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NATIONAL ASSEMBLY

NINTH PARLIAMENT-FIFTH SESSION

.....

CONSTITUENCIES FUND COMMITTEE

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**REPORT OF THE CONSTITUENCIES FUND COMMITTEE
PURSUANT TO SECTION 27 (4) (d) OF THE CONSTITUENCIES
DEVELOPMENT FUND ACT, 2003.**

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Clerk's Chambers
National Assembly,
NAIROBI

March 2006

REPORT OF THE CONSTITUENCIES FUND COMMITTEE

Mr. Speaker Sir,

The Constituencies Fund Committee has the pleasure of presenting its statutory report pursuant to section 27 (4) (d) of the Constituencies Development Fund Act to the House for consideration and adoption.

Hon Eng M. Karue Muriuki, MP

Chairman, Constituencies Fund Committee

3rd November 2005

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REPORT OF THE CONSTITUENCIES FUND COMMITTEE

Dated 3rd Nov'2005

1. MANDATE

The Constituencies Development Fund Act was passed by Parliament in December 2003, ~~was assented to within the same month and commenced operations through a gazette notice in April 2004.~~

The Constituencies Fund Committee, which is a select committee of Parliament, was constituted pursuant to section 27 of the Act. The functions of the Committee are:

- (a) To consider project proposals submitted from various constituencies in accordance with the Act and make appropriate recommendations to the Clerk of the National Assembly.
- (b) To consider and report to Parliament, with recommendations, names of persons required to be approved by Parliament under the Act;
- (c) To consider and recommend to Parliament any matter requiring action by the National Assembly pursuant to the provisions of the Act;
- (d) To oversee the implementation of the Act and in this respect, shall after every two years submit a report to the National Assembly and where necessary, propose any amendments to this Act, in particular, with respect to the quantum of the funds payable into the Fund in accordance with section 4 of the Act;
- (e) To oversee the policy framework and legislative matters that may arise in relation to the Fund;
- (f) To continually review the framework set out for the efficient delivery of development programmes financed through the Fund; and
- (g) To carry out any other functions relevant to the work of the Fund.

2. MEMBERSHIP of the Committee

The Committee comprises the following;

- (i) The Hon. (Eng) Karue Muriuki, MP – Chairman
- (ii) The Hon. Sammy Koech, MP
- (iii) The Hon. A.S. Dahir, MP
- (iv) The Hon. Henry Kosgey, MP
- (v) The Hon. Stephen K. Manoti, MP
- (vi) The Hon. Prof. Christine Mango, MP
- (vii) The Hon. Jayne Kihara, MP
- (viii) The Hon. Lucas Maitha, MP
- (ix) The Hon. Mohammed Yusuf Haji, MP
- (x) The Hon. (Eng) E.O. Nyamunga, MP
- (xi) The Hon Charles Kilonzo, MP

3. THIS REPORT

The Committee now wishes to present its first report pursuant to section 27 (4) (d). It covers an overview of the operations, policy framework, main challenges, shortcomings and other areas of concern that may not have been foreseen. It highlights areas which were incorporated into the Act in good faith but have turned out untenable or undesirable in practice. It also gives the Committee's recommendations on the review of the Act.

In order to collate and harmonize the observations and suggestions discussed over the period that the Act has been operational, the Committee held a three-day closed-door workshop where, among other things, the Act was examined clause by clause. The end result was a detailed recommendation on proposed amendments which are annexed herewith for consideration by the House.

The salient points of the proposed amendments are highlighted in part six of the report in an attempt to bring out the rationale. Other amendments have become necessary because many sections are inter-related and a serious attempt has been made to collate them. Others are minor in nature and have not been accorded space in this brief report. However, the Committee took advantage of the review to correct any typographical or ambiguities errors in the text. ???

4. GENERAL COMMENTS

4.1 DISBURSEMENTS

The financial year 2003/04 was the first year of operation but the Act came into operation half-way through the year at which time various mechanisms like poverty indices and allocation formulae had not been put in place. The compromise arrangement was that every constituency receives a flat sum of Kshs 6 million. All 210 constituencies received this amount.

Most of the mechanisms, indices, allocations formula, disbursement procedures and procurement were finalized within the year. Invariably some constituencies were quicker than others. By the time of compiling this report at the end of October 2005 a total of 195 constituencies had received all their 2004/05 allocations. Another 14 constituencies had received half the amount leaving only one constituency who had not submitted their list of projects.

For the year 2005/06 a total of 24 constituencies have received half of their annual allocations. Another 29 had been approved and the disbursements were in process.

4.2 AMOUNT OF CDF

Overall the amounts set aside for the Constituencies Development Fund are;

| | | |
|----------------------|---------|----------------------|
| Financial Year | 2003/04 | Kshs 1.26 Billion |
| | 2004/05 | 5.60 " |
| | 2005/06 | 7.246 " |
| Total upto June 2006 | | Kshs 14.106 Billion. |

4.3 PROCUREMENT

As per the Act all procurement must follow the laid down Government procedures. It turned out that the existing procurement system is geared toward large procurements. The CDF has many grassroot projects which have to be implemented locally and within established local concepts if the CDF was to succeed. After a series of negotiations between the Treasury, the Constituencies Fund Committee and the CDF Management Committee certain modalities were put in place. In broad principle the responsibility of procurement was by and large left to the project committees which have done this anyway over the years mainly through Harambees and such-like sources of funding. So far the system has worked very well and it should be encouraged and formalized into the Act.

4.4 FAVOURED SECTORS

Kenya is made of diverse regions, climate, cultures, economy, etc. However, it has been observed on the submission forms that certain sectors are much more common than others. These are Education, Health and Water. Others are security and roads. The roads sector is a major outcry all over the country but it would appear most constituencies find the roads are such an enormous task that the sector may eat up all their allocations and perhaps not achieve much while other sectors requiring smaller amounts are left out. It is partly for this reason that the Constituency Grader Project was mooted.

4.5 BRIEFING TO MEMBERS

Over the period there has been several instances that the committee has felt the need to brief members on the progress and on various hurdles to be sorted out. Several meetings have been held in the format of the normal kamukunji where members are able to exchange ideas freely unlike in the House where the atmosphere is very formal. Several of those meetings have also taken place outside in conference halls when much more of members' attention is needed for crucial decisions or concurrence on the course of action.

It is envisaged that such a meeting will be desirable to discuss the recommendations herein before debate on the floor of the House.

4.6 COMPLAINTS

There has been many comments and complaints from various quarters, many of them quite negative. Unfortunately almost all of them are coming from persons who appear not to have read the Act and therefore making a lot of insinuations on provisions that either do not exist or from pure ignorance. It is now proposed to formalize a system of receiving and dealing with complaints.

4.7 COURT CASES

Some of the complains have ended up in court as disputes. All those that have been determined so far the applicants against CDF have lost, principally for the same reasons, that most are borne of ignorance brought by persons who have not bothered to familiarize themselves with the Act. For that reason it is proposed that a system of arbitration be put in place such that the bulk of the disputes can be sorted in an atmosphere where the provisions in the Act can be appraised to those concerned before rushing to court on flimsy grounds.

The whole of the Act has also been challenged in the High Court. The matter has been before a three-judge bench since May last year. The next hearing will be in February 2006.

4.8 LOCAL TRIPS

The committee has taken keen interest in the submissions by various constituencies with particular emphasis on the trend, timing and types of projects. The committee itself comprises of members from all regions of the country and this formed the first platform for comparison. Then the committee visited many constituencies around the country. Although only a small number could be visited, vis-à-vis the total, the diversity of regions was considered in deciding where to visit signifying a good sampling of the trends and concerns which now form part of the basis for recommendations in the review.

4.9 AFFIRMATIVE ACTION

The committee has in particular observed that some areas have been virtually neglected in respect to certain sectors. For example, in the North East and Northern part of the country the Government certainly needs to take affirmative action on education facilities, away from CDF.

4.10 TYPE OF PROJECT

The Act spells out the types of eligible projects in section 21. From experience the need has arisen to spell out more clearly e.g. land and buildings. Also an opening has been created for sports and cultural activities.

4.11 NUMBER OF PROJECTS

The Act gives the minimum and the maximum number of projects as five and twenty respectively. The maximum has been extended to 25 so as to accommodate a number of provisions that have been listed as projects for convenience, e.g. administration, emergency, monitoring & evaluation, maintenance, etc which have to occupy a line each on the second schedule.

Also, many constituencies have taken advantage of the combination where several activities of a similar nature are combined into one project for budgetary convenience this has now been formalized into sub-projects.

4.12 TERMS OF VARIOUS COMMITTEES

The term of office of various committees or the members, has been stated more specifically in the recommendations. The three year term has been adopted for both the select committee of Parliament and also the CDF committees such that there is only one change of guard within the Parliamentary term.

4.13 USAGE OF FUNDS

There has been a certain amount of tension when the National Management Committee declines to disburse funds to a constituency on the basis that they do not think a particular project on the list is viable or that it is inappropriate. In the amendments it is proposed that the CDF committee at the constituency holds that responsibility and discretion of what they want to do with their money, so long as they are within the Act.

4.14 BUDGET FOR THE CDF SECRETARIAT

It so happens that the current National Management Committee has so far not submitted their budget expenditure or returns despite the requirements in the Act. The fact that they are able to get away with it is attributed to the fact that they operate as a parallel policy body and they have the cheque book as well as the signatories.

The recommendations therefore contain measures that would ensure that the new-look CDF secretariat must comply with the procedures as to budget and returns failure to which the funds tap to them can be turned off until they comply.

4.15 CONSTITUENCY GRADER PROJECT

Despite a lot of time and effort by the Constituencies Fund Committee this project has been frustrated by various operatives through a milliard excuses at every stage.

Some of the members of the National Management Committee have taken every opportunity to preach against the project.

The last major hurdle has been overcome and hopefully the graders should be in the country within the next six months.

4.16 MAINTENANCE & OPERATION COSTS OF EQUIPMENT

Constituencies will be able to acquire equipment, vehicles and machinery (like graders) without having to convince anyone other than their constituents that it is a good idea. It has therefore been found necessary to relax the provisions with regard to recurrent expenditure so as to include the running cost of such equipment.

One of the reasons quoted by some quarters against the grader project, has been the operation cost, which would be well covered by the DRC funds, but now will be provided for as a project where need be.

4.17 REGULATIONS

The regulations published vide legal Notice No 34 of 26th May 2004 have applied well so far. However, if the proposed amendments to the Act are adopted by the House than there will be need to amend the regulations. IN anticipation of such eventuality the Committee has come up with a draft of the proposed amendments for discussion with the Minister.

5. **SIMILAR SYSTEMS IN OTHER COUNTRIES**

The Constituencies Development Fund was mooted, drafted and enacted by Parliament as part of home-grown solutions to our development problems and without reference to what goes on in other countries. It has in due course transpired that a number of countries around the world have similar initiatives though with quite diverse approaches and systems of operations.

In order to compare and contrast, the committee has visited a number of such other countries, namely, Zambia, India, Brazil, Panama and Canada. Salient observations are as listed herewith.

(i) **ZAMBIA**

A constituency development fund has existed there since 1994. The amounts involved are very small, less than ten percent of the allocations in Kenya. There is no statute for it and therefore subject to manipulation by various operatives. There were many complaints of constituencies who have not received any money for a number of years. It was also tailored for community groups, the equivalent of our self-help groups, which keep on sprouting here and there, and hence the amounts per group gets less than less until the amounts are so small that no impact is not visible anywhere.

They however do have a well organized system of constituency offices for each member, paid for by Parliament including the staff.

(ii) **INDIA**

They have had a similar fund since the mid-nineties. It is established under a legal notice rather than an Act of Parliament but legal notices in India have to be brought to the House for adoption before implementation. The amounts involved are roughly three times those in Kenya but when the committee visited in December 2004 they were in the process of reviewing the amounts upwards. The programme in India is specifically for infrastructure, complete with a list of eligible types of projects. There are no things like education bursary. Constituency offices where they exist are run by individual members from their pocket although, there was every indication that they would take the cue from Kenya and institute something on constituency offices.

One significant observation is that there are no committees other than the select committee of Parliament. Everything revolves around the Member of Parliament who decides on the allocations to various projects at his or her discretion with or without consultation.

(iii) **BRAZIL**

There is a system of funding grassroot projects. The amounts are the equivalent of about Kshs 120 million per constituency per year. The allocation to individual projects is all entrusted to the Members of Parliament who are expected to consult widely but there is no statute to follow and therefore a lot depends on the individual Members of Parliament as they see the needs in their regions.

The Government is currently engaged on an intense programme of enhancing agricultural production with heavy subsidies aimed at self-reliance for individual families and self-sustenance for the country.

One important observation was that they have near-zero tolerance to corruption. A member who is named in the House for corruption is expelled from the House for eight years and may not hold public office in that period. One member was such unfortunate when the committee was visiting.

(iv) **PANAMA**

This is a small country. Geographical size and population are both just about a tenth of Kenya. The country is divided into administrative regions more or less the size of a district in Kenya.

They have a system of initiating grassroot projects where the President of Panama himself holds regional meetings at which the people say what they wish to be included in the budget for them. The committee had the pleasure of attending one such meeting in one of the regions at which the President sat the whole day with his battery of Ministers, listening and responding to issues raised. There is no statute or framework and therefore no set amounts.

(v) CANADA

Canada had a system of funding basic infrastructure at grassroot levels, but that was many years ago. By the time the committee was visiting in October 2005, the system had been obsolete for several decades having built all their schools, health facilities, rural roads, water etc, in all areas. Although the committee could not gather much on how the system was run it none-the-less gave them the encouragement that we are on the right path and that we could also achieve the same and cut out Harambee for public facilities in due course.

However, Canada has one of the best systems of Constituency office. Each Member has two offices, one at Parliament and one at the constituency, with everything paid for by Parliament including the staff. There is very little control. A Member is given a budget on which he runs all his affairs and simply files a periodic return for replenishment and an annual return at the end of the year. A member who wants more than one office in the constituency submits a budget to that effect. The particular constituency that the committee visited is very large and has three offices.

6. HIGHLIGHTS OF PROPOSED REVIEW

6.1 End Year Scenario.

Not explicit in the Act. System of re-allocating surplus funds has been proposed through which a constituency can declare what they have not utilized and what they want to do with it.

6.2 Emergency Reserve

The authority to allocate funds has been defined more precisely. It is recommended that this be the responsibility of the CDF Committee who should also decide on the deployment of any surplus at the end of the year.

6.3 Ownership of Assets

The fund and its various committees are not legal persons and therefore lack the capacity to hold ownership. A system of ownership by the Government has been recommended through the docket of regional development.

6.4 District Projects Committee

The relevance of this committee has been the subject of informal discussions in and outside Parliament. After intense deliberations it was decided to leave it in place but without any approving powers. They will look at all funding to the district from various sources, not just CDF, including other Ministries and arms of Government.

6.5 Amount of the Fund

As per the Act only 2.5% of the Government revenue goes to the Fund. Appreciating the major impact that CDF has had throughout the country it is proposed that this amount be enhanced to 7.5%.

6.6 Transition

As it is there can be a major problem of who is to hold the records and assets during transitions occasioned by general elections and by-elections (as and when they may occur). It is proposed that a CDF co-ordinator be appointed for every constituency who will be the custodian of records and assets on behalf of the Government at all times.

The provision for a co-ordinator has always been there under article 16 of the regulations but has never been implemented.

6.7 Implementation

Currently the system is quite cumbersome with several committees whose mandates seem to run parallel to one another. It is proposed that all matters of policy be directed by Parliament through the Constituencies Fund Committee. No other policy body is needed. It is also the considered view of the committee that there is no need for another intermediary between the Government and the constituency. It is therefore recommended that the National Management Committee be replaced by a CDF secretariat composed of professional persons.

It has also been observed that the Ministry of Finance is far too overcrowded with many other money and procedural matters and as a result they have no time for something as involving as the CDF. It is therefore recommended that the CDF secretariat be established in one of the line Ministries, in this case the ministry dealing with matters related to regional development.

7. PROPOSED AMENDMENTS To

The constituencies Development Act.

THE CONSTITUENCIES DEVELOPMENT FUND ACT, 2003 NO. 10 OF
2003

Proposed amendments to the Constituencies Development Fund Act

PART ONE - PRELIMINARY

Section 2: Interpretation:

In the term "**Constituency Development Committee**" committee, insert the word "**Fund**" between the words **Development** and **Committee**.

In the interpretation of "**Minister**", delete the word "**Finance**" and substitute thereof the words "**regional development**"

In the interpretation of **Constituency Account**, insert the word "**fund**" between the words "**constituency**" and "**account**"

Delete the term and interpretation of "**National Committee**" and substitute thereof "**Constituency Development Fund Secretariat**" means "**the Constituencies Development Fund Secretariat established under section 5 of the Act**"

Insert a new interpretation

"Project" means eligible development project as described in the Act"

Insert a new interpretation

"Sub-project" means similar activities lumped together into one project for purposes of sections 21 and 22 of the Act"

Insert a new interpretation

"Constituency Development Fund Co-ordinator" referred to as **CDF Coordinator** means an officer of government appointed in accordance with section 44 and who shall be an ex-official member of the **Constituency Development Fund Committee**"

PART TWO - ESTABLISHMENT OF CONSTITUENCIES DEVELOPMENT FUND

Section 4 (1) Delete the words "National Committee" and substitute thereof the word "Minister"

Section 4 (2) (a): Delete the words "2.5% (two and a half per centum)" and substitute thereof the words "7.5% (seven and a half per centum)"

Section 4 (2) (b): Delete the words "National Committee" and substitute thereof the words "Constituencies Development Fund Secretariat"

Insert a new subsection Section 4 (2) (c): "At the end of each financial year, all funds not spent by Ministries and Departments and due to be surrendered back to the Exchequer shall instead be paid into the account of the Constituencies Development Fund."

Section 4 (3): Delete the words after the word "Minister" and substitute thereof the words "by various Constituencies in accordance with the Act."

Section 5 (1) Delete all the words and substitute thereof the words "There is established a Secretariat to be known as the National Constituencies Development Fund Secretariat (in this Act referred to as the CDF Secretariat).

Section 5 (2): Delete and substitute thereof the words;

"The Constituencies Development Fund Secretariat shall be appointed by the Minister and shall comprise:

- a) the officer administering the fund*
- b) an accountant*
- c) a finance officer*
- d) a legal officer*
- e) a project management officer*
- f) information technology officer*
- g) a public relations officer*
- h) an internal Auditor*
- i) and maximum of two other officers so that the number shall not exceed ten (10)*

Section 5 (3) Delete and substitute with;

"The officers of the CDF Secretariat shall be officers in the public service and at least three of whom shall be of either gender".

Section 5 (4) Delete and substitute thereof the words *"The name and curriculum vitae of the person proposed to be the officer administering the fund and those of each of the other officers proposed to be appointed to the CDF Secretariat shall be submitted to Parliament for approval before appointments are made."*

Section 6(1) (a) Delete the word **"allocation"** and substitute thereof the words **"timely and efficient"**

Section 6 (1) (b): **Delete**

Section 6 (1) (e): Delete and substitute thereof the words **"To receive and address complaints and disputes and take appropriate action accordingly"**

Section 6 (1) (f): **Delete**

Insert new subsection (1) (g): *"To receive disputes and where necessary make appropriate recommendations to the Minister for action as provided for under section 52"*

Section 6 (2): **Delete.**

Section 7 (1) (a): Delete and substitute thereof with the words **"be the head of the CDF Secretariat"**

Section 7 (1) (c) Delete the words **"for submission to Parliament"**

Section 7 (1) (e) **Delete**

Section 7 (1) (f) **Delete**

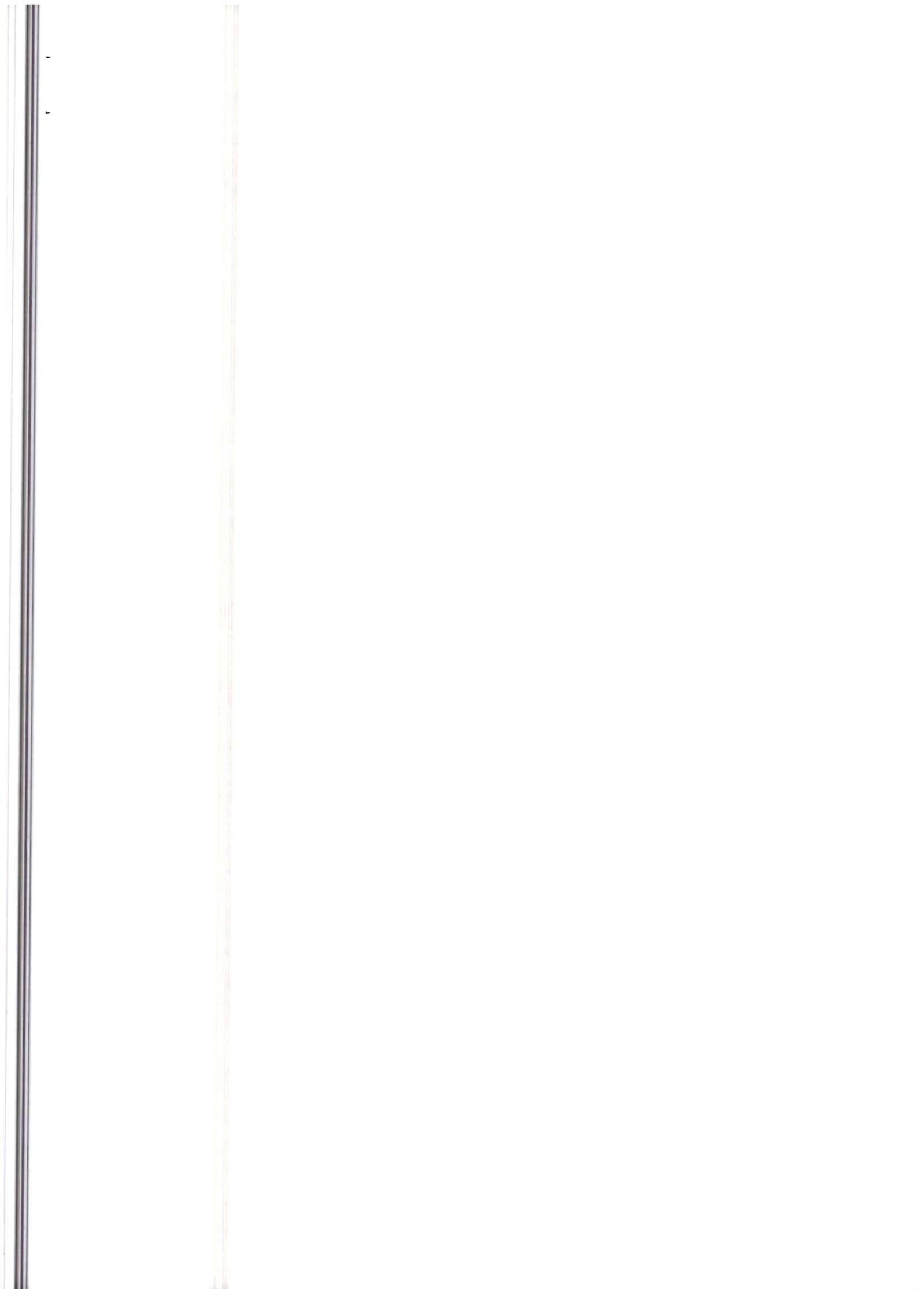
Section 8 (1) **Delete**

Section 8 (2) re-number as Section 8

In the renumbered section 8, delete all the words after **"projects as"** and insert thereof the words **"submitted by the Constituencies in accordance with the procedures outlined in the Act"**

Renumber subsection **(3) as (3)(a)**

Insert new subsection 3 (b): *"Notwithstanding the provisions of subsection 3 (a) payments for a joint project as outlined in subsection 22 (4) or joint procurement may be made directly to an account established for the purpose with due concurrence of the Constituencies Fund Committee".*



Section 8 (4): Delete the words "National Committee" and substitute thereof the words "*CDF Secretariat*"

Section 8 (5) Delete the words "National Committee" and substitute thereof the word "*Minister*"

Section 8 (6): *Delete*

Section 9 (1) Delete and substitute thereof the words "*The minister shall for each financial year allocate funds to each constituency in accordance with section 19.*"

Section 9 (3) Delete and substitute thereof the words: "*At the end of each financial year every Constituency shall submit a return using a designated form as per the fourth schedule indicating all the disbursements into and out of the Constituency Fund account*"

Section 10 (1) Delete the words after "**retained**" and substitute thereof the words "*in the Constituency Fund account.*"

Section 10 (2) Delete the words after "**including funds**" and substitute thereof the words "*retained in the account or funds which are not utilized for whatever reason*"

Insert a new subsection (3): "*Reallocations of the unutilised funds pursuant to subsection (1) shall be listed in the annexe to the 4th schedule and be submitted for approval to the Constituencies Fund Committee*"

Section 11: be re-numbered as 11 (1)

Insert a new subsection 11(2): "*The Constituency Development Fund Committee shall determine the allocation of the emergency reserve and may reallocate to other projects at the end of the financial year*"

PART THREE- SUBMISSION OF CONSTITUENCY PROJECT PROPOSALS

Section 14 (2): Delete the words "**cost estimates of**" and substitute thereof the words "**amounts allocated to**"

Section 15 (2): Delete the words "**National committee**" and substitute thereof the word "**Minister**"

Section 16 (1): re-number "section 12 (3) in the text to read "*section 12*"

Section 16 (1) put full stop after the word "Committee" and delete all words thereafter.

Section 16 (2) Delete all the words after the word "Minister for" and substitute thereof the word "*funding*"

Section 17: Delete and substitute thereof the words "*The decision as to the allocation of funds to various projects in each constituency is the responsibility and discretion of the Constituency Development Fund committee within the provisions of this Act*".

PART FOUR - TYPES OF PROJECTS

Section 21 (2) Insert the words "*and may include acquisition of land and buildings*" after the word "**project**"

Section 21(3): add the words "*other than provided for in subsections (9), (10) and (11)*" after the word "**facility**"

Section 21 (5) Delete the words "**National committee**" and substitute thereof the words "*Constituency Development Fund Committee*"

Section 21 (7) Delete and substitute thereof the words "*Notwithstanding the provisions of subsection (3) up to a maximum of 3% (three per centum) of the total annual allocation for the constituency may be used for administration*"

Insert a new Subsection (3): "*Development projects may include the acquisition of vehicles, machinery and other equipment*".

Insert a new subsection (9): "*Cost of maintenance and operations of items under 21 (8) acquired through Constituencies Development Fund, excluding those acquired for institutions, may be considered as development projects for purposes of the Act*".

Insert a new subsection (10): "*Sports and cultural activities may be considered as a development project for the purposes of this Act provided that the allocation to such activities does not exceed 2 % (two per centum) of the total allocation of the constituency in that financial year but shall exclude cash awards*"

Insert a new Subsection (11): "*Monitoring and evaluation of ongoing projects may be considered as a development project provided that not more than 2% (two per centum) shall be allocated for this purpose*"

Insert a new subsection (12): *“Each of the projects shall be listed on the second schedule including those under section 11 and, where applicable, the activities under subsection (6), (7), (8), (9), (11) and section 25(2)”*.

Section 22 (1): Delete the word **“twenty”** and substitute thereof the words **“twenty five (25)”**

Section 22 (2) Delete the words after the words **“financial year”** and substitute thereof the words **“may be lumped together for purposes of subsection (1)”**

Section 22 (3) Delete and substitute thereof the following words **“Project activities of a similar nature in a particular constituency may be combined and considered as one project for purposes of subsection (1) provided the total cost of such sub-projects that have been combined shall not exceed 50%(fifty per centum) of the total annual allocation for the particular constituency and provided further that the sub projects are listed in the annex to the third schedule”**

Section 23 (1) Delete the word **“thirty”** and substitute thereof the word **“sixty”**.

Insert a new subsection 23 (1) (i) **“Maximum of three (3) other persons from the constituency may be included”**

Insert a new subsection 23(1) (j) **“Officer of the Government seconded to the Constituency Development Fund Committee by the Minister as the CDF co-ordinator for the constituency”**

In each of the subsections 23 (3), (4), (5), and (6), insert the word **“fund”** between the words **“Development and Committee”**

Insert a new subsection (7) **“Whenever there is a new member of parliament through general election or by-election, the new member shall constitute and convene a new CDF Committee but the list of projects for that year shall not be changed other than in accordance with this Act at the end of the financial year”**

Insert a new subsection (8) **“The term of office of the members of CDF committee shall be three (3) years renewable but will come to an end at the end of the parliamentary term or whenever there is a new member of parliament”**

Insert a new subsection (9) *"The constituency co-ordinator shall also be the custodian of all records and equipment of the constituency during the term of parliament and during transitions occasioned by general elections or a by election"*

Section 26 delete the words **"National Committee"** and Substitute thereof the words **"Constituency Development Fund Committee"**

PART FIVE - CONSTITUENCIES FUND COMMITTEE

Section 27 (3) Insert the words *"except that the term of office of the members of the committee shall be three (3) years renewable or end of the parliamentary term whichever comes earlier"* after the word **"Assembly"**

Section 27 (4) (a): Delete all the words after the word **"recommendation"** and substitute thereof the words **"for funding"**

Section 27 (4) (d) Delete the words **"two years"** and substitute thereof the words **"four years"** and after the word **"funds"** delete the word **"repayable"** and substitute thereof the word **"payable"**

Insert new subsection (5): *"The Committee may make reports other than the statutory report stated in Sub section 4 (d) to appraise the House on various matters relating to the Fund and to seek various approvals as required by the Act."*

Re-number subsection 29 (1) as section 29

In the re-numbered section 29, Delete all the words after the word **"Clerk"** and insert thereof the words **"are funded in accordance with the Act"**

Section 29 (2) **Delete**

PART SIX- IMPLEMENTATION OF PROJECTS

Section 30 (1) Delete the words **"by the relevant department of Government in the district"** and substitute thereof the words

"by the Project Committee in each case, with the assistance of the relevant department of Government"

Insert a new subsection (5) *"All assets, both fixed and movable including all equipments bought under this Act shall be the property of the Government of Kenya owned through the Ministry for the time being responsible for matters relating to regional development but equipment bought for institutions shall remain the property of those institutions"*

Section 31 (1) be renumbered as 31

Section 31 (2) Delete

Section 33 (1) delete and substituted therefore the words: "*The Constituency Development Fund Co-ordinator in every constituency shall compile and maintain a record showing all receipts and disbursements on a monthly basis in respect of every project under this Act and shall submit annual returns to Constituencies Development Fund Secretariat not later than sixty (60) days after the end of every financial year.*"

Section 33 (1) be renumbered as 33

Section 33 (2): Delete

Section 36 (2) Delete the word "shall" between the words "but" and "attend" and substitute thereof the word "will"

PART SEVEN- DISTRICT PROJECTS COMMITTEE

Section 39 (2) Delete

Section 39 (3) be renumbered as 39 (2)

Section 40 (3) delete the words "two (2)" and substitute thereof the words "three (3)"

Section 40 (4) Delete all the words after the word "*members*" in the second line.

Section 40 (5) Insert the words "*shall be held at least once annually but not more than six (6) times in a year*" after the word "committee".

Section 40 (6) Insert the word "*fund*" between the words development and committees; delete the words "*Election of a new*" and substitute thereof the word "dissolution;" and further insert the word "fund" between the words Constituency and Accounts in the fourth line.

Section 40 (7) Delete the word "thirty" and substitute thereof the word "sixty"

PART EIGHT- ROLE OF THE DISTRICTS PROJECTS COMMITTEE

Re-number subsection 43 (1) as section 43

In the re-numbered section 43 Delete all words after the word "and" in the second line and substitute thereof the words "other Government allocations to ensure that there is a harmonised implementation of projects funded from various sources"

Section 43 (2) Delete

PART NINE - FINANCE AND ADMINISTRATION

Section 44 Delete all words and substitute thereof the words "The Minister shall designate one officer for each constituency to be known as the Constituency Development Fund Coordinator and who shall be an ex-officio member of the Constituency Development Fund Committee"

Section 45 (3) Insert the word "fund" between the words Development and Committee.

Section 45 (5) Delete and substitute thereof the words "each and every payment or instalment out of the constituency fund account shall strictly be on the basis of a minuted resolution of the Constituency Development Fund Committee"

Section 45 (6) Insert the word "Fund" between the words Constituency and Account.

Section 45 (7) Delete all the words after the word "discontinued" and substitute thereof the words "retained in the account until the end of the financial year when they may be re-allocated in accordance with this Act".

Section 45 (8) delete the word "National Committee" and substitute thereof the words "Constituency Development Fund Secretariat"

Section 46 (2) Delete the words after "the fund" on the third line and substitute thereof the words "and three other persons appointed by the Minister from among the officers of the Constituencies Development Fund Secretariat"

Section 46(3) Delete and substitute thereof the words "The signing instructions shall be such that the signature of the officer administering the fund shall be mandatory on all payment cheques and or instruments intended for actual release of money from the fund, plus any two of the other three signatories"

Section 47 (1) delete the words “for projects in each constituency” and substitute thereof the words “to various constituencies”

Section 47 (2) Delete and substitute thereof the words “The disbursement of funds to the constituency account shall be effected at the beginning of the first quarter of each financial year with an initial amount equivalent to 50% of the annual allocation for the constituency and thereafter the constituency account shall be replenished in two equal instalments at the beginning of the third and fourth quarters of the financial year”

Insert a new subsection 47(3): “The Minister shall table an annual report on the activities, operations and expenditure under the Act”

PART TEN - MISCELLANEOUS PROVISIONS

Section 48 (1) Delete and substitute thereof the words “The personal emoluments of Government officers working or involved in the management of the fund shall be provided for under the recurrent expenditure of Government but any other emoluments or payments to such officers intended to come from the Fund shall be determined by the Minister in consultation with Constituencies Fund Committee”

Section 48 (2) Delete and substitute thereof the words “The expenditure for running the CDF Secretariat and related purposes shall be set aside at the beginning of the financial year and not more than 2% (two per centum) of the total allocation in the financial year may be used for this purpose, the annual budget of which shall be approved by the Minister in consultation with the Constituencies Fund Committee and expenses shall not be incurred until such approval is accorded”

Section 48 (3) Delete the words after “Members of” on the first line and substitute thereof the words “The District Projects Committee shall be fixed by the Minister in consultation with Constituencies Fund Committee and shall be paid out of the funds set aside for the CDF Secretariat under subsection (2)”

Insert a new subsection 48 (4): “The Minister shall table an annual report on the activities and expenditure of the CDF Secretariat within the first quarter of every financial year and no expenditure shall be incurred after the end of the first quarter until the report is duly tabled.”

Insert a new Section 52 as follows:

Section 52 (1): *“All complains shall be forwarded to the Constituencies Development Fund Secretariat”*

Section 52 (2): *“Disputes shall be referred to the Constituencies Development Fund Secretariat in the first instance and where necessary an arbitration panel shall be appointed by the Minister before such a matter is referred to court.”*

SCHEDULES

FIRST SCHEDULE: *Delete*

Constituencies Development Fund Act.

SECOND SCHEDULE

STANDARD CONSTITUENCY PROJECTS SUBMISSION FORM

Name of constituency.....Financial Year.....

DistrictProvince.....

| Serial No. | Name of project | Amount allocated Ksh. |
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| TOTAL FOR THE FINANCIAL YEAR | | |

1. Member of Parliament.....SignatureDate.....

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

Constituencies Development Fund Act.

THIRD SCHEDULE

STANDARD PROJECTS DESCRIPTION FORM

Constituency..... .Financial Year.....

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

Relevant Government Department.....

Status of project (tick one)

New/Extension/Ongoing/Rehabilitation/other.....

Brief Description of the Project

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

Estimated Cost in Kshs.....

Amount allocated last Financial Year in Kshs.....

Amount allocated this Financial Year.....

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

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

NB: Where a project comprises two or more sub-projects which are lumped together into one project then the annex to third schedule must be completed and attached thereon as part of the submission for approval.

Constituencies Development Fund Act

ANNEX TO THIRD SCHEDULE (List of sub-projects)

Project No.....

Project title.....

| Sub-project No. | Sub project title | Amount allocated in Kshs. |
|--------------------|-------------------|---------------------------------|
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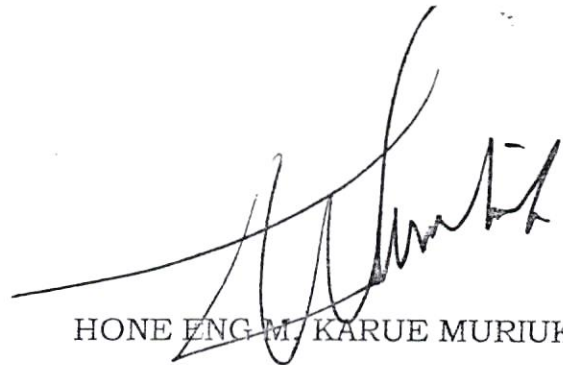
Signature.....Date.....

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

8. **ACKNOWLEDGEMENTS**

The committee wishes to acknowledge the assistance and co-operation of all those who have made the CDF success a success.

It may not be possible to mention everyone by name but the committee would like extend their sincere thanks to the Minister for Finance the Hon David Mwiraria. Also, during the committee's trips around the country they have noted with pleasant surprise that the Members of Parliament have taken the CDF challenge much more seriously than a lot of detractors seem to imagine. Congrats!



HONE ENG M. KARUE MURIUKI

Chairman
Constituencies Fund Committee

3rd Nov 2005