

PHASE ONE REPORT

July 2012 to March 4, 2013





PHASE ONE REPORT
JULY 2012 - MARCH 4, 2013

The Transition Authority Annual Report 2012/13

Phase One Report, 2012/13 ©The Transition Authority

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Chairman's Statement



Our first year has been of unprecedented developments as we recorded incremental milestones towards our goal of ensuring that the transition to a devolved system of government was completed as envisioned for Phase One, which ended with the General Elections of March 4, 2013. The successful completion of the election exercise heralded the completion of Phase One activities and laid the foundation for the longer and expectedly more arduous Phase Two.

During Phase One, the Authority issued a moratorium on the transfer of assets and gazetted the initial functions to be transferred prior to the General Elections through Legal Notice No. 16 of 2013. The Authority also secured additional offices on the 5th Floor of Kenyatta International Conference Centre. The Authority was also able to host a wide variety of fora. These included hosting of 175 local authorities to enable them understand the unbundling of functions and a Gubernatorial Candidates Conference on Transformational Leadership with the aim of instilling ideal leadership and management practices. In addition, the Authority recruited and deployed interim County Transition Teams in all the 47 counties to ensure that the 'take-off' of devolution was seamless. A variety of operational mechanisms, including identification of offices were also put in place early enough in preparation for the new county governments.

In the next period, we shall be working towards building on the gains we have made during Phase One and completing many of the transition activities earmarked for the second Phase. It is therefore, expected to be the critical period during which devolution will become firmly entrenched in Kenya.

KINUTHIA WAMWANGI

CHAIRMAN

CEO/Secretary's message



I am extremely pleased to present the Transition Authority's report for Phase One of the transition process. During the period under review, the Authority was able to undertake all the key activities it was mandated to perform to ensure the transition from a centralized to a decentralized and devolved system of government.

During this period, TA put in place the necessary internal and external infrastructure that would enable it to carry out its objectives. Towards this end, four key directorate posts were filled and other staff seconded from line ministries. Another critical undertaking was the recruitment, induction and deployment of interim County Transition Teams (CTTs) and County Transition Coordinators (CTCs) to the counties. As a result, service delivery at the county level went on uninterrupted in the run-up to the general elections.

The Authority also prepared for the incoming county governments by ensuring that the appropriate processes, structures and equipment required to operationalize the new county governments were in place. This included Assumption of Office Guidelines, oaths and oath books, maces, locations as well as identification of judges and magistrates to administer the swearing-in of governors. Model standing orders and speaker's rules were also developed for the county assemblies.

With Phase One now behind us, I expect that the Authority is now well positioned to capacitate the counties during Phase Two. The investment we shall be making in human capital and infrastructure, will allow us to upscale our service provision to meet the new demands that we anticipate lie ahead.

STEPHEN K. MAKORI

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SECRETARY/CEO

EXECUTIVE SUMMARY

The Transition Authority is established under the Transition to Devolved Government Act, 2012 with the mandate of “facilitating the realization of a devolved system of government through effective and efficient coordination of the transition process” as provided for under Section 15 of the Sixth Schedule to the Constitution. Towards this end, the Transition Authority has provided policy and legal advice, mobilized resources and undertaken capacity building and interagency coordination. The Authority has also assisted in the enactment of enabling legislations required to implement the devolved system of government.

During Phase One, which commenced in July 2012, the Transition Authority adopted an eight-point operationalization road map, which will end in June 2013. TA has also participated and made submissions towards the Medium Term Expenditure Framework (MTEF) Report (2013-2017), and prepared a Kshs 2 billion budget to finance its activities. A circular requiring that all state organs submit reports to TA on their devolution initiatives has been issued and the respective reports have been received, though not in totality.

The Authority has continued to submit monthly, quarterly and annual reports to the President, Parliament, the CIC, CRA, county assemblies and county executives.

During the period under review, TA engaged several development partners. Unwavering support has been received from the UNDP who managed our basket fund, in conjunction with the Danish

Embassy and the Westminster Foundation, among others. Several other developmental partners have expressed interest in establishing partnerships with the Authority in its future activities.

Several challenges have been experienced during the period under review. These include difficulties in obtaining vital data from government Ministries Departments and Agencies (MDAs), lack of public goodwill, slow uptake and adoption of the transition process by state organs, especially taken in light of the high public expectations, delays in the release of exchequer instruments, inadequate resources, weak institutional capacity, time constraints, among others, that have hampered the pace of the achievement of TA's mandate.

STEPHEN MAKORI

A handwritten signature in black ink, consisting of a large, stylized initial 'S' followed by a long, sweeping horizontal stroke.

SECRETARY/CEO

FULL-TIME MEMBERS



Mr. Kinuthia Wamwangi
Chairman



Mrs. Angeline Hongo
Vice Chairperson



Mrs. Jacqueline Mogeni
Member



Ms. Safia Abdi
Member



Mr. Simeon Pkiyach
Member



Dr. Dabar Abdi Maalim
Member



Mr. Bakari Omara
Member



Mrs. Mary Ndeto, HSC
Member

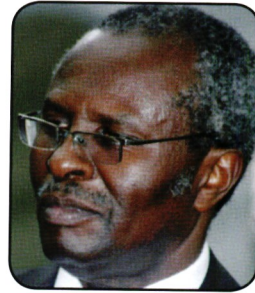


Mr. Erastus Nyaga Rweria
Member

MEMBERS



Dr. Edward Sambili, CBS
PS Ministry of Planning



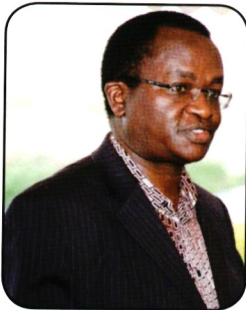
Prof. Karega Mutahi, CBS
PS Ministry of Local Government



Mr. Francis Kimemia, CBS
PS, Office of the President and Secretary to Cabinet



Mr. Gichira Kibara, CBS
PS Ministry of Justice



Mr. Titus Ndambuki, CBS, HSC
Commisioner, Public Service Commission



Mr. Joseph Kinyua, CBS
PS Ministry of Finance



Hon. Prof. Githu Muigai,
Attorney General

ALTERNATE MEMBERS



Kennedy Kihara, EBS
Alternate to PS, Secretary to the Cabinet
and Head of Public Service



Ms. Muthoni Kimani
Alternate to the Attorney General



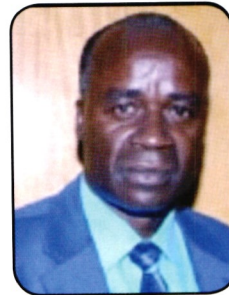
Amb. P. R.O. Owade
Alternate to PS, Ministry of Local
Government



Dr. Kamau Thugge
Alternate to PS, Ministry of Finance



Mrs. Jayne Cindy Songole
Alternate to PS, Ministry of State
for Public Service



John Nandasaba, E.B.S.
Alternate to PS, Ministry of Planning
National Development and Vision
2030



Joash Dache, M.B.S.
Alternate Member TA (Representing PS, Ministry of
Justice, National Cohesion and Constitutional Affairs)

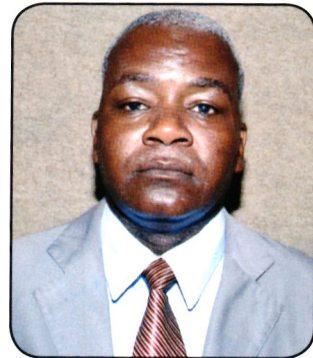
Management Team



Stephen K. Makori
Chief Executive Officer



Cynthia Olotch
Director Legal and Intergovernmental
Relations



Gitonga Mbaka
Director Transition Coordination



Peter Kimemia
Director Policy Analysis and Advocacy



Jacqueline Mulwa
Director Corporate Support Services

List of abbreviations

CBA	Collective Bargaining Agreements
CBO	Community Based Organizations
CIC	Commission for the Implementation of the Constitution
CoK	Constitution of Kenya
CPST	Centre for Parliamentary Studies and Training
CRA	Commission on Revenue Allocation
EACC	Ethics and Anti-Corruption Commission
FACA	Functional Analysis and Competency Assignment Committee
FACTS	Functional Analysis and Competency Teams
FBO	Faith-Based Organizations
FAQs	Frequently Asked Questions
FAST	Functional Analysis Steering Team
FY	Financial Year
ICT	Information Communication Technology
IEC	Information Education Communication
IPPD	Integrated Personnel Payroll Database
KNICE	Kenya National Integrated Civic Education Programme
KSG	Kenya School of Government
KSMS	Kenya School of Monetary Studies
LAIFOMS	Local Authorities Integrated Financial Operations Management System
MDAs	Ministries, Departments and Agencies
MTEF	Medium Term Expenditure Framework
NESC	National Economic and Social Council
NSA	Non State Actors
PFM	Public Finance Management
PPOA	Public Procurement Oversight Authority
TA	Transition Authority
TDGA	Transition to Devolved Government Act
TIPs	Transition Implementation Plans
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund

INTRODUCTION

The Transition Authority (TA) is a statutory body with the mandate of facilitating and coordinating the transition to the devolved system of government. The Authority is established under the Transition to Devolved Government Act (TDGA), 2012, and is expected to execute its mandate within three years following the first General Election held on March 4, 2013.

The transition to a devolved system of government was set in motion following the swearing in of a team to spearhead devolution on July 3, 2012. The team comprises of the chairman and eight other full-time members who were appointed by the President, in consultation with the Prime Minister, and following approval by the National Assembly as provided for in the First Schedule to the Transition to Devolved Government Act, 2012. Listed here below are the Transition Authority's full-time members.

Full-time members

1. Mr. Kinuthia Wamwangi - Chairman
2. Mrs. Angeline Awino Hongo - Vice Chairperson
3. Ms. Safia Abdi
4. Mrs. Mary Mwongeli Ndeto, HSC

5. Mrs. Jacqueline Akhalemesi Mogeni
6. Mr. Erastus B. I. Nyaga Rweria
7. Mr. Simeon Pkatey Pkiyach
8. Mr. Bakari Garise Omara
9. Dr. Dabar Abdi Maalim

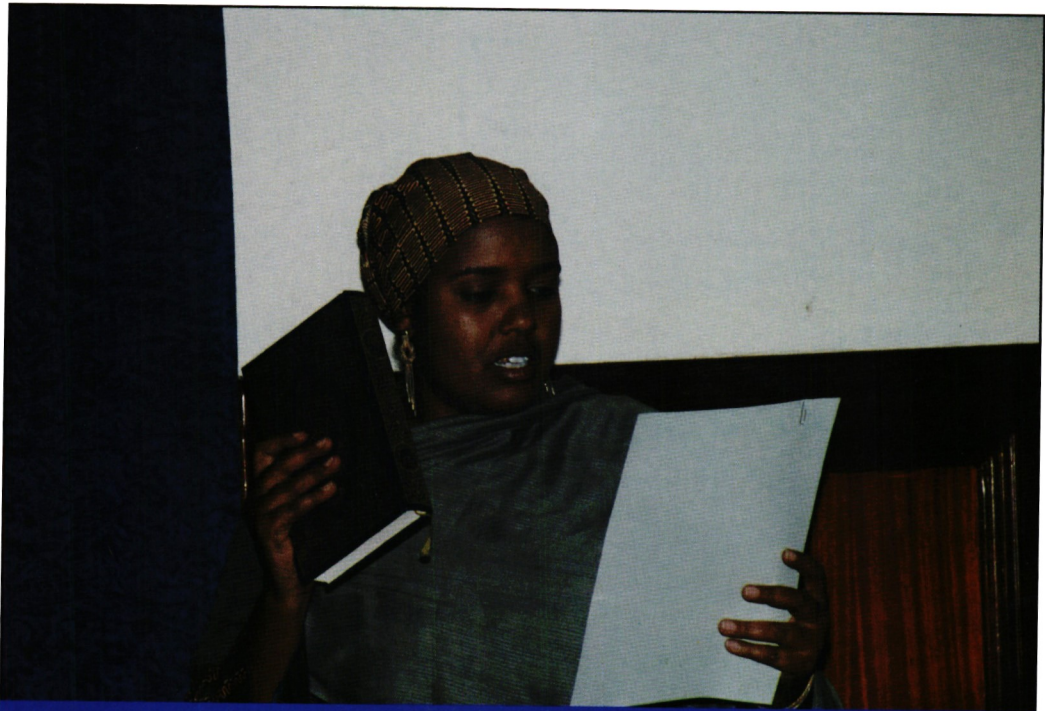
Members

1. The Principal Secretary, Office of the President and Secretary to Cabinet.
2. The Principal Secretary in the State department responsible for matters relating to devolution.
3. The Principal Secretary in the State department service responsible for the public service.
4. The Principal Secretary in the State department responsible for finance.
5. The Principal Secretary in the State department responsible for planning.
6. The Principal Secretary in the State department responsible for justice.
7. The Attorney-General who shall be an ex-officio member with no right to vote.
8. The secretary appointed under Section 9 of the Transition to Devolved Government Act, 2012, who shall be an ex-officio member with no right to vote.

The members of the Authority listed above, apart from the secretary, may designate an officer from their respective State department to represent them.

Mandate

The Transition Authority's core mandate is to "facilitate the realization of a devolved system of government through effective and efficient coordination of the transition process".



Ms. Safia Abdi, a TA member taking her Oath Of Office.

Vision

The Transition Authority's vision is ***"to have a seamless transition for better service delivery."***

Core Values

The Authority's core values are:

- (i) Integrity
- (ii) Public participation
- (iii) Transparency
- (iv) Accountability
- (v) Commitment to teamwork

Guiding principles

- (a) Perform its functions subject to the Constitution.
- (b) Be accountable to the people of Kenya and ensure their participation in the transition process.
- (c) Facilitate the transition to the devolved system of government in a transparent, objective and fair manner.
- (d) Promote and sustain fair procedures in its operations.
- (e) Ensure technical and administrative competence for the better carrying out of its functions.
- (f) Be non-partisan and non-political in its operations.
- (g) Apply and promote national values and principles provided under the Constitution.



Hon. Chief Justice of the Republic of Kenya, Dr. Willy Mutunga, D.JUR. SC. EGH and acting Minister for Local Government, Hon. Fred Gumo, EGH, MP, take a group photo during the swearing in of the Transition Authority Members on 3rd July, 2012 at the Supreme Court of Kenya.

Functions of the Authority

The Authority shall facilitate and coordinate the transition to the devolved system of government as provided for under Section 15 of the Sixth Schedule to the Constitution. The Authority shall:

1. Facilitate the analysis and the phased transfer of the functions provided under the Fourth Schedule to the Constitution to the national and county governments.
2. Determine the resource requirements for each of the functions.
3. Develop a framework for the comprehensive and effective transfer of functions as provided for under Section 15 of the Sixth Schedule to the Constitution.
4. Coordinate with the relevant State organ or public entity in order to:
 - Facilitate the development of the budget for county governments during Phase One of the transition period;
 - 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; and
 - Ensure the successful transition to the devolved system of government.
5. Prepare and validate an inventory of all the existing assets and liabilities of government, other public entities and local authorities.
6. Make recommendations for the effective management of assets of the national and county governments.
7. Provide mechanisms for the transfer of assets which may include vetting the transfer of assets during the transitional period.
8. 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 the national to county governments, including:

- Such criteria as may be necessary to guide the transfer of functions to county governments; and
 - The criteria to determine the transfer of previously shared assets, liabilities and staff of the government and local authorities.
9. Carry out an audit of the existing human resource of the government and local authorities.
 10. Assess the capacity needs of national and county governments.
 11. 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.
 12. Coordinate and facilitate the provision of support and assistance to national and county governments in building their capacity to govern and provide services effectively.
 13. Advise on the effective and efficient rationalization and deployment of the human resource to either level of government.
 14. 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 transition to the devolved system of government.

Powers of the Authority

The Authority shall have all powers necessary for the proper performance of its functions as laid out in the Transition to Devolved Government Act, 2012 to:

- (a) gather relevant information, including the requisition of reports, records, documents or any information from any source, including State departments or public entities.
- (b) compel the production of any information required for the performance of its functions as and when necessary.

- (c) interview any person, groups or members of organizations or institutions.
- (d) hold inquiries and investigations for the purposes of performing its functions under this Act.
- (e) make recommendations and facilitate the distribution of assets to the national and county governments.
- (f) undertake any activity necessary to effectively carry out its functions.

The Authority shall, while undertaking its functions as specified under subsection (2), carry out the activities specified in respect of Phase One and Phase Two in the Fourth Schedule to the Transition to Devolved Government Act, 2012.



TA members are pictured here with the former Speaker of the National Assembly, Hon. Kenneth Marende, when they paid him a courtesy visit.

Phase One

During Phase One of the transition period, the Authority shall carry out the following activities:

- (a) audit assets and liabilities of the government, to establish the assets, debts and liabilities of the government.
- (b) audit assets and liabilities of local authorities, to establish the assets, debts and liabilities of each local authority.
- (c) audit local authority infrastructure in the counties, to establish the number and functionality of plant and equipment in local authorities.
- (d) 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.
- (e) audit the government staff in counties, to establish the number of staff in each county by cadre, grades, gender, age and qualification.
- (f) audit the local authority staff in the counties, to establish the number of local authority staff in each county by cadre, grades, gender, age and qualification.
- (g) facilitate civic education, to ensure civic education on devolution is commenced and coordinated.
- (h) facilitate the initial preparation of county budgets, to ensure such budgets are agreed upon.
- (i) facilitate the preparation of county profiles, to ensure that the profiles of counties are produced, published and publicized; carry out an analysis of functions and competency assignment and ensure that the plan for distribution of functions and competency is published and necessary Acts amended.
- (j) provide a mechanism for closure and transfer of public records and information.
- (k) facilitate the development of a county public finance management system.

- (l) provide a mechanism for the transition of government and local authority employees.
- (m) provide for a mechanism for the transfer of government net assets and liabilities to national and county governments.
- (n) provide mechanisms for the transfer of assets and liabilities which may include vetting the transfer of assets during the transitional period.
- (o) provide for a mechanism that will secure assets and liabilities held by the local authorities.
- (p) any other activity that may be necessary to carry out its functions.

Phase Two

During Phase Two of the transition period, the Authority shall carry out the following activities:

- (a) complete any activity that may be outstanding from Phase One.
- (b) oversee the transfer of functions from the national government to the county government.
- (c) facilitate the county governments in the performance of their functions.
- (d) any other activity that may be necessary to enable county governments carry out their functions.

The Transition Authority's Eight Point Road Map to a Devolved System of Government

The Eight-point Road Map established the broad path that the Transition Authority must follow if it is to deliver its mandate and therefore ensure a successful transition process.

The eight-point process is as follows:

1. Optimal Operationalization of the Transition Authority.
2. Mapping the Whole of Government Transition Activities.

3. Capacity Assessment and Development.
4. Functional Analysis, Competency Assignment and Costing.
5. Resource Mobilization.
6. Strategic Communication and Engagement.
7. Performance Management Framework.
8. Inauguration and Operationalization of County Governments.

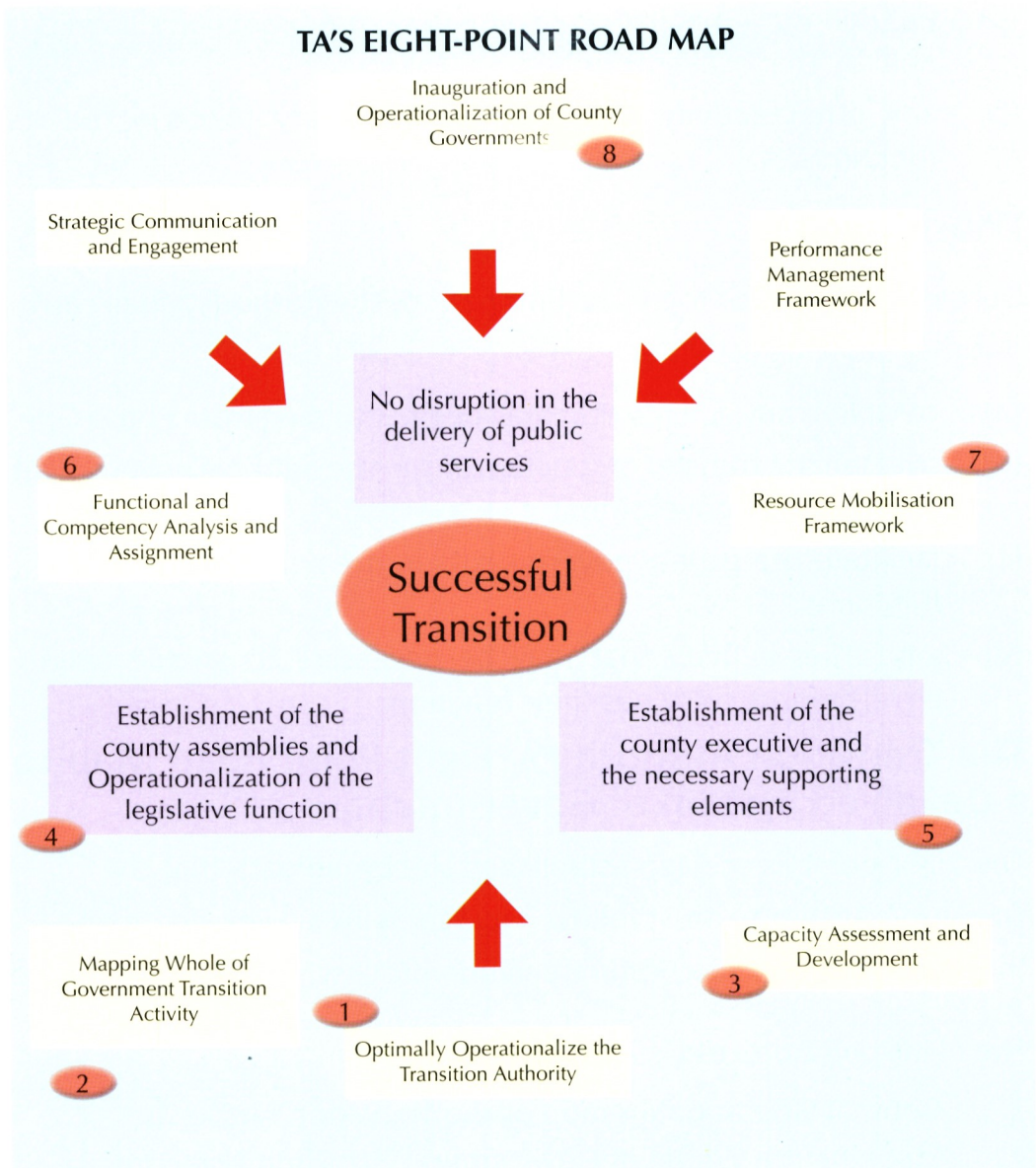


Figure 1: The Transition Authority's Eight Point Road Map

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KEY MILESTONES ACHIEVED BETWEEN JULY, 2012 AND MARCH, 4, 2013

Having been in existence for the past 10 months, the TA has achieved certain milestones in line with its core mandate of ensuring a smooth transition to the devolved system of government. These key achievements are outlined below.

1.1 Operationalization of the Transition Authority

This process began with the competitive recruitment of the members of the Authority and subsequent appointment by His Excellency the President in June, 2012. The Ministry of State for Public Service facilitated the Authority by continuing to second staff to assist the secretariat. In November 2012, the Authority competitively recruited the CEO/Secretary and four Directors to head various directorates within the organization.

To date, the Authority continues to fill the gaps on a needs basis and is in the process of recruiting its program and research officers.

The Authority secured office space at the KICC but it is still looking for additional offices to accommodate its growing staff establishment.

To prepare for county governments, the Authority competitively recruited 47 County Transition Coordinators to act as a link between it and the counties. TA advertised and with the assistance of the Ministry of State for Public Service, recruited an interim team. This team comprised of the Interim County Secretary, Interim Clerk, Interim Chief Finance Officer, Interim Human Resource Officer, Interim Sergeant at Arms, Interim Head of Treasury and Interim Head of Budget. These teams were trained and placed in the counties to await the election of the new officers. They are serving public officers and shall be in office for one year or until the county governments recruit their own staff.

1.2 Preparation of TA's Road Map (July 2012 to June 2013)

As noted above, the TA developed an eight point process to aid in the transition to a devolved system of government.

1.3 Work Plan and Budget

TA prepared a work plan and a budget to enable it realize its mandate. This was submitted in a supplementary budget to the Ministry of Finance for facilitation. Furthermore, TA participated and made submissions towards the MTEF Report for 2013 to 2017. The Transition Authority has also prepared a Procurement Plan. The detailed work plan is attached as Annex 2.



From L-R, Dr. Dabar Maalim, Mr. Stephen Maakori(CEO) and Mr. Simeon Pkiyach of TA, together with other participants of a gubernatorial candidates conference that was organized by the Transition Authority keenly following the proceedings.

1.4 Mapping of ongoing devolution initiatives

The Transition Authority, with support from the Office of the Head of the Public Service, prepared and issued a circular on ongoing devolution initiatives. The circular required that all State organs submit reports on their ongoing devolution initiatives to the TA. Several State agencies have already submitted their reports, which are being analyzed by each of TA's operational committees to identify issues for follow-up and further engagement.

During the first four months of its existence, TA received reports from a total of 19 ministries, 16 local authorities and 7 State corporations. More MDAs have since submitted the information but not always in the prescribed format.

1.5 Development of a Resource Mobilization Strategy

While the Transition Authority received funds as allocated to it by Parliament, it has also taken an initiative to engage with various development partners to collaborate on various activities. Currently, a development partner's basket fund is in place and is being managed by UNDP on behalf of various partners. The funds are used to assist in capacity building activities and remunerating consultants for various programmes. TA is greatly indebted to these development partners for their commitment and continued support.

1.6 Monitoring and evaluation

With the assistance of the UNDP basket fund, the Authority has a consultant in place who is working with TA staff in the preparation of a Monitoring and Evaluation Framework. This Framework will assist the Authority to track its activities as it moves into Phase Two.

1.7 Functional and competence analysis and assignment

The Authority has to date sensitized citizens and relevant MDAs on the functions to be transferred and the implications of these transfers.

The Authority has coordinated with MDAs to develop Sectoral Policy Papers on functional assignment and developed guidelines for development of Sectoral Policy Papers.

1.8 Legislations and regulations amendments

Through the Legal and Intergovernmental Relations Committee, the Authority has contributed in the drafting of key devolution subsidiary legislation and gazetted various guidelines and advisories.



Participants at a Legal and Intergovernmental Relations Workshop in Naivasha. The Workshop was organized jointly by TA and the National Assembly.

1.9 Civic education on transition and stakeholder engagement

During the period under review, the Authority, in collaboration with stakeholders, developed a civic education curriculum and manuals for the public and public officers. This enhanced the public's understanding of devolution.

1.10 Capacity assessment and development

The Authority has begun the process of a comprehensive audit of assets and liabilities of local authorities and the national government in the counties. This exercise involves receiving raw reports on asset returns from various government departments in the counties. The information is being fed into the Asset Management Information System and the Transition Authority should be able to produce an asset register after the conclusion of the exercise.



Participants of the Gubernatorial Conference held in Naivasha.

1.11 Assessment of facilities in the counties

As part of its activities, the Authority identified existing facilities and gaps in the counties with an aim of filling these gaps to ensure that the counties had the basic but adequate facilities. To facilitate the swearing in of the County Assembly Members, the authority has made provision of initial basic equipment like maces and Hansard equipment for each county government.

1.12 Transition arrangements to county governments

To prepare for the installation of county governments, the Transition Authority has posted Interim Teams to each county. In addition, an Assumption of Office Committee has been put in place to prepare for the swearing in ceremony of county governments. The Authority provided finances for this function across all counties. A gubernatorial conference was also held in early February for aspiring governors to sensitize them on what to expect upon being elected as governors.

1.13 Planning and budgeting

County Medium Term Plans, which include country profiles, were prepared in collaboration with the Ministry of Planning, National Development and Vision 2030. County forums have been established in each county and reports subjected to stakeholders in line with the provisions of the Constitution of Kenya, 2010.

The Transition Authority, in collaboration with the Ministry of Finance, prepared the 2012/2013 (March - June 2013) budgets for the county governments. Legislation on County Governments Public Finance Management Transition Act, 2013 was also enacted to facilitate counties in appropriating their resources.

Section 54(1) of the Urban Areas and Cities Act, 2011 requires that existing urban areas and cities should be assessed for classification based on the criteria as set out under the Act, and be classified accordingly. To this end, TA requested and compiled data on the ability to provide the services required in the First Schedule to the Urban Areas and Cities Act, 2011.

1.14 Human Resource

Preparatory work for human resource audit including human resource data has been collected from MDAs and local authorities. Technical committees comprising of key stakeholders were constituted to develop a mechanism for a human resource audit and rationalization and deployment framework.

2

PROGRESS ON KEY ACTIVITIES UNDER EACH THEMATIC AREA

2. 1 Functional Analysis and Competency Assignment

The following functions fall under this thematic area:

- a) Facilitate the analysis and phased transfer of functions, as provided for under the Fourth Schedule to the Constitution, to the national and county governments.
- b) Determine the resource requirements for each of the functions.
- c) Coordinate the validation and publication of the county and national functions.
- d) Establish criteria that must be met before particular functions are devolved to county governments to ensure that those governments are not given functions which they cannot perform.
- e) Oversee the transfer of functions from the national government to the county government.

Functional Analysis and Competency assignment has been a pacesetter for most of TA's activities and a key factor in devolution. The activities undertaken under this thematic area are as follows:

2.1.1 Reviewing of reports from government Ministries, Departments and Agencies (MDAs)

Following the circular sent to MDAs and local authorities, some reports were received about efforts being made by ministries to assign functions to counties and the national government. TA reviewed these reports and engaged the Ministries to establish the actual processes being undertaken in function analysis. However, TA established (through discussions with the MDAs), that no actual transfer of functions had occurred as per the Fourth Schedule to the Constitution but that some Ministries had deployed staff to the counties in preparation for undertaking the devolved functions.

2.1.2. Development of a framework for functional analysis, competency assignment and costing of the functions

For MDAs to undertake functional analysis and competency assignment, there is need for a framework to provide them with the necessary guidance. The framework is meant to facilitate harmonized processes and outputs. To this end, TA engaged a consultant to develop a framework.

The 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 sector, guidelines for development of Transition Implementation Plans and guidelines for delivery of functions and performance

management framework. Once a draft framework was ready, it was subjected to public participation through stakeholder engagement for validation. The Authority has since November 2012 been using it to sensitize MDAs and provide time lines for task accomplishment.

TA has achieved the following milestones under this thematic area:

1. Developed a thematic work plan to act as a guideline for executing FACA's mandate.
2. Established a comprehensive functional analysis assessment framework to be used by all MDAs.
3. Actively facilitated the development of templates and guidelines for functional analysis and assignments.
4. Engaged with various stakeholders through workshops, particularly MDAs, National Assembly, CRA, CIC and Civil Society Organizations (CSOs).
5. Participated in inputting and validation of the function analysis and assignment process.
6. In conjunction with the Legal and Intergovernmental Relations Committee, facilitated MDAs to develop Sectoral Policy Papers on functional analysis and assignment.
7. Provided support for the two sector working groups. These are the Functional Analysis and Competency Teams (FACTS) and Functional Assignment Steering Team (FAST).
8. Organized workshops and information dissemination sessions in collaboration with stakeholders.
9. Engaged MDAs to provide costing of functions assigned to both levels of government.
10. Developed costing guidelines to be used by ministries as well as local authorities.
11. Developed Transition Implementation Plans (TIPS) for MDAs.
12. Gazetted the initial functions to be transferred vide gazette notice No. 16 of 2013.

2.2 Capacity and Capability Development

The Authority categorized the following functions under this thematic area:

- a) Auditing of human resource in national government and other public entities and the local authorities to establish the number by cadre, grades, gender, age and qualification.
- b) Developing a mechanism for staff rationalization and deployment.
- c) Auditing and validating assets and liabilities of national government, other public entities and local authorities and providing mechanisms for transfer to either level of government.
- d) Assessing capacity needs of both levels of government.
- e) Coordinating and facilitating the provision of support and assistance to national and county governments in building their capacity to govern and deliver services effectively.
- f) Commencing and coordination of devolution.

The key achievements under the capacity and the capability development thematic area are discussed below.

2.2.1 Human Resources Audit and Development of Policy on Staff Rationalization and Deployment

Following the circular to MDAs and local authorities, TA received and continues to receive information on all human resource in the public services and local authorities. To ensure the information is

in the format prescribed by Section 25 (2) (d) of the Transition to Devolved Government Act, 2012, TA has held several consultative meetings with public institutions among them, the Public Service Commission of Kenya, Ministry of State for Public Service, Ministry of Local Government, Office of the President, State Corporation Advisory Committee and the Teachers Service Commission.

The Authority was able to develop tools in the form of templates for data collection and examining other sources of information such as the Integrated Personnel Payroll Database (IPPD).

Working teams at both national and county levels were also set up by TA to assist in filling in the information gaps and validation in preparation for the development of a human resource inventory.

Regarding the framework for staff rationalization and deployment, consultation was started with the Public Service Commission of Kenya, the Ministry of State for Public Service and the Ministry of Local Government. Critical stakeholders were identified including workers unions and professional associations to be part of a reference group to assist in development and validation of the policy.

2.2.2 Auditing and Mechanisms for Transfer of Assets (including infrastructure) and Liabilities

The main focus has been on mapping out ongoing initiatives on auditing of assets by all ministries and local authorities. Interim reports have been received from the local authorities and the Ministry of Public Works on all public buildings in the counties and information on land on which the buildings stand.

2.2.3 County Governments' Readiness Assessment

Infrastructure readiness assessment was undertaken in all the counties by the Authority in collaboration with Parliament and the ministries of Public Works, Local Government, Housing, Lands together with the PPOA.

During the assessment, most counties were found to have inadequate facilities while others lacked facilities due to community decisions to shift county headquarters to new locations. Tharaka Nithi and Nyandarua, for instance, are counties with no infrastructure.

Based on the assessment, the cost of refurbishment was estimated at Kshs. 3.7 billion including cost of Hansard equipment for the county assemblies. This cost was included in the supplementary budget and Kshs. 3.2 billion was allocated to TA to facilitate the same. Bills of Quantities were developed for each county for the work to begin. However, this did not begin as anticipated due to the late release of funds. Hence, only minor repairs were carried out just before the inauguration of county governments.

2.2.4 Interim County Staff

The teams recruited include staff for county assemblies, county executive and county treasury. While in office, the interim teams undertook preliminary arrangements and assisted in building the required support and capacity to county governments before the latter are in a position to recruit their own staff. The interim staff is deployed on a temporary basis. In addition, the Authority recruited County Transition Coordinators to coordinate transition activities in the counties.

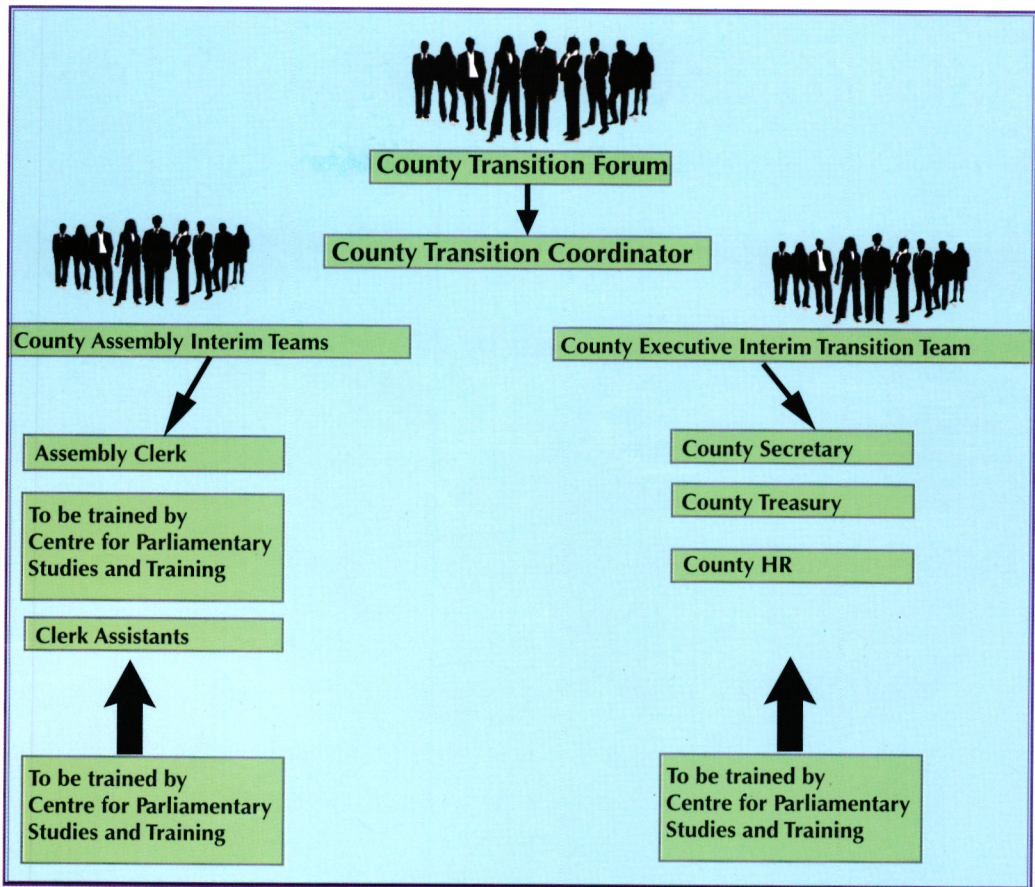


Figure 2: Interim County Transition Teams

2.2.5 National Capacity Building Framework

An Interagency Consultative Team comprising of key stakeholders was established to develop a National Capacity Building Framework for devolution. The team comprises of the Kenya School of Government, Centre for Parliamentary Studies, Kenya School of Monetary Studies, Treasury, Kenya Vision 2030, Ministry of State for Public Service, SUNY, UNDP, and the World Bank, among others.

Additionally, the team has embarked on the development of comprehensive curricula for training Executive Transition Teams and an Induction Program for National and County Governments.

National Capacity Building Framework

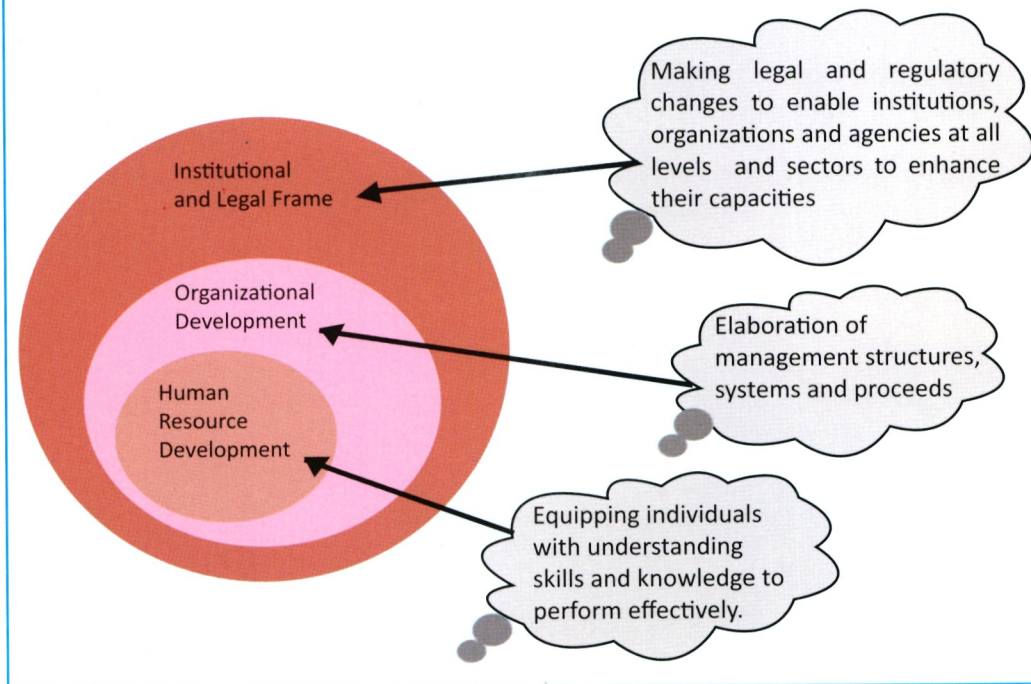


Figure 3: The National Capacity Building Framework

2.2.6 Civic Education

To facilitate civic education, TA developed a Frequently Asked Questions (FAQS) on devolution booklet and a Public Servants Sensitization on Devolution training manual and curriculum. The Authority also organized for a Training of Trainers (TOT) for public servants. Overall, fourteen counties have undergone training on devolution.

2.3 Planning, Budgeting and Finance

This thematic area deals with the following functions that are outlined in Section 7 of the Transition to Devolved Government Act, 2012:

- a) Coordination of the preparation of initial County Medium Development Plans through a public participatory process.
- b) Facilitation in the preparation of initial (March- June 2013) and the FY 2013/2014 county budgets, to ensure such budgets are agreed upon.
- c) Facilitation in the identification of current local authorities' revenue sources, including devolved funds and other local authority transfer funds.
- d) Facilitation of the implementation of Public Finance Management Act by the Counties.
- e) Coordination of the setting up of County Government Treasuries and their operationalization.
- f) Coordination of the preparation of county profiles, to ensure that the profiles of counties are produced, published and publicized.
- g) In collaboration with other committees, establishing 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.
- h) Assessment and reclassification of urban areas and cities.
- i) Assisting counties to establish monitoring and evaluation systems.

2.3.1 Preparation of County Medium Term Plans (MTP) and Profiles

County Medium Term Plans, which include county profiles, have been prepared in collaboration with the Ministry of Planning, National Development and Vision 2030. County forums have been established in each county.

The draft reports were subjected to stakeholder validation culminating into their finalization. The reports are awaiting publication by the Ministry of Planning, National Development and Vision 2030.

2.3.2 County Government Budgets

The Authority in collaboration with the Ministry of Finance prepared the 2012/2013 budgets for the county governments. The necessary legislations were also enacted to facilitate counties to appropriate the resources.

2.3.3. Collection of Information on Services by Urban Areas and Cities

Section 54(1) of the Urban Areas and Cities Act, 2011, requires that, during the transition period, assessment shall be undertaken on the existing urban areas and cities in order to ascertain whether they meet the criteria for classification as urban areas or cities under the Act, and shall be classified accordingly.

The Committee continued to receive information from County Development Planning Officers with regard to the ability to provide the services required in the First Schedule of the Urban Areas and Cities Act, 2011. The analysis of the data and information collected will be done in the Second Quarter of 2013.

2.4 Legal and Intergovernmental Relations

The Transition Authority engages in a variety of legal services which entail oversight, advisory services and coordination of the legal and intergovernmental aspects of the Transition Authority's mandate.

In this regard, the Authority aims to;

1. Carry out substantive legal analysis of the Transition to Devolved Government Act, 2012, and all related laws and contribute to the development of TA policies and frameworks on the transition to devolved government.
2. Ensure oversight on legal issues especially as they relate to the mandate of TA.
3. Contribute to the development of legal instruments that will enhance the capacity of both levels of government to discharge their functions.

During the period under review, the Authority made great strides towards ensuring that the legal and intergovernmental relations aspect of its mandate is accomplished. This created an environment that facilitated a smooth transition within a supportive legal environment.

The critical work under the thematic area included but was not limited to the following outputs:

2.4.1 First Sitting of County Assemblies

In order to ensure a successful first sitting of county assemblies as created under the Constitution of Kenya, 2010, the Authority ensured that the Interim Clerks were trained in what was required of them

during the first sitting of County Assembly Members. The Authority collaborated with the Judiciary and the Interim Clerks so as to ensure a successful swearing in of the County Assembly Members as well as the election of the speakers.

2.4.2. County Assembly Interim Standing Orders

In order to ensure that the county assemblies operate smoothly, the Authority, with the assistance of the National Assembly, drafted Interim Standing Orders. Section 14 (7) of the County Government's Act, 2012, provides that until a county assembly makes its standing orders, the standing orders of the National Assembly shall, with the necessary modifications, apply to that county assembly. In line with this provision, the Interim Standing Orders as prepared by the Transition Authority in collaboration with the National Assembly are a modification of the Standing Orders as used by the National Assembly.

2.4.3. Recruitment of County Legal Officers

The Transition Authority is in the process of recruiting interim county legal officers, in collaboration with the Kenya Law Reform Commission. The Interim County Legal Officers will be pooled from serving public officers. Under the guidance of the Kenya Law Reform Commission, the interim legal officers will spearhead law reform and development at the county level.

The Interim County Legal Officers will also provide general legal advice to county governments.

2.4.4. Guidebook on Mandate and Procedures of County Governments

The Authority spearheaded the publication of a guidebook on the mandate and procedures of county governments. The book provides key information that will assist county governments to execute their mandate. It also provides guidance on the various procedures at the county level, for instance, with regards to law making, budgeting, Public Finance Management and other important procedures key to the success of the county governments.

2.4.5. County Government Public Finance Management Transition Act, 2013

The Transition Authority actively participated and contributed towards the successful enactment of the County Government Public Finance Management Transition Act, 2013. This Act provides a framework for establishment and functions of transition county treasuries, transition county budget process, transition revenue raising measures and expenditures for county governments, responsibilities of transition county accounting officers and receivers of revenue.

The Act is crucial during the transition period in ensuring a smooth transition to the devolved system of government particularly with regard to financial management.

2.4.6. Regulations on Transfer of Assets and Liabilities During the Transition Period.

Regulations on Transfer of Assets and Liabilities during the transition period were published. These regulations seek to implement the provisions of Section 35 of the Transition to Devolved Government Act, 2012, on the transfer of assets during the transition period.

The regulations create an interagency technical committee that will be responsible for handling all requests as well as complaints regarding the transfer of assets and liabilities during the transition period.

The technical committee is already operational and has begun dispensing with applications for transfer of assets and liabilities.

FINANCIAL STATEMENT

The Transition Authority was established by an Act of Parliament through the Transition to Devolved Government Act, 2012. During the period before elections, that is from 1st July 2012 to 31st December, 2012, TA was operating under the Ministry of Local Government and all expenditures were being accounted for by the Ministry.

Total budgetary allocation was Ksh 250 million and expenditure up to February 2013 amounted to Ksh 112,562,387. However, from January 2013, TA was granted Vote 170 and Ksh 650 million placed under it. This vote became operational in March 2013 where the expenditure was accounted for by the Secretary, Transition Authority.

	DESCRIPTION	AMOUNT (KSHS)
1.	Total budgetary allocation	250,000,000
2.	Less expenditure	112,562,387

Table 1: Revenue and Expenditure as at February 28, 2013.



Mr. Simeon Pkiyach, a TA member, together with the Auditor General, Mr. Edward Ouko and the CIC Chairman, Mr. Charles Nyachae, during the Gubernatorial Candidates Conference held in Naivasha.

4

CHALLENGES AND SUGGESTED SOLUTIONS

	CHALLENGES	SUGGESTED SOLUTIONS
1.	Slow response from MDAs with regard to transition issues.	TA will enlist the support of the Head of Public Service to direct the MDAs to respond expeditiously and with credible information. TA will also assist MDAs to interact better with the reporting templates in order to hasten the processing of information.
2.	Slow preparation of Transition Implementation Plans (TIPS) by MDAs.	TA will assist any MDA that is experiencing difficulties in order to expedite the process.
3.	Inadequate time to carry out the Authority's mandate during Phase One.	TA will work overtime, including weekends in some cases in order to remain on course.
4.	Inadequate funding to execute the Authority's mandate.	A supplementary budget proposal was submitted to Treasury in an effort to secure funds.

5.	Limited understanding of the concept of devolved government.	More civic education will be undertaken in order to improve the public's understanding of the new system of government.
6.	Apparent resistance to change, especially among public servants, who are not comfortable with devolution.	TA together with other stakeholders will undertake a public sensitization exercise on the wish of Kenyans to have a devolved system of government.

CONCLUSION

The Transition Authority has made significant strides towards the realization of its mandate of facilitating and coordinating a smooth transition to a devolved system of government. Along the way, we have encountered difficulties but by and large, we have enjoyed commendable support and cooperation from most of the Ministries, development partners and Agencies, as well as numerous other state and non-state actors.

The Transition Authority is alive to the magnitude of the task ahead and therefore requests for continued support from all the stakeholders to this process and more especially, the national government. Frequent cajoling of state organs to lend a hand to the transition process will certainly help in keeping cooperation levels high and therefore speed up the rate at which we can complete tasks. As indicated above, time is of the essence and it is impossible to prioritize some activities because all of them have strict time lines. Any loss of time arising from delayed cooperation undermines the transition process quite significantly.

The Authority is equally aware of the importance of this process to the success of the broader developmental objectives outlined in Kenya Vision 2030. The Authority will certainly spearhead the establishment of integrated development frameworks that are aligned to our overall national development plans in order to ensure that all the counties make their rightful contribution in turning Kenya into a middle-income country by 2030.

The Authority is equally aware of the importance of this process to the success of the broader developmental objectives outlined in Kenya Vision 2030. The Authority will certainly spearhead the establishment of integrated development frameworks that are aligned to our overall national development plans in order to ensure that all the counties make their rightful contribution in turning Kenya into a middle-income country by 2030.

ANNEXES

Annex 1.1 Initial functions for transfer

Transferred Function	Justification
<p>1. Agriculture</p> <p>(a) Livestock sale yards</p> <p>(b) County Abattoirs/ Slaughter house services</p>	<p>These functions are already being performed by the current local authorities at the county level</p>
<p>2. County Health Services</p> <p>(a) County health facilities and pharmacies (Specific to Nairobi County, Kisumu County , Mombasa County, Nakuru County and Uasin Gishu County)</p> <p>(b) Ambulance services (specific to Nairobi, Kisumu, Mombasa, Nakuru, Uasin Gishu Counties)</p> <p>(c) Cemeteries, Funeral Parlors/ Mortuary services and Crematoria Services</p> <p>(d) Refuse removal, refuse dumps and solid waste disposal</p>	<p>Only a select few Counties are ready to perform some of the functions. The rest will be assigned the functions once they are ready in terms of availability of capacity.</p>
<p>3. Control of outdoor advertising</p>	<p>Function already being performed by current local authorities.</p>

<p>4. Cultural services, public entertainment and public amenities but limited to:</p> <ul style="list-style-type: none"> (a) Betting services, (b) Liquor licensing, (c) Video shows and hiring (d) Sports and cultural activities and facilities (e) County parks, beaches and recreation facilities 	<p>Functions already being performed at the local level by local authorities.</p>
<p>5. County Transport</p> <ul style="list-style-type: none"> (a) Access roads (b) Street lighting (c) Traffic and parking 	<p>Functions already being performed at the local level by local authorities.</p>
<p>6. Animal control and Welfare</p> <ul style="list-style-type: none"> (a) Licensing of dogs (b) Facilities for the accommodation, care and burial of animals 	<p>Functions already being performed at the local level by local authorities.</p>
<p>7. Trade development and regulations:</p> <ul style="list-style-type: none"> (a) Markets (b) Trade licensing (excluding regulation of professionals) (c) Local tourism 	<p>Functions already being performed at the local level by local authorities.</p>

<p>8. County planning and development:</p> <p>(a) Land survey and mapping; and Housing</p>	<p>Functions already being performed at the local level by the local authorities.</p>
<p>9. Pre -primary education, home-craft centres and childcare facilities</p>	<p>Functions already being performed at the local level by the local authorities.</p>
<p>10. Implementation of specific National Government policies on natural resources and environment conservation:</p> <p>(a) protection of water springs</p>	<p>Functions already being performed at the local level by the local authorities.</p>
<p>11. County public works and services specific to storm water management systems in built-up areas</p>	<p>Functions already being performed at the local level by the local authorities.</p>
<p>12. Fire fighting services and disaster management</p>	<p>Functions already being performed at the local level by the local authorities.</p>
<p>13. Control of drugs and pornography</p>	<p>Functions already being performed at the local level by the local authorities.</p>

The next exercise of functions transfer (after the March 2013 elections) will be phased as advised by the Constitution and the enabling pieces of legislation. Moreover, individual counties will be required to apply to the Transition Authority for specific functions

Annex 1.2 Criteria for Transfer of Functions

Section 24 of the TDGA provides the criteria for the transfer of functions. It states that the criteria for transfer of functions shall include:

- (a) whether there is in existence legislation relating to the function applied for.
- (b) whether a framework for service delivery has been put into place to implement the function.
- (c) whether, where applicable, the county government has identified or established administrative units related to the function.
- (d) whether the county government has undertaken a capacity assessment in relation to the function.
- (e) the arrangements for and the extent of further decentralization of the function and provision of related services by the county government.
- (f) whether there is the required infrastructure and systems to deliver the function.
- (g) whether the county government has the necessary financial management systems in place.
- (h) whether the county government has an approved plan in relation to the function.
- (i) and any other variable as may be prescribed after consultations between the Authority, county governments and the Commission for the Implementation of the Constitution and the Commission on Revenue Allocation.

The technical basis for transfer of functions demonstrates the criteria used in identifying the initial functions that will be transferred. It is, however, important to note that the provisions of Section 24 of the TDGA are subject to Section 23 and not the other way around. This means therefore, that the initial transfer of functions is not subject to the criteria above.

The identification of the initial functions that will be transferred may not strictly fit into the criteria established under Section 24 because the county governments are not yet in place. The criterion used is however, modeled on the criteria established under Section 24 to a large extent and it is objective. It upholds the constitutional requirements of asymmetrical and phased transfer of functions, and ensures that no county is given functions it cannot perform.

Annex 1.3 Gazette Notices of Transition Authority Members

Special Issue Kenya Gazette Vol CXIV - No 54 Dated June 19,2012
GAZETTE NOTICE NO. 8281 THE CONSTITUTION OF KENYA THE TRANSITION
TO DEVOLVED GOVERNMENT ACT (No. 1 of 2012) THE TRANSITION AUTHOR-
ITY APPOINTMENT

IN EXERCISE of the powers conferred on me by section 5 (1) (a) and First Schedule to the Transition to Devolved Government Act, 2012, I, Mwai Kibaki, President and Commander-in-Chief of Kenya Defence Forces, in consultation with the Prime Minister, appoint -
KINUTHIA MWANGI WAMWANGI
to be the Chairperson of the Transition Authority.
Dated the 18th June, 2012.

MWAI KIBAKI, President.

GAZETTE NOTICE NO. 8282 THE CONSTITUTION OF KENYA THE TRANSITION
TO DEVOLVED GOVERNMENT ACT (No. 1 of 2012) THE TRANSITION AUTHOR-
ITY APPOINTMENT

IN EXERCISE of the powers conferred on me by section 5 (1) (a) and First Schedule to the Transition to Devolved Government Act, 2012, I, Mwai Kibaki, President and Commander-in-Chief of Kenya Defence Forces, in consultation with the Prime Minister, appoint -
Angeline Awino Hongo, Safia Abdi, Mary Mwongeli Ndeto, Jacqueline Akhalemesi Mogeni, Erastus B. I. Nyaga Rweria, Simeon Pkatey Pkiyach, Bakari Garise Omara, Dabar Abdi Maalim,
to be members of the Transition Authority.
Dated the 18th June, 2012.

MWAI KIBAKI, President.

Annex 1.4 Regulations for Transfer of Functions



The Transition Authority is established under the Transition to Devolved Government Act, 2012 with the mandate of facilitating and co-ordinating the transition to the devolved system of government as provided under section 15 of the Sixth Schedule to the Constitution. The Authority is tasked with the responsibility of facilitating the realization of a Devolved System of Government through effective and efficient coordination of the transition process.

As we transit to the new dispensation, the Transition Authority is pleased to provide a brief summary of the progress so far made in navigating the full, uninterrupted and seamless implementation of the Devolution process for the benefit of all Kenyan citizens.

CRITICAL DEVOLUTION MILESTONES:

1. INFRASTRUCTURE - Transition offices to be occupied by County Assemblies have been identified and are being prepared for the counties. Refurbishment of these premises is ongoing in readiness for the elected leaders and County Executive Committee and staff.

2. FUNCTIONS - Pursuant to Section 23 of the Act, the Authority is required to gazette functions which may be transferred to the county governments immediately after the first elections under the Constitution. In this regard, the Authority has identified the said functions and which are herein submitted for purposes of public participation.

3. LEGISLATION - The enabling key legislative and regulatory framework to support transition to the devolved system of governance is in place. These include but are not limited to the following:-

- i. The Constitution of Kenya 2010;
- ii. The County Governments Act, 2012

- iii. Elections Act, 2011
- iv. Political Parties Act, 2011
- v. The Transition to Devolved Government Act, 2012
- vi. The Urban Areas and Cities Act, 2011
- vii. The Inter-governmental Relations Act, 2012
- viii. The Public Financial Management Act, 2012
- ix. The County Governments Public Finance Management Transition Act, 2013
- x. Transition County Allocation of Revenue Act, 2013
- xi. Transition County Appropriation Act, 2013

4. PROTECTION OF ASSETS DURING TRANSITION - There is a conditional temporary freeze (MORATORIUM) against sale, transfer, and dealing by public entities in all public assets since 9th March 2012. Any sale and/or transfer of any Public Asset by a public entity during the transition period without adherence to due process is invalid.

All public officers and the general public are cautioned against dealing in public assets during this transition period without

following the procedure stipulated in the Transition to Devolved Government Act, Section 35.

The law however recognizes the fact that in some cases there may be justifiable need to transfer assets and liabilities during the transition period. The Transition Authority hereby submits to the public the draft Regulations on Transfer of Assets and Liabilities for comments.

5. SUSTAINED SOCIO-ECONOMIC DEVELOPMENT- The Transition Authority additionally seeks the support of all Kenyans in complementing the Transition Authority's key objective of ensuring that there is continued momentum in our socio-economic development during the transition period.

Kindly submit your comments to:
Transition Authority
P.O.Box 30004-00100
NAIROBI.
Email: infotransauthority@gmail.com

**KINUTHIA WAMWANGI
CHAIRMAN**

REGULATIONS FOR TRANSFER OF ASSETS AND LIABILITIES DURING THE TRANSITION PERIOD, 2012

In exercise of the Powers conferred by Section 36 of the Transition to Devolved Government Act, No 1 of 2012, the Transition Authority makes the following Regulations:-

PART I – PRELIMINARY

Citation

1. These Regulations may be cited as the Transition Authority (Transfer of Assets and Liabilities for public entities during the Transition Period) Regulations 2012.

Purpose and Application

2. These regulations provide for the procedure for the transfer of assets and liabilities during the transition period, and other matters incidental thereto.

Interpretation

3. In these regulations –
"Act" means the Transition to Devolved Government Act, No 1 of 2012.

"asset" means any resource owned by a public entity

"Authority" means the Transition Authority

established under section 4 of the Act

"biological asset" includes living animals or plants including agricultural produce and products.

"Cabinet Secretary" means the Cabinet Secretary responsible for matters relating to devolution;

"committee" means the Technical Committee established under clause 4 of these regulations;

"liability" means an obligation that legally binds a public office to settle a debt;

"market value" means the price at which an asset would trade in a competitive setting

"non state actor" means an entity who is not a public entity

"public entity" includes a State organ, public office or a local authority;

"public participation" means the involvement of the public in the decision making process by providing meaningful opportunities for them to give their views on issues under deliberation.

"transfer" means handing over legal possession or control of an asset or liability

"transition period" means the period between commencement of the Act and three years after the first elections under the Constitution.

PART II – TECHNICAL COMMITTEE

Establishment of the Technical Committee

4. (1) There is established a Technical Committee of the Authority pursuant to Section 20 (1) of the Act.

Composition of Committee

(2) The Committee shall consist of the following:

- a) Two members of the Authority.
- b) the Principal Secretary of the Ministry for the time being responsible for matters relating to devolution;
- c) the Principal Secretary of the Ministry for the time being responsible for Finance;
- d) the Principal Secretary of the Ministry for

the time being responsible for land; e) the Chairperson of the Commission on Revenue Allocation

- f) Chairperson of the Commission for the implementation of the Constitution
- g) the Attorney General
- h) the Chairperson of the National Land Commission
- i) the Chairperson of the Ethics and Anti-Corruption Commission
- j) Director General, Public Procurement Oversight Authority
- k) Auditor General, Kenya National Audit Office
- l) two representatives of the Non State Actors
- m) any other member as the Authority may coopt from time to time
- n) the members indicated in paragraphs (b) to (k) herein may designate an alternate in writing

Functions of the Committee

(3) The functions of the Committee shall be to:
a) facilitate an audit of assets and liabilities in public entities and advise the Authority accordingly;

Continued on next page

Annex 1.5 Public Notice on Transfer of Assets



PUBLIC NOTICE

The Transition Authority is established under **Section 4** of the Transition to Devolved Government Act with the broad mandate of facilitating and coordinating the transition to devolved system of government.

Section 35 of the Act freezes the transfer of public assets during the transition period. It provides as follows:

1. **A State organ, public office, public entity or local authority shall not transfer assets and liabilities during the transition period.**
2. **Despite subsection (1), a State organ, public office, public entity or local authority shall-**
 - a. **During Phase One, transfer assets or liabilities with the approval of the Authority, in consultation with the National Treasury, the Commission on Revenue Allocation, the Ministry of Local Government and the Ministry of Lands; or**
 - b. **During Phase Two, transfer assets or liabilities with the approval of the Authority, in consultation with the National Treasury, the Commission on Revenue Allocation and the Cabinet Secretary responsible for matters relating to intergovernmental relations; and**
 - c. **Transfer immovable property, with the approval of the Authority, in consultation with the National Treasury, the Commission on Revenue Allocation and the Cabinet Secretary responsible for matters relating to intergovernmental relations and lands.**
3. **The Authority may, on its own motion or on a petition by any person, review or reverse any irregular transfer of assets or liabilities in contravention of subsection (1).**
4. **Any transfer of assets or liabilities made in contravention of subsection (1) shall be invalid.**

The Transition Authority has noted that public entities have been advertising and publicizing transfer of various public assets without following the procedure laid out above.

This is therefore to caution the public against getting involved in transfer of public assets without ensuring that due process has been followed.

We would also like to reiterate to all public entities that any transfer of assets and liabilities made in contravention of the provisions of Section 35 of the Act shall be invalid.

The Chairman
Transition Authority
Extelecoms House, 8th Floor
www.transauthority.go.ke

Annex 1.6 National Gubernatorial Conference Announcement

REPUBLIC OF KENYA



TRANSITION AUTHORITY

REPUBLIC OF KENYA



National Economic and Social Council
www.nesc.go.ke

ANNOUNCEMENT

NATIONAL CONFERENCE FOR 2013 GUBERNATORIAL (GOVERNORS) CANDIDATES AT GREAT RIFT VALLEY LODGE FROM 13TH – 15TH FEBRUARY, 2013.

The Transition Authority is a statutory body with a constitutional mandate of facilitating and coordinating the transition to devolved system of government in Kenya pursuant to the provisions of the Transition to Devolved Government Act 2012.

In an endeavor to pursue its mandate, the Authority will be holding an orientation conference for all gubernatorial candidates at the Great Rift Valley Lodge, Naivasha, from 13th-15th February 2013.

Theme: "SEAMLESS TRANSITION THROUGH TRANSFORMATIVE LEADERSHIP".

Objective: To give necessary orientation to the gubernatorial candidates on devolved government system so as to strengthen their personal leadership skills. This is essential as Kenya moves towards devolved system of Government come March 4th, 2013.

Goals: To ensure that the candidates:

- » Understand the form and function of the new Constitution and county government
- » Understand the workings of devolved government
- » Understand their role in public service as transformative servant leaders
- » Have basic knowledge of Public Financial Management
- » Appreciate the characteristics of transformative leadership:
 - to be accountable to the citizens of Kenya
 - to establish systems of accountability in county government and
 - to serve citizens by improving their standard of living
 - Understand their role in driving national development through implementation of Vision 2030.

Focus:

- Pressing challenges such as role of technology in accountability and transparency;
- Role and principles of county government and its functions;
- The county public service board; Intergovernmental and inter county relationship;
- Key devolution laws, regulations and policies to effect devolution system and
- Separation of power between the national and county government among other topics.

This conference, focusing on **"Transformative Leadership & Change Management"** is the first step to create a strong foundation for a result-oriented performance for the Governors. The long term objective is to assist county leaders in implementing capacity building, ICT solutions with leadership and integrity skills for good governance.

Mr. Kinuthia Wamwangi

Chairman

Transition Authority

KICC 5th Floor

P.O Box 10735 - 00100

Nairobi, Kenya

Email: transauthority@gmail.com or info@transauthority.go.ke

www.transauthority.go.ke



ANNEX 2

DETAILED WORK PLAN

DETAILED WORK PLAN

TRANSITION AUTHORITY ROAD MAP Aug. 2012 to June 2013 -IMPLEMENTATION MATRIX PROGRESS REPORT AS JULY 2013						DIRECTORATE RESPONSIBLE		
S/ NO	WORK STREAM	TASK	ACTIONS	OUTPUTS	PROGRESS MADE DURING PHASE I	DIRECTORATE RESPONSIBLE		
1	Operationalization of the Transition Authority (office systems, staff, organograms, staff, equipment)	1.1	Appointment of members	1.1.1 Appointment letters issued	Gazette notices issued	Complete By MOLG	Corporate Support Services	
		1.2	Secondments of key staff to the TA	1.2.1 Deploy key staff	Secondments letters	45 Officers deployed to the various TA Directorates		
		1.3	Setting up of the terms of service for TA Chairperson and members	1.3.1 Proposals and consultations with Commission on Salaries and Remuneration	Terms and Conditions of Service for chairperson and members of TA set.	Done according to SRC communication of April 2013		
		1.4	Gratuity and compensation for chair and members of TA	1.4.1 Proposals and consultations with Commission on Salaries and Remuneration	Terms and Conditions of Service for chairperson and members of TA set.	In Progress		
		1.5	Develop a Learning Organization	1.5.1 Continuous Education Program Peer Learning (Best to Great)	Bench marking tours	To be done in Phase II		
				1.5.2 Undertake training in TA	Consultant procured to develop a training manual.	To be done in Phase II		
				1.5.3 Undertake a team building activity for all staff	Retreat	To be done in Phase II		
		1.6	Identification of office space at-					
		a. National level	1.6.1 Procurement and acquisition of offices	Signed lease agreement and letter of offer	Only One floor secured for the Members Identification of additional space at Extelecoms Building in progress			

						Deployed to the 47 Counties on interim basis	County Transition Coordination Directorate
1.6	County level (County Transition Coordinators)	1.6.2	b. identify suitable staff on a temporary basis	Temporary County Public Service staff in place	Deployed to the 47 Counties on interim basis		
		1.6.3	Prepare indent and advertise	47 county coordinators in place	Recruited and deployed to the 47 Counties		
				Hold interviews and appoint the county coordinators	Done		
		1.6.4	Induction carried out	Curriculum and induction reports in place, no. of officers inducted and placed in counties	Done in collaboration with Kenya School Of Government ,Parliament Service Commission ,Kenya School of Monetary Studies, Centre for Parliamentary Studies and Training and Vision 2030		
		1.6.5	All staff mobilized to effect assumption of office by the Governor and the County Assembly will be seconded by the Public Service including Ministry of Local Government through a selection process managed by a committee . This staff will be directly answerable to TA during the period preceding the general election and there after they will answer either to the Governor or the Speaker of County Assembly	Mobilized staff	In Progress		Corporate Support Services
		1.6.6	Procurement of equipment and stationery		Basic Equipment partially done		
1.7	Operational plans and budgets developed and launched	1.7.1	Develop budgets and operational plans and have them approved		2012/13 itemized budget prepared. Awaiting Board Approval		
					-Operational plans and Organization policy Guidelines not done.		
1.8	Hiring of critical consultants	1.8.1	Carry out a prequalification and develop a database for the consultants	Consultants prequalified	To be done in Phase II		

1.9	Key personnel recruited,staff establishment determined,staff recruited and inducted	1.9.1	Develop job descriptions,structures and based on this recruit priority positions(directors for the 3 directorates, Program officers, Research assistants, Economic planners, social and public communication experts)	Effective and efficient organizational structure developed	Organization structure in place Approved by the Board.	Corporate Support Services
		1.9.2	Determine the establishments /staffing norms using the approved operational plan and final approved organizational structure	Staffing norms in place		
		1.9.3	Preparation of terms of service for staff and compensation	Terms of Service and Conditions in place	Done	
		1.9.4	Carry out additional recruitment and induction	Staff recruited	On going	
		1.9.5	Develop and manage the data base for staff and the consultants	Consultants database	To be done in Phase II	
		1.9.6	County level(county transition coordinators)		Recruited and deployed to the 47 Counties	
		1.9.7	Insurance for members and staff		Insurance procurement process ongoing	
		1.9.8	Purchase of Vehicles	Vehicles	Procurement process ongoing	
		1.9.9	Leasing of vehicles for the members	Leased cars	Not implemented	
		1.10.1.	Hire a consultant to develop the administrative policy and the procedures manual including the service charter,code of conduct	Policies, procedures and systems developed and implemented	In the process of being developed	
		1.10.2	Hold a 4 day workshop for the TA members and the staff to discuss the manuals			
		1.11.1	Procure the necessary soft ware and hardware	Effective ICT Systems in place		
1.10	HR Manual, Security policy in place					
1.11	Hardware and software in place Website for the Authority in place					

S/ NO	WORK STREAM	TASK	ACTIONS	OUTPUTS	PROGRESS MADE DURING PHASE I	DIRECTORATE RESPONSIBLE	
2	Development of a resource mobilization strategy	2.1	1.1.1.2	Develop the Authority website		Corporate Support Services	
			1.1.1.3	Upload initial vital information into the website	Website up and running		
			1.1.1.4	Procure internet services from an ISP	Ongoing		
		2.1.1	Develop TOR for hiring of Consultants	Done			
3	Monitoring and evaluation	2.2	2.2.1	Undertake mapping of transition initiatives	Stakeholder database developed	Corporate Support Services (Public Communications)	
			2.2.2	County transition forums developed	Stakeholder participation strategy in place		
		3.1	2.2.3	Hold breakfast meeting with potential development partners	Transition initiatives mapped		Done and included in the Road map
			2.2.4	Establishment of a budget and resource Mobilization Committee	Forums developed		In place
3	Monitoring and evaluation	3.1	3.1.1	Develop TOR for consultants and procure one	Committee in place	Corporate Support Services (Public Communications)	
			3.1.2	Develop TOR for consultants and procure one	M & E framework developed		
		3.2	3.2.1	Preparation of monthly, quarterly and annual reports	Consultant in place - Draft M and E Framework in place		Finance and Administration Committee
			3.2.2	Publishing of the TA progress reports	Continuous on quarterly basis to CIC and CRA		Done

S/ NO	WORK STREAM	TASK	ACTIONS	OUTPUTS	PROGRESS MADE DURING PHASE I	DIRECTORATE RESPONSIBLE		
4	Mapping Of Transition To Devolved Government Activities Across All Government	4.1	Collection and Collation of Information on ongoing transition and devolution activities from MDAs and local authorities	4.1.1	Write circulars to all MDAs and Local authorities asking to provide reports and supporting documents on transition to devolution	Circular sent	Done -Circular sent to MDAs on August 2012 - Reports received from the Ministries received	
				4.1.2	Hold meetings with relevant public entities	Reports prepared and disseminated		
				4.1.3	Validation workshop with Ministries			Intercontinental meeting of 5th November, Meeting Regional authorities at Hotel Intercontinental.
				4.1.4	Validation workshop with Members of Parliament			Held at Enashipai Resort and Spa In Oct.
		4.2	Establish the status of Committees of PS, Technical working groups and Functional Assignment and competency teams	4.2.1	Write circulars requesting for information on the decision making groups and make follow-up visits/meetings	Circulars	Circular dated 6 November to the Ministries	Policy and Advocacy Directorate
				4.2.2	Write circulars requesting for sector policy papers on functional and competency assignment. And follow-up visits/meetings	Reports	Circular dated 6 November to the Ministries -Guidelines on the development of Policy Papers issued	
		4.3	Mapping Reforms, projects and programmes	4.3.1	Request for Information from MDAs on ongoing reform programmes and projects	Circulars	Ongoing -circular issued to Ministries - A number of Reports received	
				4.3.2	Compile report	Report		
		4.4	Gender Assessment Strategy	Adopt a gender lensed transition for all process	Gender Lensed Tool developed	Not Done		
					Dissemination tool to MDAs	Not done		
5	Functional And Competence Analysis And Assignment	5.1	Develop the Guidelines on the functional and competence assignment (unbundling)	1. Guidelines	Guidelines /template finalized and issued	Policy and Advocacy Directorate		

S/ NO	WORK STREAM	TASK	ACTIONS	OUTPUTS	PROGRESS MADE DURING PHASE I	DIRECTORATE RESPONSIBLE	
5	Functional And Competence Analysis And Assignment	5.1.2	Hold a 4 day workshop for the TA members and the staff to discuss the draft guidelines		Done (Finalized at the retreat held at KCB centre in Karen)	Policy and Advocacy Directorate	
			5.1.3	Organise forums to engage Sector Working groups in the validation process of the guidelines for functional and competence assignment			
		5.2	Coordinate MDAs to develop sectoral policy papers on functional assignment	5.2.1	Develop guidelines for development of sectoral policy papers	Published guidelines	
				5.2.2	Support the Sector working groups to undertake FCA	Policy papers finalized.	Ongoing- KEMRI, MEMR, ROADS, MOH,
		5.2.3	Monitor the progress made.		Ongoing		
5.2.4	Stakeholder engagement for dissemination of finalized policies		Not done/be carried out in the phase II				
6	LEGAL AND INTERGOVERNMENTAL RELATIONS	6.1	Legislations and regulations amendments	i. Workshop with senior Government officials, PSs	Not done/be carried out in the phase II	Legal and Intergovernmental Relation Secretariat	
				ii. Workshop with Members of Parliament, other dependent commissions -CIC, CRA, CIOC	Not done/be carried out in the phase II		
		6.1.1	Legislations and regulations amendments	Gazettement of functions that are supposed to be initially transferred to the counties during the first phase	Functions gazetted		The functions were gazetted on 4th Feb. 2013
				Conduct a gap analysis in the existing legal framework	Reports on gap analysis		Done at Enashipai /Lodge
				Propose legislative amendments to existing laws	Legislative and regulation amendments		Presented to Parliament.

S/ NO	WORK STREAM	TASK	ACTIONS	OUTPUTS	PROGRESS MADE DURING PHASE I	DIRECTORATE RESPONSIBLE
6.2	Published regulations, administrative guidelines, standing orders and budget guidelines	6.2	6.2.1	Draft regulations, administrative guidelines		Regulations on office of the Governor Assumption Guideline guidelines issued
			6.2.2	Initial retreat to come up with regulations for the better carrying out of the TA Mandate		Draft regulations drafted by consultants
			6.2.3	Carry out validation workshop with Ministries, departments and agencies		Planned for next phase
			6.2.4	Publishing and printing of the regulations and guidelines		Planned for next phase
6.3	Costing of Function	6.3	6.3.1	Request Relevant MDAs for updated information on the cost of providing services based upon the approved budget	Report Published and disseminated	Planned for phase II
			6.3.2	Costing guidelines issued		Done
				Hold public forums and engage expert groups in validating the costing		Planned for phase II
				i. Validation workshop with senior Government officials, PSs		Planned for phase II
6.4	County budgets	6.4	ii. Validation workshop with Members of Parliament, other independent commissions -CIC, CRA, CIOC			Planned for phase II
			6.3.3	Prepare a report on the costing of function		
		6.4.1	Development of initial county budgets	Guidelines on preparation of initial County budgets prepared		

S/ NO	WORK STREAM	TASK	ACTIONS	OUTPUTS	PROGRESS MADE DURING PHASE I	DIRECTORATE RESPONSIBLE
			Commission a consultant to develop and lead in the development of the criteria for the initial transfer of functions	Criteria for transfer of functions developed	Done	Legal and Intergovernmental Relation Secretariat
			Hold a retreat for the TA to review the draft criteria		Done(Finalized at KCB Karen retreat)	
			Commission a consultant to develop the county profiles	47 County profiles developed	Done	
			Hold 8 county validation workshops on the profiles		Done	
			Print and publish the profiles for wide distribution		To be done in phase II	
6.5	Development of Transition Implementation Plans	6.5.1	Develop guidelines for developing Transition Implementation Plan by MDAs:			
		6.5.2	Hire a consultant to guide the process	Guidelines prepared	DONE	
		6.5.3	Hold a 4 day workshop for the TA members and the staff to discuss the guidelines		Done-Karen	
		6.5.4	Publish Transition Implementation Plan		To be done in phase II	
		6.5.5	Issues a circular distributing the guidelines to MDAs		Done	
6.6	Pilot functional transfers for selected sectors	6.6.1	Select sectors for piloting.	Sectors identified	To be done in phase II	
		6.6.2	Procure technical assistance to lead this process.	Technical assignment procured	To be done in phase II	

S/ NO	WORK STREAM	TASK	ACTIONS	OUTPUTS	PROGRESS MADE DURING PHASE I	DIRECTORATE RESPONSIBLE		
7	Civic education on transition And stakeholder engagement	7.1	Validate and civic education materials and curriculum	7.1.1	Development of a civic education curriculum and manuals for the public and county leaders and staff	Civic education materials on transition	Done -Training manuals and curriculum developed -FAQs Developed	
				7.1.2	Validation of the curriculum and civic education materials		Done at KICC	
		7.2	Enable County government leaders and staff able to effectively undertake their functions	7.2.1	Carry out sensitization workshops for the key Officers in the MDAs	Ministry Officers sensitized	Done in January in collaboration with MSPS	Corporate Support Services
				7.2.2	Carry out sensitization workshops for the senior Officers in the local authorities on the transitional issues to Devolved Government. (This will be carried out in 8 centres including Nairobi, Mombasa, Nyeri, Embu, Garissa, Nakuru, Kisumu, Kakamega		Done in January in collaboration with MSPS	
		7.3	Sensitize County residents on their role in transition	7.3.1	Hold public forums on civic education on devolution	County Fora held	Done in all 47 counties between 12 Feb. 2013 - 19th Feb. 2013	
		7.4	Communication strategy in place	7.4.1	Procurement of a short term consultant to develop a TA Logo and brand identity	IEC Strategy on Transition developed and implemented	Logo passed by the Board and in use	
	7.4.2			Procurement of a short term consultant to develop a TA communication strategy				
	7.4.3			Monthly media clinics				
	7.4.4			Develop informercials for broadcasting in media stations				
	7.4.5			Prepare documentaries on transition to county Governments				
	7.4.6	Hold publicity events in the counties	To be done in phase II					
						Continuous		

S/ NO	WORK STREAM	TASK	ACTIONS	OUTPUTS	PROGRESS MADE DURING PHASE I	DIRECTORATE RESPONSIBLE
8	Capacity Assessment And Development	8.1 Audit Of Assets And Liabilities of local authorities	8.1.1	Review Existing Records and Data	Record of assets and liabilities	189 records received for both local authorities and ministries
			8.1.2	Issue circular to all provincial administrators on the above.		Circular issued to all county commissioners
			8.1.3	Develop An Audit Tool	Audit tool	Template issued to guide the MDAs in reporting
			8.1.4	Carry Out An Audit	Audit report	To be done in phase II
			8.1.5	Verify Audit Reports	Verified audit reports(to be carried out by an independent person from the one who carried out the audit)	To be done in phase II
8.2	Audit Of Assets And Liabilities National Government in the Counties	8.2.1	Review Existing Records and Data	Record of assets and liabilities	Received raw reports on assets returns from various Government department in the Counties	
		8.2.2	Issue circular to all provincial administrators on the above.		-The info is being fed into the Asset Management information system	
		8.2.3	Develop An Audit Tool	Audit tool	To be done in phase II	
		8.2.4	Carry Out An Audit	Audit report	To be done in phase II	
		8.2.5	Verify Audit Reports	Verified audit reports(to be carried out by an independent person from the one who carried out the audit)	To be done in phase II	
9	The Audit Of Human Resources In Both National Government,Local Authorities And State Corporations	9.1 Audit of human resources	9.1.1 Development of a tool for carrying out the audit.	Audit tool	Tool developed	Corporate Support Services

S/ NO	WORK STREAM	TASK	ACTIONS	OUTPUTS	PROGRESS MADE DURING PHASE I	DIRECTORATE RESPONSIBLE		
10	Assessment of facilities in the counties	10.1	10.11	Identify existing facilities and gaps in the counties	Comprehensive report on facilities and gaps	Two visits made by teams to assess the facilities in various counties	Corporate Support Services	
		10.2	10.2.1	Filling the gaps	<ul style="list-style-type: none"> Bridging the gaps where they exist Provision of initial basic equipment like maces / Hansard equipment to the county Governments 	2 million disbursed to each county for refurbishment of the interim officers		
		10.3		Facilitation of the county swearing of the county assembly members	Adequate facilities for county Governments	2 million disbursed to each county facilitation of the swearing in of the Governor		
11	Systems	11.1	11.1.1	Identify existing gaps in the counties i.e. financial, administrative systems	Gap analysis report	To be done in Phase II		
			11.1.2	Bridging the gaps where they exist	Comprehensive report on systems and gaps an provision of adequate facilities	To be done in Phase II		
12	Capacity building programmes	12.1	12.1.1	Develop the curricula for use in training	Curricula	Done		
			12.1.2	Roll out the program	Adequate operational skills in counties	To be done in phase II		
			12.1.3	Develop the curricula for use in training		Done		
13	Transition Arrangements To County Governments	12.2	12.2.1	Roll out the program	Adequate operational skills in counties	Ongoing		
			13.1	13.1.1	Identifying the chief officers for county	Identified officers	Officers identified and deployed	
			13.1.2	Preparation of a transition manual	Manual			
		13.1.3	Training the officers on the management of transition.		To be done in phase II			

S/ NO	WORK STREAM	TASK	ACTIONS	OUTPUTS	PROGRESS MADE DURING PHASE I	DIRECTORATE RESPONSIBLE
			13.1.4 Issue guidelines on the management of transition developed as regulations under the County Government act	Legal notice	Guidelines on assumption of the Governor office prepared and circulated, the Execution of the executive Governor function and setting up of the County Public Service Boards facilitated.	
		13.2 Setting up of the County Public Service Boards .	13.2.1 Preparation for guidelines on appointment of the board			
		13.3 Setting up of the County Assembly Service Boards	13.3.1 Preparation for guidelines on appointment of the board	Guidelines		
			Sensitize the Governors , executive committee members and the speakers of the county assemblies		Gubernatorial candidates sensitized on the 13-16th February 2013 at the GRVL - Induction for the Governors,their deputies ,interim secretaries slated for next Phase. - County Speakers, their Alternate speakers induction slated for next phase.	
14	Knowledge Management	14.1 Research and document on transition topical issues	14.1.1 Identify areas to be researched on	List of topical issues to be researched on	To be done in Phase II	Policy , Research and Advocacy
			14.1.2 Hire research assistants	Research assistants	To be done in Phase II	
		14.2 Develop, share and disseminate reports	14.2.1 Publish researched materials	Materials Published	To be done in Phase II	
			14.2.2 Apply for ISBN number from Kenya National Library Service	ISBN	To be done in Phase II	
		14.3 Establish a resource centre	14.3.1 Procure the necessary documentation to operate the resource centre		To be done in Phase II	
			14.3.2 Hire a librarian to man the resource centre		To be done in next Phase II	



REPUBLIC OF KENYA

TRANSITION AUTHORITY

Quarterly Report for the Period July to September, 2012

Quarterly Report of the Transition Authority on the progress in the implementation of the transition to the devolved system of government. (Pursuant to Section 7 and 25 of the TDG Act, 2012)

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REPUBLIC OF KENYA

TRANSITION AUTHORITY

Quarterly Report (October–December, 2012)

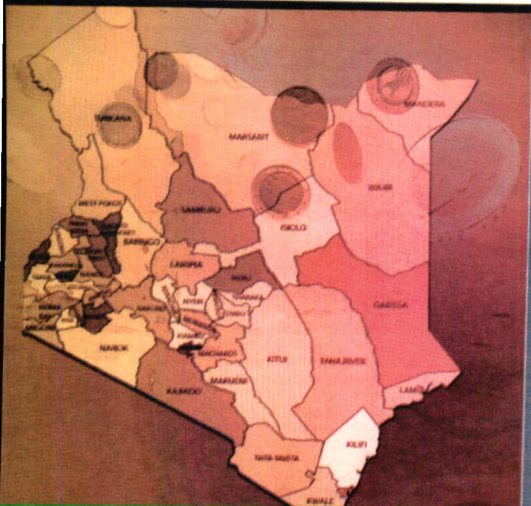
A Report to H.E the President, the Speaker of the National Assembly, the Commission for the Implementation of the Constitution and the Commission on Revenue Allocation on the Progress made in the Implementation of Transition to the Devolved System of Government. (Pursuant to Section 7 of the TDG Act 2012)

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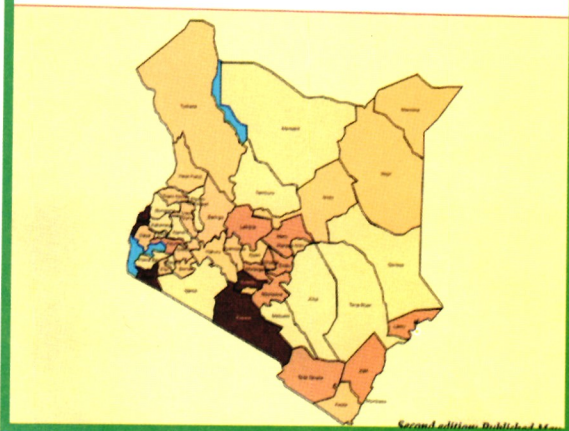
Transition Authority

A GUIDE TO THE MANDATES AND PROCEDURES OF COUNTY GOVERNMENTS IN KENYA



GUIDEBOOK FOR GOVERNORS

EXPLAINING THE ADMINISTRATIVE ARRANGEMENTS
FOR THE TRANSITION TO DEVOLVED GOVERNMENT



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