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Transition Authority

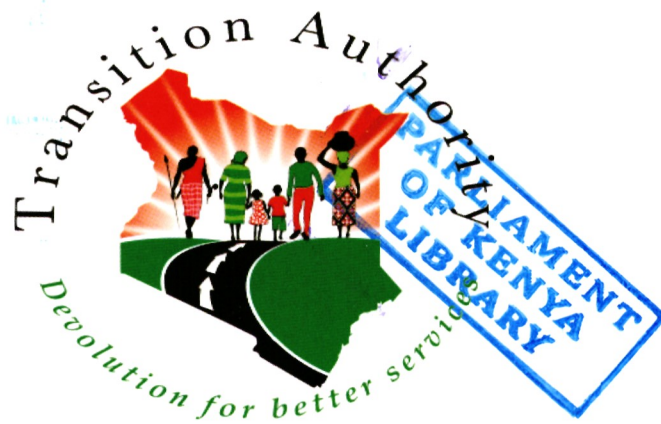


Devolution for better services

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QUARTERLY REPORT

JULY – SEPTEMBER, 2013



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JULY - SEPTEMBER, 2013

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Abbreviations

AMIS	Asset Management Information Systems
CASB	County Assembly Service Board
CEC	County Executive Committee
CIC	Commission for the Implementation of the Constitution
CIDP	County Integrated Development Plans
CGA	County Government Act
CRA	Commission for Revenue Allocation
CTCs	County Transition Coordinators
FACT	Functional Analysis Competency Team
FASTs	Functional Analysis Steering Team
ICRSD	International Centre for Research in sustainable Development
IFMIS	Integrated Financial Management Information System
IPPD	Integrated Personnel Payroll Data
KNICE	Kenya National Integrated Civic Education
MDAs	Ministries, Departments and Agencies
MTP	Mid Term Programmes
TA	Transition Authority
TDGA	Transition to Devolved Government Act
TIPS	Transition Implementation Plans
UNDP	United Nations Development Programme

CHAIRMAN'S STATEMENT



During the period under review, the Transition Authority made major strides in all the key thematic areas. Significantly, the Authority was able to draft regulations by which counties were to apply for the transfer of functions. Thereafter, the Authority successfully transferred the county functions applied for to the county governments within the provisions of the law. This was done via the Kenya Gazette Supplement No. 116, Legal Notice No. 137 - 183 of 9th August, 2013.

There were however some exceptions in the transfer especially in regard to shared functions across counties and ongoing donor funded projects. As a result, the Authority will continue unbundling National Government functions with a view of completing this exercise. Other achievements include the determination of resource requirements for each of the functions, human resource management, capacity building and capability development, civic awareness, continued preparation of the assets and liabilities inventory and facilitation and coordination of integrated development planning and funding mechanisms.

In the next quarter the Authority will continue with validation, valuation, audit, uploading of data onto AMIS. The Authority will hold functional analysis retreat to assess Transition Implementation Plans that have already been submitted. The Authority will also monitor the implementation of the County Integrated Development Plans and preparations of the Spatial Plans. The Authority will provide guidelines on County public finance management and fast track the delivery of returns and the associated accounting from the counties for the disbursed funds for the FY 2012/13

Meanwhile, the Authority will continue to ensure that the county governments are able to play a pivotal role in planning and implementation of projects and programmes that can translate Vision 2030 national goals and aspirations into highly productive ventures. This will be accomplished through continued coordination, facilitation and support over the transition period. Enhanced capacitation in the counties will ultimately lead to the globally competitive economy we desire, a more democratic process in decision-making, more equitable allocation and distribution of resources and a high quality of life for all Kenyans. I therefore look forward to the coming quarter with increased enthusiasm and confident that much more will be accomplished.

A handwritten signature in black ink, appearing to read 'Kinuthia Wamwangi'.

KINUTHIA WAMWANGI
CHAIRMAN

MESSAGE FROM THE CEO/SECRETARY



The July - September quarter was fairly busy for the Authority with numerous activities undertaken by all the key committees. As a result, the transition process has advanced significantly especially on regard to transfer and unbundling of functions, the management of human resources in the counties, and the smooth operations under the county structures. The Authority is keen to consolidate these gains by fast-tracking the establishment of administrative units, improving financial management systems, auditing human resources and the implementation of devolved functions at the county level.

The Authority continued developing Strategic Plan 2013-2016 which is now in its final draft form and will be validated and launched during the next quarter. It will be further aligned to the Monitoring and Evaluation Framework that has already been developed. The TA will also prepare a resource mobilization strategy, a communication strategy and a procurement plan complete with procurement and financial procedure manuals.

I therefore look forward to even better strides in the devolution journey over the next quarter.

A handwritten signature in black ink, appearing to be 'S. Makori', written in a cursive style.

STEPHEN MAKORI

CEO/SECRETARY

EXECUTIVE SUMMARY

During the July–September 2013 Quarter, the Authority’s primary focus was on continuation of unbundling of functions and preparation of advisories to guide the transition process. The Authority also provided guidance on the implementation of Transition Implementation Plans by MDAs and continued facilitating and coordinating capacity building programmes and civic education. The Authority has made fresh engagements with all MDAs on the transition implementation plans and the unbundling of National Government functions with a view to fast tracking the process.

The county assemblies and County Executive Committees are now operationalized and preliminary structures including interim staff and offices have been put in place. More functions have also been transferred to the counties and they have been facilitated to access the necessary funds required that will enable them to undertake these functions. The counties were also supported through the development of county profiles.

The Authority drafted regulations by which counties were to apply for the transfer of functions and developed mechanisms and an application form for transfer of functions to the county governments. As a result, county functions applied for were successfully transferred to the county governments within the provisions of the law. This was done after all the counties duly confirmed that they had the requisite capacity to perform the functions that they were applying for.

Advisories have been prepared by the Authority including those on Human Resource Management at the national and county government level, transfer of assets and liabilities, repeal of local government Act, setting aside Trust Land, public finance management and various elective petitions that emerged during the quarter. The TA also participated in consultative fora on sectoral issues organized by the Ministry of Devolution and Planning. These forums provided a platform for the Transition Authority to inform, discuss and comprehend emerging transitional issues through Intergovernmental Sectoral and Health Workshops as well as an Intergovernmental Agriculture Sector Forum.

The counties were assisted by enhancing their capacities in preparation of the county development plans and were issued with guidelines for the preparation of county spatial plans though they were yet to begin preparing them. During the quarter, a technical committee was constituted to assess the criteria listed the Urban Areas and Cities Act, 2011 on Classification of Urban Areas and Cities and propose amendments that would make it possible to appropriately implement the categorization.

The Authority also provided technical support and capacity building for fiscal decentralization to guide in the implementation of the Public Finance Management Reforms strategy of 2013 – 17 especially in the areas of budget and audit. The TA, in consultation with Kenya School of Government (KSG) and parliament has also prepared a national capacity building framework which will be reviewed and harmonized with frameworks and strategies developed by other key players like the Ministry of Devolution and Planning and Directorate of Public Service Management. In addition, a stakeholders retreat on rationalization and deployment of staff was also held together with inductions of National and County Officers.

Several meetings were organised to discuss issues of civic education with various stakeholders partaking civic education initiatives. As a result, the TA was able to establish a database of civic education providers, curriculum materials to be developed and messages on devolution targeting various stakeholders. The Authority will continue to engage key players such as the National Assembly, the Senate, the independent commissions and the Executive as part of their coordination and facilitation role in civic education.

TA was also able to develop a draft tool in relation to management and transfer of public assets and liabilities during the transition period. This tool gives guidelines on how to transfer public assets and liabilities during the transition period and will be used to further develop a more comprehensive mechanism.



STEPHEN MAKORI

CEO/SECRETARY

The Transition Authority (TA) is a statutory body whose mandate is to facilitate and coordinate the transition to devolved system of government in Kenya as per the Transition to Devolved Government Act 2012 and the provisions under section 15 of the sixth schedule to the constitution. The Authority is in phase 2 of the transition period which commenced on 4th March 2013 and is expected to end in March 2016. Section 25 of the Transition to Devolved Government Act (TDGA) mandates the Transition Authority to prepare Quarterly progress reports to provide regular update on the implementation of transition to devolved government.

This report covers the progress status of activities implemented during the third quarter (July - September) 2013. In this Quarter, the Authority focused on the unbundling of functions, preparation of Advisories to guide the transition process, monitoring and provision of guidance on the implementation of Transition Implementation Plans by MDAs and facilitation and coordination of capacity building programmes and Civic Education. So far, the following milestones were achieved:

- Successful operationalization of the county assemblies and County Executive Committees.
- Existence of preliminary structures in the counties with interim staff and offices.
- Sensitized and ensured that the civil servants were aware of their roles in the devolved structures.
- Facilitation of counties to access funds
- Transferred devolved functions to counties
- Undertook unbundling and costing of functions
- Supported the counties in development of county profiles

CHAPTER 2

PROGRESS ON IMPLEMENTATION OF TRANSITION AUTHORITY MANDATE

2.0 Introduction

The Authority discharges its mandate through six operational committees chaired by board members namely:

- Functional Analysis and Competency Assignment
- Legal and Intergovernmental Relations
- Planning, Budgeting and Finance.
- Capacity and Capability Development.
- Assets and liabilities
- Civic Education

These committees are supported by a secretariat composed of three technical directorates and one Corporate Support Services. In the implementation of these functions the TA engaged various stakeholders through consultative processes.

2.1 Functional Analysis and Competency Assignment

Among the Authority's core mandate is to facilitate the analysis and phased transfer of functions to the National and County governments as provided for, in the Fourth Schedule to the Constitution. Accordingly, the Fourth schedule provides the distribution of functions between the National Government and the County Governments. The milestones achieved so far are as defined below:

2.1.1 Draft Regulations for the Transfer of Functions

To provide a framework and modalities for transfer of functions to the county governments and to facilitate the publication of the transferred functions, the Authority drafted regulations by which counties were to apply for the transfer of functions.

The regulations specified the mechanisms to be applied to approve applications by counties for the transfer of functions and agreements for transfer of functions and powers from the national government to the county governments.

2.1.2 Unbundling of Functions

The functions assigned to the National and County governments in the CoK, 2010 are generally broad, concurrent and non-specific. Therefore, the Authority held in-depth consultative meetings with all the line Ministries and the Treasury to unbundle functions to facilitate the transfer of the same to the National and County governments. During the process, the functions for immediate transfer, delayed transfer and functions to be reversed to either level of government and the specific budget allocations and justification for each category were identified.

The processes of unbundling are illustrated in the figures below:

Fig. 1: A function is a discrete set of activities carried out in the delivery of a service

FUNCTION	National Agriculture Extension Program Components
ACTIVITIES	Identify priorities for extension support
	Research and development of farming techniques
	Print resource materials
	Employ extension officers
	Train extension officers (run training colleges)
	Purchase seed and tools for demonstration farms
	Provide buildings for farmer training

Fig. 2: These functions have different assignments according to the Constitution

FUNCTION: National Agriculture Extension Program Components	National (policy)	County (implementation)
Identify priorities for extension support	X	
Research and development of farming techniques	X	
Print resource materials	??	??
Employ extension officers		X
Train extension officers (run training colleges)	??	??
Purchase seed and tools for demonstration farms		X
Provide buildings for farmer training	X	X

Fig. 3: Unbundling ensures clarity about who funds what

National Agriculture Extension Program Component	National (policy)	County (implementation)
Identify priorities for extension support	X	
Research and development of farming techniques	X	
Print resource materials	??	??
Employ extension officers		X
Train extension officers (run training colleges)	??	??
Purchase seed and tools for demonstration farms		X
Provide buildings for farmer training	X	X

(See Annex 2)

2.1.3 Transfer of functions to the County Governments

One of the key tenets in the realization of implementation of the new Devolved system of Governance is the actual transfer of functions, roles and responsibilities from the National government to the County governments. The Transition Authority successfully transferred to the county governments the county functions applied for within the provisions of the law and gazetted the transferred functions via the Kenya Gazette Supplement No. 116, legal Notice No. 137 - 183 of 9th August, 2013.

It is important to note, that most of the county functions were transferred, however there were a few exceptions, for example shared functions across counties and ongoing donor funded projects. A more detailed explanation of each of the 14 functions is provided below:

a) Agriculture

Functions identified in agriculture include

Crop husbandry: This entails the provision of agricultural extension services or farmer advisory services, development and implementation of programmes in the agricultural sector to address food security in the county, construction of grain storage structures, enforcement of regulations and standards on quality control of inputs, produce and products from the agricultural sector, availing of farm inputs such as certified seeds, fertilizer and other planting materials, such as cassava cutting or potato vines to farmers, development of programmes to intervene on soil and water management and conservation of the natural resource base for agriculture

Other functions under crop husbandry are promotion of market access for agricultural products, provision of infrastructure to promote agricultural production and marketing as well as agro-processing and value chains, management of agricultural training centers and agricultural mechanization stations, enhancing accessibility to affordable credit and insurance packages for farmers, land development services such as construction of water pans for horticultural production for food security, formulation and review of county specific policies, development and enactment of legislation and regulatory frameworks for county specific policies and implementation of national and county specific policies.

Animal husbandry: livestock extension services to deliver husbandry technologies to livestock farmers and pastoralists through farm demonstrations, farmer field days, farmer field schools, agricultural shows, individual farm visits, farmer training courses (residential and non-residential), barazas, farmer tours, posters, brochures or leaf lets.

Plant and animal disease control: carrying out, coordinating and overseeing communal dipping and spraying operations and vaccination campaigns, control of plant pests, diseases and noxious weeds that are specific to counties.

Fisheries: fisheries extension services, up scaling sea weed, fin fish and crustacean culture, county fish seed bulking units, on-farm trials, fish health certification, development and maintenance of fish landing stations and jetties, fish landing fees, demarcation of all fish breeding areas and fencing of fish landing stations, fish trade licensing and fish movement permits, collection of fish production statistics, enforcement of fisheries regulations and compliance with management measures, implementation of fisheries policy, fisheries management measures and regulation and limiting access to fishing, fisheries monitoring, control and surveillance and zonation for aquaculture county specific disease control and fish auction centers which is limited to nine counties namely Nyeri, Meru, Migori, Kisumu, Homabay, Siaya, Busia, Kakamega, and Lamu.

All the above functions were transferred except the management of agricultural training centers and agricultural mechanization stations which are shared assets and would be transferred after six months to enable auditing, verification and putting in place the requisite structures and mechanisms by the Transition Authority.

b) County Health Services

The county health functions includes:- County health facilities and pharmacies includes county health facilities including county and sub-county hospitals, rural health centres, dispensaries, rural health training and demonstration centres. Rehabilitation and maintenance of county health facilities including maintenance of vehicles, medical equipment and machinery, inspection and licensing of medical premises including reporting;

County health pharmacies include specifications, quantification, storage, distribution, dispensing and rational use of medical commodities;

Ambulance services include emergency response and patient referral system; Promotion of primary health care entails health education, health promotion, community health services, reproductive health, child health, tuberculosis, HIV, malaria, school health program, environmental health, maternal health care, immunization, disease surveillance, outreach services, referral, nutrition, occupational safety, food and water quality and safety, disease screening, hygiene and sanitation, disease prevention and control, ophthalmic services, clinical services, rehabilitation, mental health, laboratory services, oral health, disaster preparedness and disease outbreak services. Planning and monitoring, health information system (data collection, collation, analysis and reporting), supportive supervision, patient and health facility records and inventories;

Licensing and control of undertakings that sell food to the public including food safety and control;

Veterinary services to carry out, coordinate and oversee veterinary services including clinical services, artificial insemination, and reproductive health management; but excluding regulation of the profession; and

Enforcement of waste management policies, standards and regulations; in particular refuse removal (Garbage) including, provision of waste collection bins, segregation of waste at source, licensing of waste transportation; refuse dumps including zoning waste operational areas, Conducting environmental impact assessment for the silting of dumps, fencing of

dumps, controlling fires, monitoring waste characteristics and monitoring of waste water from the dumpsite (leachate); and solid waste disposal including enforcement of national waste management policies, standards and laws with respect to landfilling, incineration with energy recovery, compositing, recycling and operation of transfer stations.

It is worth noting that the presence of National Government staff performing this devolved function in the Sub Counties has been a major boost to the transfer of these functions. Also the Counties are inheriting the District Hospitals, The sub district Hospitals and the Dispensaries which form a bulk of the infrastructure and service delivery mechanisms required to perform the said functions.

Additionally, building on the gains made by the Ministry of Health in streamlining service delivery, a comprehensive assessment on service delivery readiness has been conducted (SARAM) which has identified gaps which need to be addressed as Counties uptake this function. The National Government will continue working very closely in providing technical backstopping to the Counties as need arises.

All the above functions were transferred except the procurement of essential medical commodities by the Counties which were delayed. This follows an earlier agreement between the County Governments and the National Government that this will be from the Kenya Medical Supplies Authority except where a particular commodity required by a county government is not available at the Kenya Medical Supplies Authority. KEMSA is being restructured to handle pooled procurement by the Counties. In 2013/14, the counties are expected to have virtual budgets and drawing rights for the consignment held at KEMSA.

Secondly, Procurement of specialized public health commodities was also delayed due to the specialized nature of the goods and the need to ensure universal access to ARVs.

Thirdly, a number of functions in this sector would be transferred at a later date due the fact that they've running international obligations;

The procurement of vaccines under the Kenya Expanded Programme on Immunization with the national Government having to buy vaccines at Subsidized prices under GAVI (Global Alliance on Vaccines and immunization

The implementation of programmes under the Global Fund for Malaria, Leprosy, TB and HIV due to existing international contractual Counterpart funding agreements and specific timelines.

Communicable diseases control programmes will be transferred at a later date because of the nature of the control involved

Fourthly, implementation of the payment of existing medical staff and others employed under the economic stimulus package was delayed for six months pending establishment of effective payroll management systems by the Counties. This had been earlier agreed at the Intergovernmental Relations level.

The former provincial hospitals were transferred specifically to the following counties; Nyeri, Mombasa, Kisumu, Kakamega, Embu, Garissa and Nakuru. The other Counties received either the former district or sub district hospitals falling under their jurisdiction.

c) Control of air pollution, noise pollution, and other public nuisances

The unbundled functions under control of air pollution, noise pollution and other public nuisances are:

The implementation of nationally set ambient air quality standards, Licensing for persons exceeding the permissible noise levels and Noise mapping and action plan development

All the above functions have been transferred except implementation of nationally set ambient air quality standards, will be delayed and transferred to County Governments within a period the transition period.

d) Cultural services public entertainment and public amenities

These include –Casinos and other forms of gambling; racing; cinemas; libraries; museums including Garissa (Garissa), House of Coloums(Kilifi) Jomo Kenyatta Public Beach (Mombasa), Kabarnet Museums (Baringo), Kisumu Museum (Kisumu), Kitale Museums (TransNzoia), Loiyangalani Desert Museum (Marsabit), Mama Ngina Drive (Mombasa), Meru Museum, Narok Museum (Narok) and Wajir Museum (Wajir) ,CFCU Ukunda (Kwale) and CFCU Gede/Kilifi (Kilifi), County sports and cultural activities and facilities,) County parks, beaches and recreation facilities.

All the above functions have been transferred because they were being performed by the defunct local Municipals which are part of the County Governments now except the Kenya National Library Services (KNLS) because its services are not present in most Counties.

e) County Transport

County transport entails county roads including primary roads linking all sub-county headquarters, minor roads linking markets and administrative centers, Kenya Urban Roads Authority, Kenya Rural Roads Authority, Kenya Wildlife Service and Kenya Forest Service, Mechanical and transport equipment, public road transport on licensing of public service vehicles operations; and ferries and harbors including development, maintenance and operations of ferries and harbors operating in inland lakes and waters.

Functions transferred include primary roads linking all sub-county headquarters, minor roads linking markets and administrative centers. Maintenance and operations of ferries and harbors operating in inland lakes and waters which is specific to Kisumu, Mombasa, Kwale and Homa Bay were also transferred.

The functions delayed include Kenya Urban Roads Authority, Kenya Rural Roads Authority, Kenya Wildlife Service, Kenya Forest Service, Mechanical and transport equipment. The reason for the delay is that the current laws governing road management for KURA, KeRRA, KWS and KFS have not been amended or repealed.

The mechanical and transport equipment is a shared function among the counties and the assets need to be audited and verified before the transfer is done hence shall be retained by the National Government for a period of six months and the Transition Authority shall during this period develop modalities of sharing the mechanical and transport equipment.

f) Animal Control and Welfare

The function was transferred under Legal Notice No. 16 of 2013

g) Trade development and regulation, including fair trade practices and Cooperative Societies

The fair trade practices include Markets, trade licenses (excluding regulation of professions), verification and inspection of weighing and measuring instruments and pre-packed goods, investigation of complaints and prosecution of offences arising from unfair trade practices.

Markets and trade licenses were transferred under legal notice no 16 of 2013. Under verification and inspection of weighing and measuring instruments, amendment of law to allow for standards procurement and custody by Governors is imperative. Currently there are 49 Fair Trading practices officers and the County Governments may agree on a framework of sharing these officers. This function is transferred based on the principle

of subsidiarity as stipulated in the CoK 2010 and the principles of devolution. Staff training, infrastructure setting and standards can be completed by the Counties with Technical backstopping of the national Government.

Cooperative Societies:- Cooperative societies entails promotion of co-operative societies, Processing of application for registration, Inspections and investigations, Training needs assessment for co-operative movement, Market information dissemination & advisory services, Banking inspections (local SACCOs), Risk assessment in SACCOs, Investment advisory services, Co-ordination & Monitoring of co-operative indemnity by co-operative leaders, Promotion of Co-op Ventures & Innovations (for local co-operatives), Carrying out certification audits, Carrying out continuous and compliance audits, Co-operative advisory services, Pre-cooperative education and Settlement of disputes (arbitration). This function has been transferred since Cooperative development officers currently in the district can undertake the function under the County Government.

h) County Planning and Development

The function of County Planning and Development includes;- Statistics; Survey and Mapping; boundaries and fencing; and Electricity and gas reticulation and energy regulation has been devolved to the counties. The function is further unbundled as below.

Economic planning and County Statistical Services including – Preparation of County Integrated Development Plan (CIDPs), Preparation of Sectoral plans, Provision of economic planning and County Development Planning, Management of the information and Documentation Centers; Monitoring and Evaluation services including – Tracking implementation of development programs and policies, Capacity assessment of M&E practice, Developing county indicators for monitoring and evaluation (M&E), Dissemination and advocacy of M&E Results, Evaluation of programmes and policies;

County Statistical Services including – Custodian of official statistics in the county, Maintain a comprehensive and reliable county socio-economic database, Quality assurance of statistical information, Collection and compilation of statistical information, Analysis of statistical information, Publication and dissemination of Statistical information for public use, Coordination, monitoring and supervision of the County statistical system.

The functions of Economic planning, Monitoring and Evaluation and County Statistics have been transferred to the County governments since planning and statistics officers have already been deployed, the Ministry of Devolution and Planning will provide the technical guideline and support and the capacity building on M&E skills is ongoing.

Physical Planning including—Formulation of County specific physical planning policies and guidelines, Preparation of county spatial and Local physical development plans, Development control and implementation of approved development plans;

Mapping and surveys including—Title surveys, Topographical Surveys, Provision of 3rd Order Geodetic Network, Mapping of Infrastructure, Utilities and Natural Resources, Any other Thematic Mapping within the County;

Boundaries and fencing including—Determination of Property Boundaries, Solving of Property Boundary Disputes, Showing of Property Boundaries, Ensure Fencing and development Properties, Finalization of surveying of Administrative Boundaries within the Counties;

Housing including—Management of Appropriate Building Technology (ABT) centres; Management and maintenance of houses that belonged to county, municipal and city councils, Prevention and Implementation of slum upgrading programmes (except for ongoing projects), Management of all offices and institutional houses whose functions have been transferred to the county.

The County Governments Act, 2012 and The Urban Areas and Cities Act, 2011 assign physical planning functions to the counties thus the function is transferred to the County governments. The Survey Act cap 299 will be revised to facilitate the performance of this function by the County governments. The Housing Act cap 117 and the Housing Policy will be revised to deliver this function and Audit of houses and office accommodation shall be undertaken.

Electricity and gas reticulation and energy regulation including:- Identification and implementation of the Rural Electrification projects; Management of the Rural Electrification fund; Development of isolated diesel stations; and Identification of the Renewable Energy sites for development. The identification of renewable energy sites for development has been transferred to the counties. The functions currently performed by Rural Electrification Authority (REA) will be transferred within the transition period as per the schedule agreed by REA with the respective constituencies within the counties

In general the function of County Planning and Development is a concurrent function between the National and County governments.

i) Pre-primary education, village polytechnics, home craft centres and child care facilities.

The unbundled functions under the education function are: Pre-primary education, village polytechnics, home craft centres and child care facilities.

Pre-primary education, home craft centers and child care facilities were transferred to county Governments under legal notice No. 16 of 2013 during Phase One and village polytechnics have been transferred under Phase Two.

j) Implementation of specific national government policies on natural resources and environmental conservation, including soil and water conservation and forestry.

This function entails soil and water conservation including implementation of county specific water conservation and forestry policies through water resource users, water pollution control, and borehole site identification and drilling. All this function has been transferred to county governments. Forestry which entails farm forestry extension services and forest and game reserves formerly managed by local authorities have been transferred except forests currently being managed by Kenya Wildlife Service, Kenya Forest Service and the National Water Towers.

k) County Public Works and Services

This entails the following:- Public works including designing, documentation, post contracting, project management of construction and maintenance of public buildings and other infrastructural services, construction of footbridges; water and sanitation services including rural water and sanitation services, provision of water and sanitation service in small and medium towns without formal service providers, water harvesting (specific to counties), urban water and sanitation services with formal service provision including water, sanitation and sewerage companies, Water Service Boards, Water Services Regulatory Board and Water Resources Management Authority.

All the above functions have been transferred except Water Service Boards, Water Services Regulatory Board and Water Resources Management Authority. These are bodies which cover more than one county and provide regulatory and framework services hence shall remain as functions within the national government.

l) Fire Fighting Services and Disaster Management

The above function was transferred under legal notice 16 of 1st February, 2013

m) Control of Drugs and Pornography

The above function was transferred under legal notice 16 of 1st February, 2013

n) Ensuring and coordinating the participation of communities and locations in governance at the local level and assisting communities and locations to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level

This is a cross cutting function undertaken by various ministries and state departments. Its objective is to ensure Local participation in Governance issues and hence its transfer is immediate. Structures systems, processes need to be established at all levels from the county to the village.

2.1.4 Classification of Roads

To define, classify and allocate county roads, The Authority engaged all key Stakeholders and Development partners in the sector including but not limited to the Ministry of Transport and Infrastructure, National Assembly committee on Transport and Infrastructure, Roads and Civil Engineering Contractors Association (RACECA), Association of Consulting Engineers Kenya (ACEK), Registration of Engineers Board Kenya, Matatu Welfare Association, International Budget Partnership, Japan International Cooperation Agency (JICA) and the World Bank.

Arising from the stakeholder engagements above, the Transition Authority recommended the following:

- i) National trunk roads be classified as roads in Part A (Classes A, B and C) and County roads be classified as Rural roads in Parts B and Urban roads in Part C of the First Schedule to the Kenya Roads Act (No. 2 of 2007). This will be effective subject to realignment of all current legal provisions in the roads sector to define, classify and allocate all public roads to the National government and County governments as provided for in the Constitution of Kenya, 2010.

Table 4.1: PART A – NATIONAL ROADS

Class	Description
CLASS A	International trunk roads linking centres of international importance and crossing international boundaries or terminating at international ports.
CLASS B	National trunk roads linking nationally important centres.
CLASS C	Primary roads linking provincially important centres to each other or two higher roads.

Table 4.2: PART B – RURAL ROADS

Class	Description
CLASS D	Secondary roads linking locally important centres to each other, to more important centres or to higher class roads.
CLASS E	Any link to a minor centre.
CLASS F	Forest roads.
CLASS G	Roads serving Government institutions.
CLASS K	Roads accessing coffee (kahawa) growing areas.
CLASS L	Roads accessing settlement scheme areas.
CLASS P	National park roads.
CLASS R	Roads accessing rural areas.
CLASS S	Roads accessing sugar growing areas.
CLASS T	Roads accessing tea growing areas.
CLASS U	Unclassified rural roads including mining roads etc.
CLASS W	Roads accessing wheat growing areas.

Table 4.3: PART C – URBAN ROADS

Class	Description
CLASS UA	Urban Arterials.
CLASS UC	Urban Collectors including primary distributors, district distributors.
CLASS UL	Urban local roads including minor distributors, local streets, residential stand accesses, commercial and industrial stand accesses, shopping streets.

- i) Appropriate mechanisms to be established to facilitate a participatory process to define, classify and allocate all public roads to the two levels of government within the transition period.

- ii) A balanced approach should be embraced on the transfer of roads function that blends both the technical and political dimensions.
- iii) The Ministry of Transport and Infrastructure should provide service norms and
- iv) standards relating to roads construction and maintenance.
- v) National government to provide capacity building to the County governments.
- vi) Existing contractual agreements should be safeguarded and a mechanism should be developed to enjoin the county governments.
- vii) The budgetary allocations to the roads sector should be increased to sustain and support the infrastructural development in the country.

2.1.5 Classification and Allocation of Roads to the National and County Governments

Further to the classification of roads, the Authority engaged Kenya Roads Board (KRB) and the Ministry of Transport and Infrastructure and has prepared a comprehensive report on the;-

- a) List and names of roads to be done by the National Government in each county
- b) List and names of roads to be done by the County Governments in each county ; and
- c) Establishment and operationalization of the interim/ transitional County Roads Committee.

The report was submitted to the Senate, and presented to the Senate Standing Committee on Energy, Roads and Transport.

2.1.6 Applications and the Analysis and Review process

Section 23 of the Transition to Devolved Government Act, 2012 provides that every county government shall make a request in the prescribed manner to the Authority for transfer of other functions in accordance with section 15 of the Sixth schedule to the Constitution. Towards this end, the Authority developed mechanisms and an application form for transfer of functions

to the county governments. All the 47 county governments applied for transfer of functions as set out in part 2 of the fourth schedule to the CoK, 2010. Upon receipt of the requests, the Authority analyzed them based on the criteria for transfer of functions set out under section 24 to the TDGA and the counties' readiness assessment reports to ensure that the county governments are transferred to functions which they can perform. All the counties duly confirmed that they had the requisite capacity to perform the functions that they were applying for.

2.1.8 Transition Implementation Plans and Unbundling of National Functions

The Authority has made fresh engagements with all MDAs on the transition implementation plans and the unbundling of National Government functions. All the Principals Secretaries were engaged through circulars and in order to fast track these processes, All the National line Ministries were paired with TA staff and Members to provide technical assistance in preparation of the TIPs and the unbundling of the functions.

2.1.9 Participation Inter-Governmental Sector Forums

In order to provide guidance and play a lead and active role on various transitional issues raised by both level of governments, the TA has participated in consultative fora on sectoral issues organized by the Ministry of Devolution and Planning. These forums provided a platform for the Transition Authority to inform, discuss and comprehend immersing transitional issues that requires attention. Among the forums the TA participated include:

a) Intergovernmental Sectoral Workshop

TA held the above workshop on 2nd - 3rd of September at Kenya School of Government. The purpose was to establish intergovernmental sectoral working groups and committees which will facilitate active engagement, consultation, cooperation and mutual accountability between the national government and county governments. The key outcome of this meeting was that sectoral working groups were established with TA representatives in each sector.

b) Intergovernmental Health Sector Workshop

This forum was held on 18th- 20th Sept 2013 at Stanley Hotel in Nairobi. The objective was to discuss the procedure for phased transfer of functions,

criteria for transfer of functions, function assignment and competency transfer in health sector and capacity building; capacity needs assessment and technical assistance to Counties among other issues related to the transition process. The key outcome of this was the need to intensify the process of functional analysis, capacity building and clear communication of TA's progress to all sectors.

c) **Intergovernmental Agriculture Sector Forum**

This Stakeholders forum on Agricultural Produce Cess (APC) on Tea was held on 19th September, 2013 at Laico Regency Hotel was organized by the Tea Board of Kenya to engage with the key stakeholders on the collection, disbursement and monitoring of APC. The Tea cess funds are utilized in maintenance of the rural roads infrastructure within the tea catchment areas. The key outcome is the need to collaborate with the County Governments in management of the Cess funds for county roads works to achieve a more economic and sustainable road infrastructure development.

2.2 Legal and Intergovernmental Relations

The Legal and Intergovernmental function in the TA supports all the other Committee in the day to day running of their activities. The Committee is charged with advising, overseeing and coordinating the Legal and Intergovernmental aspects of the organizations mandate.

2.2.1 Advisories

The Transition Authority prepared advisories on Human Resource Management at the national and county government level, transfer of assets and liabilities, public finance management among others, that emerged during the quarter.

a) **Setting apart of Trust Land**

It came to Transition Authority's attention that the Commissioner of Lands had gazetted trust land pursuant to the Trust Land Act. The Trust Land Act at **Section 55** mandated the Commissioner of Lands to administer trust land. **Section 7** of the Sixth Schedule to the Constitution however provides that all law in force immediately before the effective date continues in force and shall be construed with the alterations, adaptations, qualifications and exceptions necessary to bring it into conformity with the Constitution. Communication was therefore sent to the National Lands Commission to the effect that the Trust Land Act should be construed with the necessary alterations to bring it into conformity with the Constitution

and recognizing the role of the National Land Commission. The powers vested in the Commissioner of Lands pursuant to the Trust Land Act were taken away by the Constitution of Kenya and vested in the National Land Commission

b) Revenue Collection and Operational County Treasuries

The County Governments Public Finance Management Transition Act 2013 (CGPFMT) was enacted to provide a framework for the establishment and functions of Transition County Treasuries, the transition county budget, transition revenue measures, responsibilities of Transition County Accounting Officers and receivers of revenue and other related matters.

Section 23 of the CGFMT safeguarded the revenue raising measures that previously existed prior to the coming into force of the county governments. It provides as follows:

For avoidance of doubt, until a new law relating to imposition of rates and charges is enacted, county governments, urban areas and cities may, with necessary modifications, continue to impose rates and charges under the law for the time being in force in relation thereto.

The rationale for saving the laws governing the revenue raising measures until September 30th 2013 was to give the counties time to enact legislation governing their revenue raising measures, as well as to have fully established County Treasuries to oversee the finance function in the county.

With the Act set to expire on September 30th 2013, the Transition Authority brought together relevant stakeholders to deliberate on the possibility of extending the validity period of the legislation so as to ensure that counties which had not yet put in place their revenue raising legislation as well as establishing their county Treasuries could continue to operate accordingly.

The Transition Authority collaborated with the office of the Attorney General, together with the relevant government agencies so as to ensure the amendment to extend the validity of the Act was tabled before the relevant house of parliament in good time.

This process is aimed at ensuring that the counties are in a position to continue to legally raise revenue as well as to have operational Treasuries.

2.2.2 Support to National Government and Counties on legal issues

a) Protection of the integrity of the County Governments

This was done by submitting our comments on the County Governments Amendment Bill (2013). This Bill was published on 16th August 2013 for introduction into the Senate and it sought to amend the County Governments Act. It proposed the establishment of County Development Boards, whose composition and functions were unconstitutional and also contravened legislations such as the Public Finance Management Act. The Transition Authority therefore requested the Senate to have the Bill withdrawn.

b) Protection of public officers serving in the counties

The Transition Authority received complaints from public officers serving in the counties in relation to disciplinary action taken against them without regard to due process. The Transition Authority communicated with the counties in question and informed them of the procedure to be taken when handling matters to do with county public officers, reiterating the role of the County Public Service Board. The actions complained about had not gone through the relevant CPSBs as is required by the County Governments Act.

c) Strengthening of County financial management capacity

The Transition Authority received a request from Nairobi County for guidance on the opening of operational bank accounts by the county assembly. Nairobi County sought guidance on whether it was permitted for the county assembly to have an operational account at the Central Bank as well as guidance on who would be responsible for operating such an account. The Authority gave the relevant guidance pursuant to the provisions of the Constitution, the County Governments Act and the Public Finance Management Act.

d) Execution of lease agreements between the two levels of government

The Ministry of Land, Housing and Urban Development sought guidance from the Transition Authority on the County Government Structure. The Ministry also sought guidance as to which county office they should deal with when executing leases for offices at the county level. The Transition Authority provided clarity on the county structure as well as the relevant offices at the county level.

This guidance promoted relations between the two levels of government as the Ministry was provided with the information necessary for ensuring that their interactions with the counties are successful and follow the proper channels.

e) Nullification of the Election of the Governor in Siaya County

Transition Authority facilitated the smooth transition of power following the nullification of the election of the Governor of Siaya by the High Court. This was done by providing guidance and assisting the Speaker of the County Assembly to assume the office of governor as provided for in the Constitution

2.2.3 Management of personnel Emoluments between National Government and County Governments

The Transition Authority developed a draft agreement to be signed by both levels of government for the management of the payroll of staff transferred to the counties. This was due to the fact that the national government had transferred the payroll to the counties, despite the fact that largely, the county governments did not have the requisite financial management systems in place to support the payroll of the transferred staff.

The draft Agreement was aimed at ensuring that the public officers in the counties are not disadvantaged in any way by delays or interruptions in payment of salaries.

2.3 Planning Budgeting and Finance

The Transition Authority is mandated to undertake the assessment and classification of urban areas and cities as required by section 54 of the Urban Areas and Cities Act, 2011. It is also required to assist Counties in establishing monitoring and evaluation systems and identification and enhancement of revenue sources, including devolved funds and other previous Local Authority transfer funds in order to make or recommend more mechanisms for utilization and resource mobilization.

2.3.1 County Integrated Development Plans

Under the County Government Act 2012, Cities and Urban Areas Act of 2011, the planning function has been devolved. Other opportunities include devolution of finance and budgeting and sharing of functions between the national and county governments; Provision of clear principles and values

of governance, equity and sustainable development by the constitution and provision of a direct linkage between planning and access to resources and clear indication of the type of plans to be prepared by the County Government Act 2012.

To this end, guidelines were issued and most counties embarked on the exercise of preparing their plans. The Public Finance Management Act, 2012 section 126(3) requires the County Executive Committee member responsible for planning to submit the development plan to the county assembly for its approval and send a copy to the Commission on Revenue Allocation and the National Treasury not later than the September 1st in each year. However, most of the counties did not meet the above deadline although they already had drafts.

To enhance the capacities of the counties in preparation of the plans, TA in collaboration with the Ministry of Lands, Housing and Urban Development through the Kenya Municipal Programme (KMP) trained the Chief Officers from the counties on the preparation of the plans. The training was undertaken in phases and phase one targeted the counties where the KMP operated and all the other counties were covered during phase two.

However, most counties did not meet the deadlines of submitting plans by September 1st and hence submitted drafts. This plans will inform the next cycle of the budgeting process in terms of resource allocation which has already commenced.

The counties were also issued with guidelines for the preparation of county spatial plans and reports from counties indicate that no county has started preparing them.

2.3.2 Inputs to the Devolution Section in the MTP II of the Kenya Vision 2030

Kenya Vision 2030 envisages a globally competitive economy, democratic process in decision-making, more equitable allocation and distribution of resources and a high quality of life for all Kenyans. In order to achieve the Vision, the Second Mid Term Plan of the Kenya Vision 2030 has prioritized several issues, including the implementation of the Constitution of Kenya 2010.

The County governments are, therefore, expected to play a pivotal role in planning and implementation of projects and programmes that are aimed at translating these national goals and aspirations into highly productive ventures.

Following the stakeholder consultations and validation workshops, TA together with the relevant sector stakeholders incorporated comments out of the stakeholder engagements picking out the key achievements and the flagship projects and programmes for successful implementation of devolution. One of the key achievements in the sector include establishment of the Transition Authority. Others are analysis and the phased transfer of the functions, Determination of resource requirements for each of the functions, Human Resource Management, Capacity Development, Civic Awareness, preparation of Assets and Liabilities inventory and facilitating the preparation of the Integrated Development Planning and Funding Mechanisms. These programmes are also earmarked to continue during the MTP II period.

2.3.3 Classification of Urban Areas and Cities

During the quarter, a technical committee was constituted to assess the criteria listed in Sections 5, 9 and 10 of the Urban Areas and Cities Act, 2011 and propose amendments that would make it possible to implement the classification of urban areas and cities.

The technical committee prepared a report and among the findings is that there is a leeway in the criteria for conferring city or municipality status but for conferment of town status the criteria is mandatory through the use of word “shall” which calls for amendment.

Among the criteria for eligibility for grant of a town status is that an urban area should have demonstrable economic, functional and financial viability. It will therefore be challenging to classify formerly unclassified urban areas into towns because there were no activities to prove their economic, functional and financial viability.

The previously unclassified urban areas which qualify for eligibility for grant of a town status based on resident population are: Ngong, Awasi, Kakuma, Wundanyi, Kitengela, Mtwapa, Isiolo, Juja, Ongatarongai, Moyale, Gilgil, Rhamu, Wanguru, Elwak, Njoro, Moi'sbridge, Lokichogio, Takaba, Awendo, Lamu, Chwele, Kiserian, Hola, Usenge, Madogo, Marsabit, Masalani, Butere, Msambweni, Kiminini, Maimahiu, Loitoktok, Lumakanda, Matunda, Watamu, and Githunguri.

If the resident Population - Sections 5 (b), 9 (b) and 10 (b) threshold criteria is adopted, it would result in a dramatic reduction in the number of urban areas and cities.

On the other hand, the population threshold criteria does not take care

of affirmative action or population density with respect to areas where population density is low such as in North Eastern Kenya otherwise such areas may end up with no town.

Demonstrable Ability to Generate Revenue to Sustain Operations

While the Act clearly spells out the need to demonstrate revenue generation ability by the urban areas and cities, to sustain their operations, the criteria is currently not attainable by any of the cities, municipalities and towns. The committee is of the view that local economic development plans would be an important requirement in satisfying that criteria.

Further Decentralized Units

The committee is of the view that the law should take into account further decentralized units. This will give a hierarchical chain of urban development in the future with main focus being that area residents will be aware of the progression criteria and the standard of services offered at the respective levels of classification.

Services to be provided by Urban Areas and Cities

Available data and information revealed that no urban area or city has the capacity to effectively and efficiently deliver all essential services to its residents as required by First Schedule to the Act.

Sufficient Space for Expansion

The team observed that the criterion of having sufficient space for expansion should not be key requirement because urban areas can expand irrespective of their current space status and therefore it should not be used as a classification criterion.

Results of the Assessment Based on Criteria

After assessing all the urban areas and cities based on the criteria set out in the Act, the technical team found that the urban areas and cities could only be classified based on the resident population thresholds provided for by the Act. All the other criteria could not be met by the urban areas and cities.

Based on resident population alone Kenya would have three cities (Nairobi, Mombasa and Kisumu), two municipalities (Nakuru and Eldoret) and one hundred and thirty towns as per section 5(1)(a), 9(3)(a) and 10(2)(a) of the Act.

The challenge is that if urban areas and cities are assessed on the basis of the criteria set out in the Act, none of the urban areas in Kenya would be classified as a city, municipality and town because most of the urban areas meet only the population criteria but fail on the rest of the criteria and the task would be easy if the population criteria is used in classification. However, the complexity of the operations or roles that urban areas and cities are required to perform combined with other criteria such as revenue generation, nature and extent of service delivery, existence of city, municipal and town integrated development plans, the urban areas fail to qualify for classification.

In view of the above challenges, the First Schedule to the Urban Areas and Cities Act, 2011 need to be reviewed.

In line with the Constitutional provisions on governance and decision making process, all stakeholders are expected to participate actively in the debate over the classification of urban areas and cities. In order to reach a wider stakeholder engagement, TA placed an advisory in the local dailies on the findings of the technical committee and asked for opinion on the same from the public. In order to finalize the report and advice parliament appropriately, Transition Authority has organized a stakeholder forum for feedback during the month of October.

2.3.4 Technical Support and Capacity Building for Fiscal Decentralization

To guide in the implementation of the Public Finance Management Reforms strategy of 2013 – 17, the financial reform programme has drawn a work plan to support the County governments in terms of capacity building in the areas of budget and audit. A committee constituted has deemed it right to conduct fiduciary mock reviews in the selected counties to act as case studies for the planned training activities for the county treasury officers.

The fiduciary mock reviews will also help to ascertain the current status of transition to devolved governments and further inform on the possible gaps and challenges that might require urgent intervention.

A Sample of ten (10) counties were identified for the exercise. The ten counties were identified based on the High, Medium and low potential in terms of location and existence of structures to help support the devolution process borrowing from the previous set up of the defunct local authorities and urban areas. The counties were subjected to statistical randomness process of selection after grouping into regions. The following counties were identified:

- | | | | |
|----------------------|--------------------|-----------------------|-------------------|
| 1. Mandera | 2. Kwale | 3. Siaya | 4. Makueni |
| 5. Isiolo | 6. Garissa | 7. Uasin Gishu | 8. Kiambu |
| 9. West Pokot | 10. Bungoma | | |

Given the current status of transition, there is a necessity to conduct fiduciary mock reviews in the counties to know how far the county governments have gone in ensuring the operationalization of county governments and also facilitate the assumption of the functions assigned.

To this effect, the following areas have been identified for audit:

- Audit of the first financial allocations to the county governments for the financial year 2012/2013;
- The existing governance structure/administrative units (CPSB) in the counties and existence of service delivery framework;
- The status of budgeting process and preparation of County Integrated Development Plans, Sectoral Plans and Spatial plans by the county governments;
- Financial Management Systems (IFMIS/GPAY/IPPD) operations and human resource management in the County Governments;
- Existence of legislation, policies and regulatory framework to guide operations of the county governments;
- Existence of County Treasury units/ well-functioning business units such as economic policy and budget execution unit, accounting, procurement, and internal audits;
- Infrastructure and systems (Offices ,equipment, performance Management, and reporting systems) in the counties;
- Capacity and capability gaps to necessitate the county governments assume the assigned functions;
- Existence of needs assessment reports to inform planning and budgeting prioritization;
- Status of employment in the counties, and how county governments have carried out employment and the cadre of human resource in the counties, i.e. Staff Audit and Human Resource Management.

The areas have been put to the attention of the Internal Audit Department under the National Treasury and the draft terms of reference for the technical teams that will conduct the exercise in the identified counties have been developed. The timeline for carrying out the exercise will be determined once the TORs are agreed upon.

Committee Executive Members of finance from the six out of the ten counties selected for fiduciary mock reviews to participate in the benchmarking tours are scheduled to travel during the month of October. The first group will be touring Namibia and the second group is yet to get a confirmation from the proposed set of countries to be visited. The study was to take place in any of the following countries: South Africa, Namibia, Ethiopia and Uganda. The six counties are: Isiolo, Garissa, West Pokot, Bungoma, Kwale and Siaya.

2.3.5 Implementation Status of County Government Public Finance Management Transition Act, 2013

The County Governments Public Finance Management Transition Act, 2013 (CGPFMT Act) stands repealed come 30th of September implying that County Transition Teams terms expires. In some counties, the teams have ceased to be interim because they have been absorbed by the county public service boards where they have been established and others still need the transition teams in cases where County public service boards have not been formed.

From the analysis, only 4 counties out of the 47 have employed county treasury staff through the County Public Service Board (CPSB) and only Bomet County has fully employed the County treasury staff. This implies that the majority of the county governments still rely on the Interim teams seconded to the counties by TA.

Only 8 counties out of 47 have their Finance Bills approved and five (5) counties have not drafted the Finance Bill. The remaining counties (34) have either submitted to the County Assembly for approval or are drafting the Finance Bill. The counties have taken the finance bill to replace the regulatory legislations for the devolved functions.

It was also established that only 5 Counties have submitted revenue collection Bills to the County Assembly for approval while the rest are either drafting the legislations or have not started the process. All counties have their Appropriation Acts approved and in use.

Most counties have not drafted the county supplementary Appropriation bill and all the counties are generally still collecting rates using the by-laws pursuant to section 23 of the County Governments Public Finance Management Transition Act, 2013.

As a way forward, it is proposed that the expiry of the CGPFMT Act be extended to allow for enough time to enact the necessary legislation and the same was brought to the attention of the national assembly and the senate to fast track the process.

The county governments are of the view that the interim teams stay a little longer to capacity build the newly recruited county staff. This is however subject to availability of funds

Guidelines on public finance management to be finalized since they are in draft form. The regulation will address the following issues;

- Appointments of accounting officers
- Where the accounts will be domiciled
- Guidelines on how to open accounts
- Establishment of the county treasury.

The draft guidelines on opening and operating bank accounts were prepared in collaboration with other stakeholders.

2.4 Capacity and Capability Development

Section 7 (j) of the Transition to Devolved Government Act, 2012 mandates Transition Authority (TA) to assess the capacity needs of national and county governments and in (l) to coordinate and facilitate the provision of support and assistance to national and county government in building capacity to govern and provide services effectively.

In the quarter the Authority carried out the following activities in line with its mandate:

2.4.1 National Capacity Building Framework

The TA, in consultation with Kenya School of Government (KSG) and parliament prepared a national capacity building framework that is expected to coordinate the capacity building efforts for the national and county

governments. The draft framework was shared with key stakeholders before adoption by the Transition Authority. The framework will be reviewed and harmonized with other frameworks and strategies developed by other key players like Ministry of Devolution and Planning and Directorate of Public Service Management.

2.4.2 Stakeholders Retreat on Rationalization and Deployment of Staff

The consultative retreat to develop a framework for rationalization and deployment of staff was held on 4th – 7th August 2013 at the Maanzoni Lodge, Machakos. It was attended by participants from the Authority, Pension Department, LAPTRUST, LAPFUND, Public Service Commission, The Directorate of Public Service Management, Ministry of Labour, Social Securities and Services Salaries and Remuneration Commission. The participants agree on a framework for rationalization of staff in the devolved system of government which clearly states the modalities of conducting the rationalization process, methods of sustaining staff in Public Service, pension management and collective bargaining agreements in the devolved system provided.

2.4.3 Inductions of National and County Officers

The Authority convened a consultative meeting of Governors and Chairpersons of County Public Service Boards (CPSB) and County Assembly Service Boards (CASB) on 4th September 2013 at the Kenya School of Monetary Studies to discuss the most efficient methods of ensuring seamless management of Human Resources during the transition period. The deliberations of this meeting focused on:

- Legal provisions on human resource management during transition.
- The process of audit of human resource.
- Modalities of seamless management of human resource during transition.
- Equality standards and gender issues in human resource management.
- The role of County Public Service Boards and the County Assembly Service Boards.
- Salaries, remuneration and management of public wage bill in the counties.

2.4.4 Induction of County Public Service Boards and Human Resource Managers

The Transition Authority (TA) in conjunction with the Public Service Commission (PSC) organized an induction programme for County Executive Members in charge of Public Service, County Secretaries, County Public Service Boards and head of Human Resources Management in the Counties. The topics covered in this training were:

- Human Resource Management.
- Skills on staff administration and management.
- Modalities of engaging the Public Service Commission and CPSBs .

Counties requested for a more intensive training where the Public Service Commission would build their capacities in understanding their roles and responsibilities as the recruiting agents in the counties.

2.4.5 Inventory on Human Resource in the Counties and National Government

Section 7 (i) mandated Transition Authority to carry out an Audit of existing human resource in the national and county governments. A head count of staff in counties was carried out in July and August in all the counties facilitated by the County Transition Team. This exercise was completed resulting in the establishment of an inventory of staff serving in the counties.

2.4.6 Inter-agency Committee on Human Resource Management

A Consultative meeting chaired by His Excellency the Deputy President on 5th August 2013 to deliberate and report on the most efficient method to ensure a smooth transfer of functions to county governments appointed Transition Authority to coordinate the process. The sub agency committee was to advise on the most effective process of identification of staff for national and county governments, absorption and transfer of national staff to county governments and management of the payroll and retirement benefits.

Specific tasks

The committee was to work with the Transition Authority to advise on:

- i. The process of identification of staff for national and county governments,
- ii. Transfer of staff
- iii. Absorption of national government staff by County Public Service Boards
- iv. Payroll management in the devolved government
- v. Pension Management concerns counties and eventual payroll management.
- vi. Deliver the report to the Deputy President

The inter-agency committee comprised of representatives of the Council of Governors, the relevant government ministries and departments and retirement benefits organizations.

A report is being compiled by the Authority after the sub-agency committee met four times

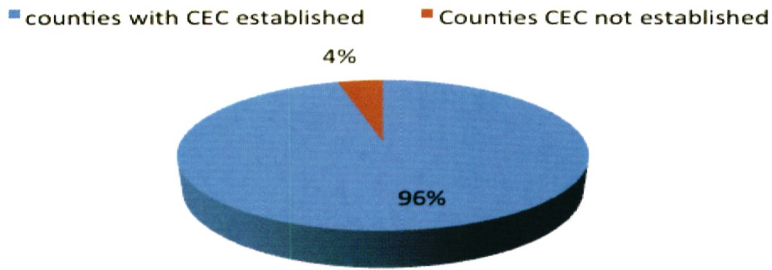
2.4.7 County Progress Reports

The Authority has county transition teams in all the 47 counties. These teams are charged with operationalization of the county structures and systems during the transition period. The capacity Issues related to TA mandate covers the progress status of establishment of administrative units, infrastructure systems, financial management systems and audit of human resource. The current status is as below:-

a) Establishment of Administrative Units

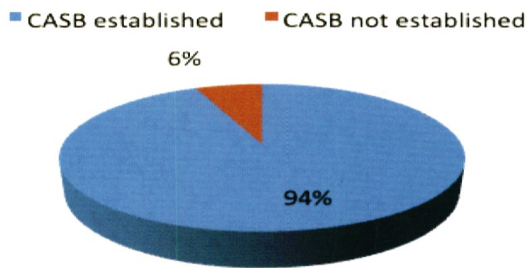
The research showed that 45 out of 47 (96%) counties had established their County Executive Committee (CEC) members with exception of Nakuru County and Nyeri Counties which were yet to fully establish their CECs due to rejection by the County Assembly to approve the proposed nominees.

CEC Status



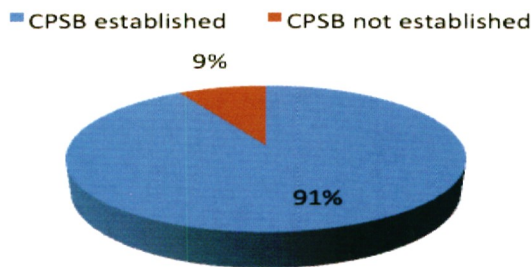
With County Assembly Service Board (CASB), 44 out of 47 counties (94%) had their boards established, while 3 counties (Lamu, Machakos and Narok) had not fully established their CASB representing 6% as illustrated in the figure below.

CASB Status



With regard to County Public Service Board (CPSB), 43 out of 47 counties (91%) had their CPSB established, while 10 counties (Tana River, Nyeri, Baringo and Kisumu) had not established their CPSB representing 9% as illustrated in the figure below.

CPSB Status



With regard to County Chief Officers (CCOs), most counties were in the process of recruiting them and interviews had been on-going. By mid-August, only 4 counties (Meru, Machakos, Nyandarua and Bomet) had their CCOs approved.

The Sub-County Administrators (SCAs) had also been advertised in most of the counties. At the time of writing this report, only 2 counties had SCAs in place (Nairobi and Mombasa).

b) Existence of Financial Management Systems

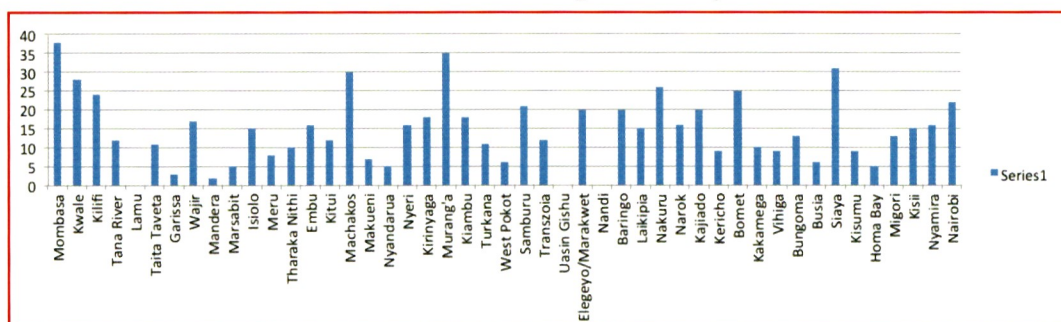
For effective service delivery, a well-functioning treasury is essential in all counties. The component of an effective and efficient treasury consists of competent staff and well-functioning business units namely: Economic Policy and Budget execution unit, accounting, procurement, internal Audit.

IFMIS

Integrated Financial Management Information Systems (IFMIS) has been installed and functioning well in 31 counties, 16 counties had IFMIS not functioning and these counties were: Wajir, Machakos, Makueni, Nyandarua, Nyeri, Kirinyaga, Murang'a, West Pokot, Nandi, Baringo, Laikipia, Narok, Uasin Gishu, Kakamega, Busia and Vihiga.

The counties had also embarked on a massive exercise on training their staffs on the usage of IFMIS to enhance efficiency in service delivery. Out of 44 counties that had submitted their IFMIS data, about 700 staffs had been trained. Interestingly, only 2 counties out of 47 had not trained any staff. These counties are Nandi and Lamu as shown in figure below.

Number of staffs trained on IFMIS per county



IPPD

Almost all counties had their pay-roll systems in place. By August, 41 counties had their IPPD installed and functioning, 6 had their IPPD not functioning and they are: Garissa, Makueni, Nyandarua, Nandi, Bomet and Kakamega.

Additionally, the Authority in conjunction with the Ministry of Devolution and Planning started training additional county staff on payroll management. The training is on-going and it is expected to end on 18th October. The Kenya School of Government (KSG), Mombasa Government Training Institution (GTI), Embu GTI and Baringo GTI are being used as the training centres. Each county has been asked to provide 5 staff for training. A comprehensive report will be shared once the training is over.

G-PAY

Only 18 counties have their G-Pay functioning at the time of collecting data. These counties are: Mombasa, Kilifi, TaitaTaveta, Marsabit, Isiolo, Meru, TharakaNithi, Kitui, Machakos, Kiambu, Samburu, Nakuru, Kajiado, Siaya, Kisumu, Migori, Kisii and Nairobi.

Procurement Systems

Effective procurement systems helps in supporting operational requirements such as understanding business requirements, buying products and services at the right price; from the right source; at the right specification that meets user's needs; in the right quantity; for delivery at the right time among many others. Most counties have their procurement in place with exception of Kilifi, Tana River, Isiolo, TharakaNithi, Makueni, Kirinyaga and Laikipia.

Audit Systems

Auditing is a cornerstone of good public sector governance especially in counties to achieve the objectives of devolution. By providing unbiased, objective assessments of whether public resources are managed responsibly and effectively to achieve intended results, auditors help public sector organizations achieve accountability and integrity, improve operations, and instill confidence among citizens and stakeholders. The public sector auditor's role supports the governance responsibilities of oversight, insight, and foresight. Oversight addresses whether public sector entities are doing what they are supposed to do and serves to

detect and deter public corruption. Insight assists decision-makers by providing an independent assessment of public sector programs, policies, operations, and results. Foresight identifies trends and emerging challenges.

In conclusion, the counties are progressing well with the guidance and facilitation of the TA.

2.5 Management, Transfer and Audit of Public Assets and Liabilities

The Transition to Devolved Government Act, 2012 in section 7 (2) (e), (f), (g) & (h) (ii) enumerates the functions of TA in relation to management and transfer of public assets and liabilities during the transition period as shown below:

- a) Prepare and validate an inventory of all the existing assets and liabilities of government, other public entities and defunct local authorities;
- b) Make recommendations for the effective management of assets of the national and county governments;
- c) Provide mechanisms for the transfer of assets which may include vetting the transfer of assets during the transition period;
- d) Develop the criteria to determine the transfer of previously shared assets and liabilities of the government and defunct local authorities.

The functions as enumerated above have been broken down into activities and are listed in Sections 1 (a), (b), (c), (d), (n), (o) & (p) of the Fourth Schedule to the TDGA, 2012 as shown below:

- a) Audit assets and liabilities of the government, to establish the assets, debts and liabilities of the government;
- b) Audit assets and liabilities of defunct local authorities, to establish the assets, debts and liabilities of each defunct local authority;
- c) Audit defunct local authority infrastructure in the counties, to establish the number and functionality of plant and equipment in defunct 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) Provide for a mechanism for the transfer of government net assets and liabilities to national and county governments;

- f) Provide mechanism for the transfer of assets and liabilities which may include vetting the transfer of assets during the transition period;
- g) Provide a mechanism that will secure assets and liabilities held by the defunct local authorities.

During the months of July, August and September, 2013, TA in relation to management and transfer of public assets and liabilities during the transition period was able to achieve the following:

2.5.1 Planning Framework For Management And Transfer Of Public Assets And Liabilities

TA was able to develop a planning framework for the management and transfer of public assets and liabilities. The planning framework is divided into the following sub sets:

a) Identification, Verification, Validation & Valuation of Public Assets & Liabilities

This planning framework contains how to achieve the following and the budget: collection of missing data on public assets and liabilities held by MDAs, State Corporations and Counties/Defunct Local Authorities; validation, valuation and audit of all public assets and liabilities; data entry into AMIS and resource mobilization.

b) Legal Aspects of Relating to Transfer of Public Assets and Liabilities

This planning framework contains how to achieve the following and the budget: applicable legal regimes; how to deal with ongoing court cases; stakeholders' linkages; legal compliance strategies; review and reversals of transfer of public assets.

c) Research, Information Gathering and Public Participation in the Transfer of Public Assets and Liabilities

This planning framework contains how to achieve the following and the budget: comparative research on transfer of public assets and liabilities; management of complaints or requests; strategies to counteract political challenges; development of policies, mechanisms and criteria for management and transfer of public assets and liabilities. Development of a manual for management and transfer, of all public assets and liabilities during the transition period.

2.5.2 Tool For Transfer Of Public Assets And Liabilities Developed

TA was able to develop a draft tool that would give guidelines on how to transfer public assets and liabilities during the transition period. Even as the consultant will develop a detailed mechanism for transfer of public assets and liabilities during the transition period, this tool will act as a guide to develop a comprehensive mechanism for the same.

2.5.3 Inventory of Public Assets and Liabilities

Consensus was reached between TA and the Principal Secretaries on the following:

- how to get data on public assets and liabilities held by MDAs and State Corporations by 31st October, 2013;
- representatives of Parliament on valuations of public assets to be part of the data on assets and liabilities to be uploaded onto the Asset Management Information System (AMIS);
- Representatives of Parliament on Geo-referencing of public/community land and buildings to form part of the data to be uploaded onto AMIS.

The following are pie chart illustrations of the MDAs and State Corporation submission of data on public assets and liabilities to TA as at 30th September, 2013.

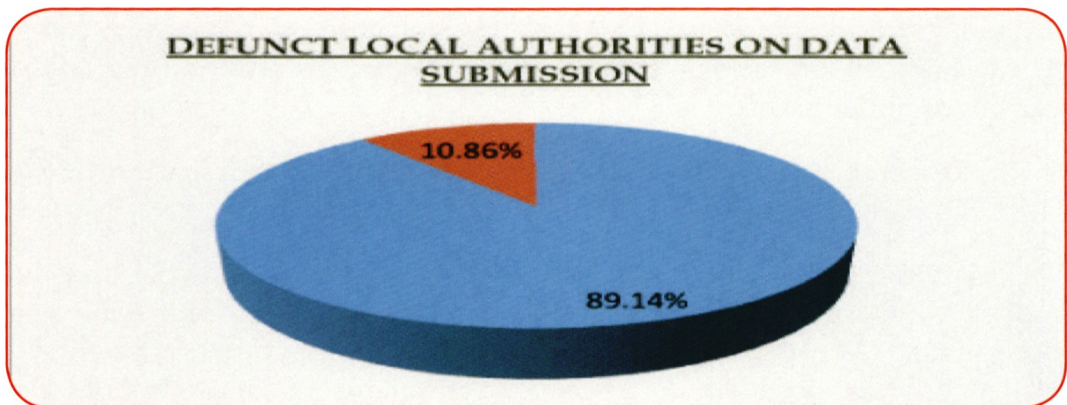


Fig. 1: Defunct Local Authorities - 10.86% have **NOT** submitted & 89.14% **HAVE** submitted.

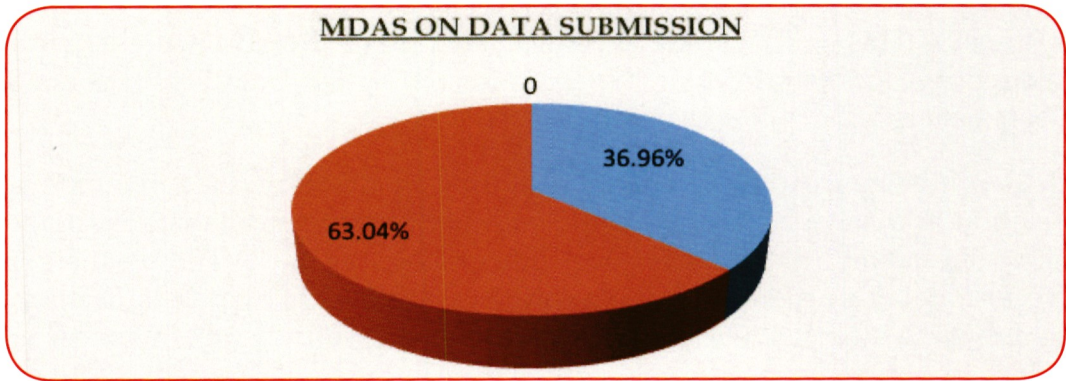


Fig. 2: MDAs - 63.04% have **NOT** submitted & 36.96% **HAVE** submitted.

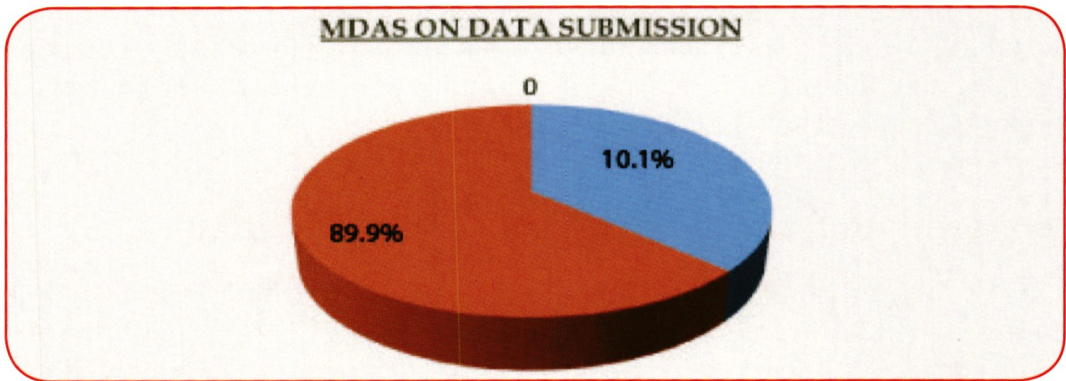


Fig. 3: State Corporations - 89.9% have **NOT** submitted & 10.1% **HAVE** submitted.

2.5.4 Complaints And Requests For Approval On Transfer Of Public Assets And Liabilities

Quick response by TA to complaints or requests for approval of transfers of public assets and liabilities made by MDAs, State Corporations etc. This is evidenced by the number of approvals issued by TA and address mechanisms for complaints established.

Conclusion

The major challenge is financing of activities of TA that are related to management and transfer of public assets and liabilities during transition period. Some of the activities like validation, valuation, audit, uploading of data onto AMIS need financing to achieve TA's mandate.

There is need to recruit a well trained staff for uploading data & maintenance of AMIS. This will include technical staff like: System Administrator, Network Administrator, Database Administrator, and Data Entry Clerks & Webmasters.

This challenge can be addressed through financing of TA's mandate in relation to management and transfer of public assets and liabilities should be increased and there should be a concerted effort by TA and partners of TA to collaborate more so that, TA can plug into their activities and achieve some of TA's objectives in the process. There should also be a concerted effort to source for additional funds from other development partners, organizations and friends of good will.

The technical staff like: System Administrator, Network Administrator, Database Administrator, Data Entry Clerks & Webmasters can be employed on contractual basis as funds and systems are put in place to employ them on long term basis.

2.6 Facilitation and Coordination of Civic Education

One of the functions of the Authority as provided in the Fourth Schedule to the Transition to Devolved Government Act, 2012 (1) (g) is to *“facilitate civic education to ensure civic education on devolution is commenced and coordinated”*. Further, the County Government Act (CGA) 2012 Section 98 – 101 provides for the principles, objectives, design, implementation, and institutional framework for Civic Education on devolution. The CGA, 2012 states the purpose of civic education as to *“have an informed citizenry that actively participates in governance affairs of the society on the basis of enhanced knowledge, understanding, and ownership of the constitution”*.

These provisions are further enshrined in COK in Articles 10 (2), 33 (i) , 35 (1) and (3) and 184 (c), where Public Participation is considered as a national value and principle of governance allowing citizens freedom to seek, receive or impart ideas/information to the public. Furthermore, Article 174 (c) gives powers of self-governance to the people and enhances their participation in the exercise of state powers and making decisions that affect them. Article 196 (1) (b) also provides that County Assembly shall facilitate public participation and involvement in the legislative and other business of the assembly and its committees. It is therefore imperative for public to be educated on the constitution and especially devolution for this purpose, to enable them effectively participates in governance and service delivery.

2.6.1 Facilitation and Coordination of Civic Education

During Phase 1 of transition (i.e. period which ended with the general election of March 2013)), the TA in consultation with Ministry of State for Public Service (MSPS), Ministry of Local Government and former Ministry of Justice and National Cohesion Constitutional Affairs (MOJNCCA) and with the support of UNDP and JICA developed civic education materials and undertook civic education for Public Officers and the general public. Kenya National Civic Education Programme (KNICE) under the former MOJNCCA provided the coordination platform.

Phase 2 of Transition begun immediately after the March 2013 general elections, and is expected to end within three years. This is a critical phase given that the county Governments have been inaugurated and implementation of devolution has begun. For devolution to work, the public must be sensitized to ensure they fully participate in the functioning of their own county governments and to benefit from development outcomes.

The Transition Authority is required to provide leadership in ensuring that the relevant civic education messages, materials are developed, messages are delivered to various target groups in the most effective manner, and that the various actors are coordinated.

In the month of August 2013 the TA held several meetings and attended forums organized by non- state Actors to discuss issues of civic education with various stakeholders partaking civic education initiatives. The Authority attended a national civic education reflection conference held on 14-15th August 2013. In this conference, the Authority was able to sensitize the participants on issues and challenges of devolution and the strategies it was undertaking to overcome during his transition process.

As a result, the TA was able to establish a database of civic education providers, curriculum materials to be developed and messages on devolution targeting various stakeholders.

2.6.2 Civic Education Consultative Retreat

A stakeholder's consultative retreat for the actors involved in the civic education was held to share ideas, review and reflect on the past and or continuing programmes. This retreat provided the stakeholders with a platform for developing a joint co-ordination framework for civic education on devolution. The overall objective of the workshop was to foster increased

coordination for civic education on devolution. At the end of the workshop the following was agreed upon;

- Coordination mechanism for civic education on devolution.
- Topics for civic education messaging.
- Strategies and resources for delivery of civic education messages.
- Monitoring and Evaluation framework.
- Critical Stakeholders were also identified.
- Sub-committee on material development to coordinate and vet materials.

Conclusion

Limited creativity, lack of capacity in some counties, possible rigidity by partners to accept creativity. The challenges in monitoring and evaluation include unclear frameworks, concentration of the exercise at the levels of input/output levels and poor attribution of results. Although TA has formed a Joint Steering Committee comprising of MDAs, CSOs, and it has succeeded in realizing its dream of ensuring a citizenry that makes decisions from a point of knowledge and understanding.

These activities provide oversight support and guidance to the implementation of TA mandate. Finance and Administration committee is one of the oversight committees of the Transition Authority. The committee ensures that day to day operations of the Authority are facilitated. The key objective of the committee is to provide timely financial support to enable TA achieve its mandate in an efficient and effective manner.

The activities for the committee for this quarter included:

- i. Preparation of the Authority's Master Work Plan, Procurement Plan and the Strategic Plan.
- ii. Preparation of the Monitoring and Evaluation Framework;
- iii. Refurbishment of the Authority's offices;
- iv. Preparation of procurement and financial procedure manuals and regulations
- v. Analyze the Expenditure trends for the Quarter;
- vi. Realign the M&E framework to the Strategic Plan;
- vii. Ensure preparation of the expenditure report for the Quarter and Financial statements for the FY 2012/2013
- viii. Ensure circulation of Performance Appraisal guidelines, Schedule of Duties and Human resource procedure manuals,
- ix. Purchase of ICT equipment and provision of Internet connection to the offices

3.1 Preparation of the Authority's Operational Plans

One of the key objectives of the Finance and Administration committee is to ensure that the Authority is fully operational and this can only be achieved through the preparation of the Master Work Plan, Procurement Plan and the Strategic Plan.

The preparation of the Strategic plan 2013-2016 is almost finalized. It will give TA the strategic direction needed to achieve its mandate and also to deliver devolution to the people of Kenya. The strategic plan covers several

key areas around the mandate of the Authority pursuant to the Transition to Devolved Governments Act, 2012. The strategic plan will also strengthen the communication strategy of the Authority and widen the support basket from development partners. The final version of the Strategic Plan will be validated and adopted in the next quarter.

The Authority's Master Work Plan had been prepared together with the Procurement plan and approved by the Authority's Board. The Master work plan drew its contents from the different department work plans which finally fed into the procurement plan.

3.2 Preparation of the Authority's Monitoring and Evaluation Framework

The Monitoring and Evaluation framework aims at strengthening performance management of key tasks and deliverables for the Authority. The Transition Authority has huge mandate of coordinating and delivering a functioning devolved government system in Kenya. The M&E framework is important to help the Authority monitor the performance of the different programmes it runs. The framework final draft is ready and the validation of the same will be done in the next quarter.

The Strategic plan once validated and operationalized, will be realigned to the M&E framework to ensure work flow and smooth monitoring of the different strategies and programmes set out in the plan.

3.3 Refurbishment of the Authority's offices at Extelcoms House

Following relocation of Transition Authority's offices from KICC to Extelcoms House, the committee facilitated refurbishment of the offices to be conducive for working. The offices are operational and are being used by the Board Members (8th floor) and the Secretariat (5th and 2nd floors).

3.4 Preparation of Procurement and Financial procedure manuals

To guide in the procurement process the committee prepared the procurement procedures, regulations and rules for the Authority. This has been seen as a great milestone towards financial control and ensuring that value for money is upheld in every procurement process being undertaken.

The financial procedure manual also entails the procedures that should be followed before any expenditure is made. The procurement and financial procedure manuals have been operationalized.

3.5 Analysis of the Expenditure trend for the Quarter

One of the committee's key objectives is to analyze financial trends and advise management on the expenditure status. The Authority was allocated Ksh 138 million for the quarter that was not enough to meet its total expenditure for the quarter.

3.6 Expenditure Report for the Financial Year 2012/2013

The Expenditure report and the financial statements for the FY 2012/2013 had been prepared, finalized and submitted to the Auditor General as required by law.

3.7 Operational Guidelines and Manuals

The performance appraisal guidelines and the schedule of duties have been circulated together with human resource procedure manuals. This has helped the Authority monitor the performance of the officers to ensure it achieves its mandate as required by law.

3.8 Provision of Internet and other ICT equipment

The committee through the procurement and ICT departments has ensured the Authority has requisite ICT equipment and internet to ensure smooth operation of the Authority's programmes and activities. This has ensured that communications within and outside the Authority are done effectively and efficiently.

The committee has also ensured that IFMIS operationalization in the Authority is fastracked. The committee has also facilitated the development of the Asset Management Information System (AMIS). The purchased ICT equipment has also been branded and some distributed to the officers in the counties.

3.9 Memorandum of Understanding

The Transition Authority entered into agreements with the National Democratic Institute, International Center for Research in Sustainable Development and United Nations Habitat.

The MoU between the TA and The National Democratic Institute sought

to educate political parties and their members on the workings of the devolved structures of government, the importance of nominating competent people to the various positions and the power to influence the laws to operationalize the devolved structures. ICRSD intends to facilitate capacity building for sustainable development at county level while that of UN-Habitat is geared towards developing a partnership that will facilitate the classification of urban areas and cities.

3.10 Stakeholders Engagement

The Authority constantly engages stakeholders from various fields to ensure that they all play their respective roles in promoting the devolution agenda. During this Quarter, the Authority engaged the Kenya Chamber of Commerce with a view to developing an MOU between the parties. The aim of the MOU is to facilitate a partnership between the Authority and the Chamber of Commerce in matters of trade, commerce and investment and economic development under the devolved system of Government.

Some of the Challenges encountered in this third quarter include:

- a) Inability to sufficiently undertake a phased transfer of functions.
- b) Inability to fully cost all functions before the transfers due to the fact that the 'mass transfer' of functions was not anticipated.
- c) Acquired an asset management information system which is not in optimal use because the domain is yet to be registered and the inventory is yet to be populated etc
- d) TA has not strictly followed the action plan/work plan due to the dynamic nature of our current politics which regularly presents new issues that require urgent attention.
- e) Auditing of existing human resource in the counties as required under the TDGA remains incomplete. This poses a lot of challenges given that the new county public service boards are in place and have commenced recruitment of their staff.
- f) Inability to classify urban areas and cities due to untenable criteria provided under the Urban Areas and Cities Act (2011).
- g) Failure to provide guidance in a timely manner in relation to the transfer of assets and liabilities previously held by the local authorities. This has led to court cases against the Transition Authority and also confusion within the counties as to how to handle the assets and liabilities of the defunct local authorities.
- h) Inadequate budgetary allocation to the Authority posed a major challenge leaving most of the programmes and general operations of the Authority underfunded especially the Assets and liability. The situation was worsened by the delays in exchequer issuance

5.1 Transfer and Unbundling of Functions

The Authority successfully transferred to the county governments the county functions applied for within the provisions of the law and gazetted the transferred functions via the Kenya Gazette Supplement No. 116, legal Notice No. 137 - 183 of 9th August, 2013. Although most of the county functions were transferred there were a few exceptions, for example shared functions across counties and ongoing donor funded projects.

The Authority will therefore embark on unbundling of National Government functions by MDAs especially those functions that are exclusively national because the MDAs with devolved functions have already or are in the processing of preparing their TIPs which incorporates the unbundled national and county functions. TA will continue to provide technical support to respective Ministries and State Corporations Agencies Committee (SCAC) to facilitate the unbundling of State corporations' functions. In addition it will monitor and evaluation of the uptake of functions by the county governments.

5.2 Audit of Assets and Liabilities

The Transition to Devolved Government Act, 2012 in section 7 (2) (e), (f), (g) & (h) (ii) enumerates the functions of TA in relation to management and transfer of public assets and liabilities during the transition period. So far the Authority has developed the criteria to determine the transfer of previously shared assets and liabilities of the government and defunct local authorities and commenced on data entry in collaboration with KENAO.

In the next Quarter the Authority will continue with validation, valuation, audit, uploading of data onto AMIS.

5.3 Transition Implementation Plans

Re-engaging the MDAs on the TIPs to fast track the process and hold a retreat for the FAST to harmonize and validate the TIPs. Engaging the counties on preparation of their Transition Implementation Plans (TIPs). The Authority will hold a FAST retreat to analyze the already submitted Transition Implementation Plans.

5.4 County Integrated Development Plans

The Authority will monitor the implementation of the CIDP and preparations of the Spatial Plans.

5.5 County Public Finance Management

Finalization of guidelines on County public finance management to include appointments of accounting officers, where the accounts will be domiciled, guidelines on how to open accounts and establishment of the county treasury. Fast track receipt of returns from the counties and accountability for the disbursed funds for the FY 2012/13,

5.6 Finalization Strategic Plan and Monitoring and Evolution Framework

Finalization of the preparation of the Transition Authority's Strategic Plan 2013-2016 and alignment of the Monitoring and Evaluation Framework. The TA will also prepare the Authority's Resource mobilization strategy and Communication strategy.

5.7 Capacity Building

The Authority will fast track the implementation of the Provisions of the capacity Building framework. Inductions targeting County Executive committee members to enable them to understand their roles. Institutional Capacity building workshops for county institutions including county administrators, village administrators and County Assemblies and Development of a core county competence framework

5.8 Civic Education

The Authority will continue to engage key players such as the National Assembly, the Senate, the independent commissions and the Executive in their coordination and facilitation role of civic Education.

This quarter was quite busy to the Authority and it is expected that the outputs of the above elaborated activities will have a far-reaching effect especially on the management of human resource in the counties, unbundled functions and smooth operations of county structures. Additionally, the Authority will continue to fast-track the establishment of administrative units, financial management systems, audit of human resources and implementation of devolved functions.

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