenya)</p>	<p>Development of a national civic education framework</p> <p>Baseline survey on devolution and implementation of civic education</p> <p>Development of roll out program for civic education</p> <p>Support Counties in implementation of civic education function</p> <p>Collaborate with Senate to conduct civic education throughout the country on transition and devolution</p> <p>Support Counties in implementation of civic education function through capacity building and establishment of civic</p>	<p>Lack of cooperation from Organizations responsible for implementing civic education</p> <p>Limited funding from both the national and county governments for civic education</p>

Mandate as per TDGA Act and other legislations(Focus on section 7 (2))	Achievements	Pending Activities	Challenges/Emerging issues
	education units		
	<p>2. Developed Civic Education Curriculum on Devolution, Public Participation and training manuals. (13 weeks programme targeting the general public weeks programme targeting people in Institutions of learning</p> <p>Executive programme targeting public officers, opinion leaders and administrators)</p>	<p>Printing, launch and dissemination of curricula and training manuals.</p> <p>Capacity building/sensitising County Officers and the public on devolution and public participation</p>	<p>Changing Legislation affecting contents of the curriculum</p>
	Facilitated the development of Public Participation Guidelines.	<p>Facilitate development of a National Public Participation Policy.</p> <p>Sensitize Counties on the Public Participation guidelines</p>	Counties lack standardized format of developing legislation on Public Participation
	Developed Information, Education and Communication (IEC) booklet.	Printing, launch and dissemination of IEC booklet	<p>Limited financing to develop the IEC materials</p> <p>Changing content from new Legislations</p>

Mandate as per TDGA Act and other legislations(Focus on section 7 (2))	Achievements	Pending Activities	Challenges/Emerging issues
	Developed the civic education provider's profile database and disseminated.	Tailoring and printing of IEC materials for different target groups.	
	Conducted public awareness campaigns on devolution and transitional issues.	Updating the data base	-Some Organisations lack capacity to conduct civic education -Some organizations have been de-registered or no longer exist
	Published: A booklet on Frequently Asked Questions on Transition to Devolved System of Government in Kenya "A guide to the Mandates and Procedures of County Governments in Kenya" Guidebook for Governors	Continuous sensitization of the general public on transition issues	limited resources to sustain civic education
	Published: A booklet on Frequently Asked Questions on Transition to Devolved System of Government in Kenya "A guide to the Mandates and Procedures of County Governments in Kenya" Guidebook for Governors	Review and update of TA publications on Civic Education as per context	Changing content as new Legislations are enacted
	Establishment of County Attorney offices in some counties	Strengthening the capacity of the County Governments on policy making and legislation	Limited capacity in the counties especially in enactment of laws and other technical areas (human resource).

Mandate as per TDGA Act and other legislations(Focus on section 7 (2))	Achievements	Pending Activities	Challenges/Emerging issues
	Facilitated capacity building in legislative drafting by county governments through training of County Attorneys and developed legislation development guidelines	Enactment of the Office of County Attorney Bill((Senate)	Training of County Attorneys on legislative drafting from the Assembly side. The Authority has successfully trained county attorneys from the executive on legislative drafting which has enabled them draft county bills and offer legislative support
	Facilitated capacity enhancement of county assembly through training of speakers and MCAs.		Capacity building of County Assemblies on how to conduct house business, the process is ongoing and a few counties are yet to be capacity build.
	Facilitated preparation of necessary working tools and documents for county assemblies including maces, interim standing orders and speakers' rules		Gazettement of Regulations of Closure of public records and sharing of Assets and liabilities among counties and between the National and the County government
	Facilitated development of administrative guidelines on operationalizing the Transition to Devolved Government Act 2012. This included assets regulations, guidelines and advisories on assets and liabilities, management of public records, human resource management and		Review of devolution laws at both levels Audit of county laws Representation of TA in litigation matters

Mandate as per TDGA Act and other legislations(Focus on section 7 (2))	Achievements	Pending Activities	Challenges/Emerging issues
	functional analysis		

Annex 2: Pending Activities

Pending Work as per the act/	Key Outputs	Timeline(March 2016-March 2019)	Resources (Ksh)Millions
1.Unbundling the functions of two hundred and five (205) state corporations/Parastatals/Agencies	Functional analysis reports of the two hundred and five (205) state corporations/Parastatals/Agencies	September 2018	40
2. Submission of Transition Implementation Plans (TIPs) by State Corporations/Parastatal/Agencies	Transition Implementation Plans (TIPs) reports	September 2016	20
3.Costing of functions of the remaining 13 sectors	costing of functions reports	September 2018	124.5
4.Development of a framework for analysis and competency assignment of concurrent functions	Framework for analysis and competency assignment of concurrent functions	June 2017	40
5.Strategic Interventions on emerging challenges Following the transfer of functions	Inter- agency reports to guide the implementation of the devolved functions Advisory on the implementation of the devolved functions	Continuous	45
6.Facilitate the transfer of secondary functions to County Governments	Gazette notices	Continuous	8
Sub Total			257.5
7. Section 7 (2) (e) of the TDGA: Prepare and validate an inventory of all the existing assets and	Validated (verified & audited) inventory of assets and liabilities of all the 175 defunct local authorities	By February 2017	600 Million

Pending Work as per the act/	Key Outputs	Timeline(Mar ch 2016- March 2019	Resources (Ksh)Millions
8.Liabilities of Government, other public entities and defunct local authorities			
	Validated (verified & audited) inventory of assets and liabilities attached to other devolved functions	By September 2017	600 Million
	Validated (verified & audited) inventory of assets and liabilities of all State corporations/ Agencies	By January 2018	200 Million
	Validated (verified & audited) inventory of assets and liabilities of Ministries of National Government	By January 2018	400 Million
	Assets Management Information System & populated with the validated inventory of all public assets and liabilities	By February, 2018	20 Million
	Publishing of the validated inventory (register) of all public assets and liabilities in the Kenya Gazette	By February, 2018	50 Million
9.Section 7 (2)(f) of the TDGA: Provide mechanism for the transfer of assets which may include vetting the transfer of assets during the transitional period	Validated mechanism for transfer of assets and liabilities between the two levels of government	By April 2016	50 Million
	Transfer of validated assets and liabilities of all the 175 defunct local authorities to either level of government	By April 2017	10 Million
10.Section 7 (2) (g) of the TDGA: Make recommendations for the effective management of assets of the National and County Governments	Develop recommendations for effective management of assets of the national and county governments	By February 2018	7 Million
11.Section 7 (2)(h) (ii) of the TDGA: Develop the criteria to determine the	Validated mechanism for sharing of assets and liabilities between the two	By April 2016	50 Million

Pending Work as per the act/	Key Outputs	Timeline(March 2016-March 2019	Resources (Ksh)Millions
transfer of previously shared assets and liabilities of the Government and defunct local authorities	levels of government		
	Share of the validated assets and liabilities of all attached to other devolved functions between the two levels of government	By December 2017	10 Million
Sub Total			1,999
12.Section 7 (2)(m) Advising on effective and efficient rationalization and deployment of human resources to national and county governments through finalization and implementation of CARPS report	CARPS report adopted by summit Public input incorporated in CARPS report Inter-county and Inter-governmental transfers effected Incentives for rationalization effected	March 2016	30M
	Staff deployed and redeployed Functions rationalized	January, 2017	90 M
	Seconded staff confirmed in the county public service	December ,2016	120M
13.Section 3(d)iv Ensuring smooth transfer of staff to counties through establishment of the County Pension Scheme and declaration of County Public Services	Recommendations of the Technical Committee for County Pension Scheme implemented The County Governments Retirement Scheme Bill, 2015 enacted	December, 2016	150M
14. Section 7(2)(i) Coordinating and facilitating the provision of support and assistance to national and county governments in building	The capacity of county structures to perform their functions enhanced Assessing the capacity needs of national and county governments	December, 2018	240M

Pending Work as per the act/	Key Outputs	Timeline(Mar ch 2016- March 2019	Resources (Ksh)Millions
their capacity to govern and provide services effectively.			
	Gaps and capacity needs at both levels of government identified	December, 2018	180M
	Enhanced capacity to govern in the new dispensation	Continuous until March 2019	240M
	Induction of new elected and nominated leaders capacity built	December, 2018	90M
15. Fourth Schedule 1(k) Provision of a mechanism for closure and transfer of public records and information;	Guidelines and regulations for closure and transfer of public records finalized and security and protection of records guaranteed	February, 2016	20M
	Records survey reports disseminated and recommendations in survey reports implemented.	June, 2016	15M
	National government records report on status of national government records prepared and the recommendations implemented	June, 2017	30M
	Counties sensitized on records management and Capacity of records management officers built and enhanced	December, 2017	60M
	Appraisal of records and identification of records for disposal, closure and transfer identified.....	Continuous until March 2019	60M
	Records closed ,transferred and disposed	June, 2018	60M

Pending Work as per the act/	Key Outputs	Timeline(March 2016-March 2019)	Resources (Ksh)Millions
16.Strengthening the legislative capacity of County Governments and enhancing policy making	County governments able to formulate policy and legislate	March, 2017	60 M
	The Bill to establish the Office of County Attorney County Attorney enacted	June, 2017	30 M
17.Facilitating establishment of village administrative units	Village Administrative unit operational	June, 2017	30M
18.Strengthening of Financial and Information management systems at different county administrative levels	Different administrative levels maintain prudent financial management	June. 2017	30M
Sub Total			1,535
19.TDGA 7(2)(d)(i) facilitate the development of the initial county governments budgets and ensure that such budgets are agreed upon	Evaluation and audit of all the 47 counties on the spending of Ksh. 3.2 billion sent to the counties for office development during the 2012/2013 financial year.	June 2017	15 million
20.4th Schedule 1(i) of the TDGA -facilitate the preparation of county profiles, to ensure that the profiles of the counties are produced, published and publicised;	Assessment of all the 47 counties on the implementation of the County Integrated Development Plans during the transition period. Integration of National and County planning framework as per the County Governments Act, 2012.	Continuous	110 million
21.Establish the status of on-going reform processes, development programmes and projects and make recommendations on the management, reallocation	Establishment of the status of on-going reform processes, development programmes and projects; Management, reallocation,	June, 2017	50 million

Pending Work as per the act/	Key Outputs	Timeline(Mar ch 2016- March 2019	Resources (Ksh)Millions
or transfer to either level of government during the transition period;	transfer to either level of government recommended Development programmes and projects reallocated and transferred		
22. TDGA Fourth Schedule Phase One 1 (I)Facilitate the development of county public finance management system	Core revenue raising legislations enacted. Procurement and asset management modules in IFMIS operationalized PFM implementation assessed.	Oct, 2016	25 million
23. Section 54, of the UACA , 2011	Classification of the Urban Areas and Cities upon enactment of the law. Set up of management and administrative structures for the Urban Areas and Cities.	Dec, 2016(Depends on the passage of the amendments into law) June 2017	110 million
	Regulations to the Urban Areas and Cities Act, finalised and operationalized	June. 2017	30 million
	Establish the Planning and Financing framework of the Urban Areas and Cities.	Jan 2019	50 million
Sub Total			390 Million
24. TDGA 2012, Fourth Schedule 1(g): facilitate civic education, to ensure civic education on devolution is commenced and coordinated;			
25. Development of a roll out program for civic education	Program for roll out of civic education developed	December, 2015	3 Million
26. Printing and launch of Civic Education Curricula, Training Manual and I.E.C.	Civic Education Curricula and Manuals published	December, 2015	40 Million

Pending Work as per the act/	Key Outputs	Timeline(March 2016-March 2019)	Resources (Ksh)Millions
materials			
27. Dissemination of the civic education curriculum, training manuals and IEC materials	Civic Education Curriculum and Manuals disseminated	Continuous	47 Million
28. Support Counties in implementation of civic education function through capacity building and establishment of civic education units	Civic Education function implemented by Counties	Continuous	50 Million
29. Collaborate with Senate to conduct civic education throughout the country on transition and devolution	Citizens sensitized on devolution	Continuous	94 Million
30. Facilitate baseline survey on devolution and implementation of civic education in Kenya	Report on Status of implementation of civic education	June, 2016	5 Million
31. Facilitate development of National Framework for Civic Education	National Civic Education Framework developed	December, 2016	10 Million
32. Facilitate development of a National Public Participation Policy.	National Public Participation Policy developed	June, 2017	10 Million
33. Tailoring and printing of Information, Education and Communication (IEC) materials for different target groups.	IEC materials published	June, 2017	20 Million
34. Sensitize Counties on Public Participation guidelines	County Government Officers sensitized on public participation	Continuous	40 Million
35. Updating the civic education providers profile database	Updated civic education providers profile database	March, 2019	1.5 Million
36. Dissemination of civic education providers profile database to county Government and other stakeholders	Database disseminated	Continuous	1 Million
37. Review and update TA publications on Civic	TA Civic Education publications reviewed and	December, 2018	40 Million

Pending Work as per the act/	Key Outputs	Timeline(Mar ch 2016- March 2019	Resources (Ksh)Millions
Education as per context	printed		
Sub Total			361.5
38. Section 7 (2) (k) of the TDGA: Recommend the necessary measures required to ensure that the national and county governments have adequate capacity during the transition period to enable them undertake their assigned functions;	Training of County Attorneys on legislative drafting from the Assembly side.	By February 2017	100 Million
	Capacity building of County Assemblies on how to conduct house business,	By September 2017	100 Million
	Gazettement of Regulations of Closure of public records and sharing of Assets and liabilities among counties and between the National and the County government.	By January 2016	50 Million
	Review of devolution laws at both levels of government	By March, 2018	50 Million
39. Section 7 (2)(i) of the TDGA: Coordinate and facilitate the provision of support and assistance to national and county governments in building their capacity to govern and provide services effectively;	Audit of county laws	By April 2018	50 million
	Representation of TA in litigation matters	By April 2017	50 Million
	Audit of county laws		50 Million

Pending Work as per the act/	Key Outputs	Timeline(Mar ch 2016- March 2019	Resources (Ksh)Millions
			450
Grand Total		4,993	

		Provide support to the MDAs through Holding technical working retreats	no. of retreats	retreats reports	20
		Hold stakeholder validation workshops for the various sectors	list of attendance	validated report	4
Strategic Interventions on emerging challenges Following the transfer of functions	To offer a conducive environment and obviate the challenges related to transition	Carry out consultative forums, meetings on the sectors concerned	no. of forums	reports	5
		Conduct quarterly field visits on the sampled countries and national institutions to appreciate the emerging issues	no. of field visits	field reports	10
		Develop and issue advisories, circulars and directions on the various emerging issues to all stakeholders in the transition process	no. of advisories / circulars issued	advisories / circulars	0

		Analyze the CTIPs and compile reports on recommendations for efficient implementation of the same.	no. of CTIPs submitted	reviewed TIPS											0
		Carry out regular regional capacity building workshops of County technical staff	no. of workshops	workshop reports											10
Development of a framework for analysis and competency assignment of concurrent functions	Ensure smooth performance of Concurrent functions	Procure expert to develop framework to guide analysis and assignment of concurrent functions	consultant in place	Consultant											0
		Carry out an unbundling/analysis of concurrent functions	no. of concurrent functions unbundled	reports											0
															10

		verify & audit assets and liabilities attached to other devolved functions. Prepare a report on the validated assets and liabilities attached to other devolved functions	A report on validated (verified & audited) inventory of assets and liabilities attached to other devolved functions.	Validated (verified & audited) inventory of assets and liabilities attached to other devolved functions							600 million
		verify & audit assets and liabilities of all state corporations/agencies. Prepare a report on the validated assets and liabilities of all state corporations/agencies	A report on validated (verified & audited) inventory of assets and liabilities of all state corporations/agencies.	Validated (verified & audited) inventory of assets and liabilities of all state corporations/agencies							200

<p>verify & audit assets and liabilities of all national government ministries</p> <p>Prepare a report on the validated assets and liabilities of all national government ministries</p>	<p>A report on validated (verified & audited) inventory of assets and liabilities of all national government ministries.</p>	<p>A validated (verified & audited) inventory of all assets and liabilities of all national government ministries.</p>						400
<p>To install an assets management information system (AMIS)</p> <p>Upload all validated data on assets and liabilities onto AMIS and make it readily accessible on user rights basis on an online platform</p>	<p>Upload all validated templates on AMIS</p>	<p>Secure AMIS where all validated data is stored and accessed on user rights basis</p>						20
<p>Publish the validated inventory of all existing assets and liabilities of county and national governments in the Kenya Gazette</p>	<p>A legal Notice</p>	<p>Gazetted validated inventory of all existing assets and liabilities of both county and national governments</p>						50

Develop & Publish the (framework) mechanisms and criteria for transfer of public assets & liabilities between the two levels of government	To develop & Publish the (framework) mechanism and criteria for transfer of public assets & liabilities between the two levels of government	Develop the mechanism and criteria for transfer of public assets and liabilities between the two levels of government	A report on the draft mechanism and criteria for transfer of public assets and liabilities between the two levels of government	Draft mechanism and criteria for transfer of public assets and liabilities between the two levels of government															
		validate the mechanism and criteria for transfer of public assets and liabilities between the two levels of government	A report on the validated mechanism and criteria for transfer of public assets and liabilities between the two levels of government	Validated mechanism and criteria for transfer of public assets and liabilities between the two levels of government															

0

50

<p>Recommendations for the effective management of assets and liabilities of national and county governments</p>	<p>Make recommendations for the effective management of assets and liabilities of national and county governments</p>	<p>develop draft recommendations using experts</p>	<p>A report on the draft recommendations</p>	<p>Draft recommendations for effective management of assets and liabilities of national and county governments</p>	<p>7</p>
		<p>validation of the developed draft recommendations through stakeholders engagement</p>	<p>A report on the validated recommendations</p>	<p>validated recommendations to be implemented by both national and county governments</p>	<p>20</p>
		<p>Dissemination of both electronic and printed validated recommendations</p>	<p>A report on dissemination of both electronic and hard copies of the validated recommendations</p>	<p>Recommendations for effective management of assets and liabilities of national and county governments developed and disseminated</p>	<p>5</p>

	develop regulation for the validated mechanism and criteria for sharing of public assets and liabilities between the two levels of government	A report on the regulations of the validated mechanism and criteria for sharing of public assets and liabilities between the two levels of government	Regulations of the validated mechanism and criteria for sharing of public assets and liabilities between the two levels of government	5
	Dissemination of both electronic and printed validated mechanism for sharing of assets and liabilities between the two levels of government	A report on dissemination of both electronic and hard copies of the validated mechanism for sharing of assets and liabilities between the two levels of government	Regulations of the validated mechanism for sharing of assets and liabilities between the two levels of government developed and disseminated	3
	Sharing of assets and liabilities attached to other devolved functions between the two levels of government	Legal Notices for sharing of assets and liabilities attached to other devolved functions	Assets and liabilities attached to other devolved functions shared between the two levels of government	10

		Monitor the operationalization of planning units and County Budget and Economic Forums	No. of Reports	Planning units, County Budget and Economic Forums operationalised	10		
Establish the status of ongoing reform processes, development programmes and projects and make recommendations on the management, reallocation or transfer to either level of government	Prepare an inventory of ongoing projects, programs and reforms during the transition period	Procure consultancy services	Signed Contract, Inception Report	Consultant procured		10	
		Verification and consolidation of ongoing projects, programs and reform initiatives	Report on the inventory	Draft Inventory on projects, programs and reform initiatives prepared			15

TDGA Fourth Schedule Phase One	To enhance financial management in the development of county public finance	Core revenue raising legislations enacted	Procurement and asset management modules in IFMIS operational in the PFM	No reports, guidelines enacted	Framework											25
Ensuring Kenya embrace devolution	To enhance civic education/ awareness on transition and devolution	Development of a roll out program for civic education reports	Stakeholder Workshops	Civic Education roll out program	Civic Education roll out program										460	
		Printing and launch of Civic Education Curricula, Training Manual and I.E.C. materials	No of curricula, training manuals printed and IEC	Civica Education Curricula Manuals and IEC booklet published											40	
		Dissemina tion of the civic education curriculum training manuals and IEC materials	Forums, No. of documents disseminated	Curricula training manuals and I.E.C. materials disseminated											47	

Support Counties in implementation of civic education function through capacity building and establishment of civic education units		Civic Education No. of Officers sensitised, No. of civic education units implemented by Counties	50 Million
Support Counties in implementation of civic education function		Civic education functions in the Counties implemented	50
Collaborate with Senate to conduct civic education throughout the country on transition and devolution		Citizens sensitized on devolution	94
Facilitate baseline survey on devolution and implementation of civic education in Kenya		Report on Status of implementation of civic education	10
Field reports	[Redacted]		

		Facilitate development of National Framework for Civic Education	Validation workshops, National Framework for Civic Education	National Civic Education Framework developed	10
		Facilitate development of a National Public Participation Policy.	Validation workshop, A policy on Public Participation	National Public Participation Policy developed	3
		Tailoring and printing of Information, Education and Communication (IEC) materials for different target groups.	No. of IEC materials produced	IEC materials for different target groups published	20
		Sensitize Counties on the Public Participation guidelines	No. of workshops, No. of Officers sensitised	County Government Officers sensitized on public participation	40
		Updating and disseminating the civic education providers profile database	No. of Civil Society Organisations added, No. of Counties received	Updated and disseminated civic education providers profile database	1.5

	Review and update TA publications on Civic Education as per context	No. of Publications reviewed	TA Civic Education publications reviewed and printed				40	
Strengthening the capacity of the county government on policy making and legislation	To strengthen capacity for effective service delivery	conduct building capacity activities, disseminate guidelines, hold stakeholder forums	No of reports and guidelines, No of forums conducted. advisories issued, retreat reports					50
Enactment of the office of the County Attorneys.	To strengthen the capacity of county government on policy making and legislation.	conduct capacity building activities, hold stakeholder engagements	No of Officers Trained, reports, offices created, No of stakeholder forums held.					
Training of County Attorneys on legislative drafting	To strengthen capacity of county attorneys for drafting bills and offer legislative advice.	conduct Training County attorneys from both the Assembly and the executive.	No of Officers Trained, reports, certificates issued.					

capacity building of county assemblies on how to conduct house business	to strengthen capacity of members of County assemblies on how to conduct house business,raft motions	to conduct capacity building activities and trainings for members, conduct stakeholder engagements.	No of Members of the County Assemblies, Trained No of Reports of No of consultative forums	No of officers trained, filed reports.	50
Gazette ment of regulations of closure of public records and	To enhance service delivery at both levels of government to facilitate smooth implementation of transferred functions.	report, Legal Notice on the regulations of closure of public records, Legal notice on the regulations for sharing of Assets and liabilities between the National and county governments			10
Audit and review of Devolutio n Laws	to enhance Service delivery at both levels of government	Procure consultancy services, hold stakeholder engagements.	copies of laws reviewed and amended, No of meetings held.		40

Representation/defense of the Authority in Courts of Laws	To defend the Authority's integrity in the Courts through out the country.	Procure the services of senior Lawyer/s, conduct stakeholder engagements	Copies of Court Rulings, Judgments, Court Files.	No of Court Cases, rulings, decrees and Judgments	
Total					50
					3080