

A Training Guide

Towards Effective CDF Project Management

Developed by The Institute for Social Accountability (TISA)

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PREFACE

The Institute for Social Accountability [TISA] is pleased to publish *A Training Guide; Towards Effective CDF Project Management*. This is part of a series of guides and handbooks that are intended to influence policy change in CDF to promote: Citizen Accountability; Citizen Engagement in local development funds through citizen social audits; and finally establishes TISA as major policy learning institution in the decentralization sector in Kenya.

The aim of this training guide is to enable users understand the Constituency Development Fund's [CDF] legal and implementation framework, understand the Project Management Committee's [PMCs] functions and procurement processes, understand how CDF can promote accountability and gender equity and how to use the social evaluation tool. This training guide seeks to enable TOTs to effectively train PMC's since they play a pivotal role in the identification and implementation of the CDF Projects.

The *Training Guide; Towards Effective CDF Project Management*, analyses the history of CDF since its inception and the functions of various CDF organs .This is aimed at providing an impetus in understanding the role and responsibilities of PMCs in CDF processes. We believe that equipping the PMCs with knowledge and skills on the Fund, other legislations governing it, procurement processes, best practices and standards among others will boost the impact of CDF on citizens.

We hope the manual will inform PMCs, trainers and other actors in promoting the appropriate standards in implementing CDF projects to the benefit of Kenyans.

Abbreviations and Acronyms:

Board: -Board of Management of the Constituencies Development Fund

BOQ: -Bill of Quantities.

CBO: - Community Based Organization.

CDF: -Constituency Development Fund

CDFC: -Constituency Development Fund Committee

DA: -District Accountant

DDO: -District Development Officer

DPC: - District Project Committee

MP: -Member of Parliament

PMC: - Project Management Committee

NGO:Non-Governmental Organizations.

NMB: National Management Board (NMB) Board.

TISA: The Institute for Social Accountability.

PART I: INTRODUCTION

About CDF

The Constituency Development Fund (CDF) was introduced in Kenya in 2003 to combat poverty and promote equitable growth and development around the country. Statistics have consistently shown high poverty and inequality levels, for instance, the 1997 Welfare Monitoring Survey showed a poverty rate of 57% overall and 60% in the rural population, the 2006 Kenya Integrated Household and Budget Survey, (KIHBS) finds that 46% of the total Kenyan population is absolutely poor, i.e. below the poverty line, whereas 49% of the rural population is absolutely poor (Kenya National Bureau of Statistics, 2007).

Kenya has also been described as highly unequal, ranking among the top ten most unequal countries in the world and fifth in Africa (SID, 2004). Inequality is worse in rural areas: the richest 20% of the rural and urban populations earn 62% and 51% of incomes, respectively (SID, 2004), while the bottom 20% earns 3.5 % of rural income and 5.4% of urban income (World Socialist Website, 2008).

The Constituency Development Fund (CDF) was established in 2003 through the CDF Act in The Kenya Gazette Supplement No. 107 (Act No. 11) of 9th January 2004. The fund aims to control the aforementioned imbalances in regional development brought about by partisan politics. It targets all constituency-level development projects, particularly those aiming to combat poverty at the grassroots. The implementation of the fund is guided by the CDF Act 2003, as amended by The CDF (Amendment) Act 2007. CDF operations are guided by regulations and circulars released by its governing institutions from time to time.

Where does CDF come from?

CDF comes from ordinary government revenue is generated by collecting Value Added Tax (VAT) on food items, clothes, books, etc; from statutory deductions such as Pay As

You Earn (PAYE); withholding tax; from taxation on manufactured goods, export and import items through the customs and excise taxes, and among others.



In this way, each and every Kenyan contributes towards CDF and it is, therefore, the responsibility of every Kenyan to make sure CDF is well spent.

How Much Goes into CDF?

The fund comprises an annual budgetary allocation equivalent to 2.5% of the government's ordinary revenue. 75% of the fund is allocated equally amongst all 210 constituencies. The remaining 25% is allocated as per constituency poverty levels.

Year	Total Annual CDF allocations
2003/4	1.26 billion
2004/5	5.6 billion
2005/6	7.2 billion
2006/7	9.7 billion
2007/8	10.1 billion
2008/9	10.1 billion
2009/10	12 billion

In the 2009-2010 budget speech, the Minister of Finance increased allocations to CDF.

PART II: LEGAL-POLICY FRAMEWORK OF CDF AND OTHER RELATED LAWS

[A] Laws and Policy Related to and Governing the CDF.

The Constitution of Kenya is the supreme law of the country, all laws work within the precincts of the constitution. Thus, both the CDF Act, 2003, and the Constituencies Development fund (Amendment) Act, 2007, do not contradict the laws of the land in the aspects of utilization of public resources or any other, and they do comply with Section 99(1.4) of the constitution on the Consolidated Fund and other public funds.

The Constituencies Development Fund Act, 2003 as amended by the *Constituencies Development Fund (Amendment) Act, 2007* are acts of parliament that provide for the Constituency Development Fund and its subsequent guiding principles, for instance, establishing various CDF institutions and organs with clearly defined roles. These legislations guide the CDF project cycle from identification, implementation to monitoring and reporting.

The CDF Implementation Guidelines were first developed by the National Management Committee and subsequently updated by the CDF National Management Board. Although they don't have statutory authority, they are mandatory guidelines designed to guide operational aspects of CDF management such as the code of conduct of committees, procurement processes and so forth.

The Ministry of Planning and National Development Vision 2030 which is the parent ministry of CDF also issues periodic circulars and regulations to guide CDF operations.

The Public Procurement and Disposal Act, 2005 as read together with the subsidiary legislations, *Public Procurement and Disposal Regulations 2006*, and *2009* respectively deal with procurement by public entities. The 2006 guidelines give specific reference to the CDF by establishing procurement thresholds which spells out rules and levels to be adhered to when procuring. In addition, the legislations are vivid on the need and importance of Tendering Committees at all levels which have an oversight role in the procurement process.

The Public Officers and Ethics Act, 2003: Provides for a code of conduct and ethics for officers and requires financial declarations from certain public officers. One major sticking issue is the article on Conflict of interest. This directly applies to PMCs in the process of assessing and evaluating tender applications for various projects.[If a public officer has interests in a particular project, it's prudent for him/her to declare his interests before hand].This in bid to

stem conflict of interests that most cases results to favoritism, bias, nepotism and other economic vices.

Closely related is the *Anti Corruption and Economic Crimes Act, 2003* which provides for the prevention, investigation and punishment of corruption, economic crimes and related offences. This Act established the Kenya Anti-Corruption Commission [KACC], authorized to investigate allegations of corruption in Public entities in the country, CDF inclusive. In this regard, members of the public have an obligation to report suspected criminal activities involving CDF to the KACC.

Other legislations include: *The Public Audit Act, 2003*:-Provides for the audit of government, state corporations, public entities and local authorities, to provide for economic efficiency and effectiveness; *The Government Financial Management Act, 2003*:-Provides for the proper management of the government financial affairs and for persons to be responsible for government resources.

PART III: THE INSTITUTIONS AND ORGANS OF CDF.

The Constituencies Development Fund Act, 2003 and *Constituencies Development Fund (Amendment) Act, 2007* have created several official bodies to carry out specific functions to ensure the smooth running of the CDF, as shown in chart 1 below¹.

The Constituency Fund Committee

The Constituency Fund Committee (CFC) is a parliamentary select committee in charge of CDF. It comprises 11 MPs, one of whom is the chair. Members cannot be ministers or assistant ministers. The membership must ensure proportionate representation of political parties. Members serve for a three-year renewable duration, or until the dissolution of parliament.

Functions of the CFC include:

- Determining the allocation and distribution of CDF
- Determining the utilization of any unspent funds intended for use by the Board of Management of CDF
- Making a report to parliament every two years, and any other reports to appraise parliament and obtain approvals

¹ Gikonyo, 2008, **The CDF Social Audit Guide- A Handbook for Communities**, The Open Society Initiative of East Africa, Nairobi, Kenya.

- Considering and making recommendations on persons appointed under the Act, e.g. appointments to the Board
- Overseeing the policy and legislative framework to ensure efficient CDF implementation

Chart 1: Institutions created under CDF Act 2003 and CDF Revised Act 2007



The National Management Board of the Constituencies Development Fund

Under the revised CDF Act 2007, the National Management Committee (NMC) was renamed the Board of Management of CDF (Board) and its powers and responsibilities changed slightly. The Board comprises 17 persons in total, one third of whom must be women. It comprises four government officials: *the Permanent Secretaries of the ministries of Planning and National Development, and Ministry of Finance, the Clerk of the National Assembly,*

and the Attorney General. It also comprises 8 qualified persons nominated from institutions listed in the First Schedule² of the *Constituencies Development Fund Act, 2003*.

The Minister may appoint another four other persons to achieve regional representation. All appointments must be approved by parliament and have relevant expertise. The Board also comprises the Chief Executive Officer (CEO), who is ex officio and secretary to the Board. The CEO is appointed on a competitive basis and must be approved by parliament. The CEO must have a relevant university degree and 10 years relevant work experience.

Functions of the Board:

- Administering the fund
- Approving each and every payment from the fund
- Ensuring timely and efficient disbursement of funds to each constituency
- Ensuring the efficient management of the fund
- Receiving and addressing complaints and disputes and taking appropriate action.
- Receiving and considering proposals from various constituencies
- Appointing the needed officers and other staff for management of the fund
- Determining the sitting allowances for District Project Committee and Constituency Development Fund Committee, which are then approved by the Constituency Fund Committee
- Submitting, on a monthly basis to the Constituency Fund Committee, a summary of project proposals received in the previous month, indicating approval status, a summary of status of disbursements to constituencies, and summary of status of disbursements from Treasury to the National Account
- At the end of the financial year, the Board, with approval from the Constituency Fund Committee, will determine how any excess funds or shortfalls will be handled.

The Ministry of Planning and National Development

The Ministry of Planning and National Development is recognized as the parent Ministry of CDF. The Minister may make regulations and amendments necessary for smooth running of the fund, although parliament must approve them before implementation. The

² *The Kenya National Federation of Agricultural Producers, The Institution of Engineers of Kenya, The Kenya National Chamber of Commerce and Industry, The Kenya Episcopal Conference, The Kenya National Union of Teachers, The National Council of Churches of Kenya, The Supreme Council of the Kenya Muslims and The Institute of Certified Public Accountants of Kenya*

Minister of Planning and National Development tables an annual report on the activities, operations and expenditure of the fund at the end of the financial year.

The District Projects Committee

The District Projects Committee comprises all MPs in the district, all chairpersons and mayors of local authorities, the District Commissioner, the District Development Officer who is secretary of the District Projects Committee, all the chairpersons of the Constituency Development Fund Committee, the District Accountant. The relevant district departmental heads may also attend District Projects Committee meetings in an ex-officio capacity. The chairperson is elected from either the MPs or Councilors. The District Project Committee must meet annually and up to a maximum of 6 times a year. The District Project Committee is dissolved upon the dissolution of parliament. The new District Project Committee shall be constituted 60 days after a new parliament is inaugurated.

Functions of the District Project Committee

The Member of Parliament shall table the list of projects to the District Project Committee, which shall ensure there is no duplication of projects. The committee shall at the beginning of every financial year circulate a list of ongoing government and council projects to all Constituency Development Fund Committees. However, this does not mean that existence of a similar project can be used to deny funding for a proposed project.

The District Project Committee is responsible for procurement where contracts exceed Ksh 10 million. It is also responsible for implementation of projects that span two or more constituencies.

The Constituency Development Fund Committee (CDFC)

The Constituency Development Fund Committee will have a maximum of 16 persons. The Member of Parliament, Councilors, 1 District Officer, 2 religious representatives, 2 men representatives, 2 women representatives, 1 youth representative, 1 NGO representative, 3 other persons appointed by the MP, and a Fund Manager.

Under the Revised CDF Act of 2007, the Constituency Development Committee (CDC) was renamed the Constituency Development Fund Committee (CDFC). The CDF Act empowers the MP to appoint members of the Constituency Development Fund Committee. Members shall be appointed on three-year renewable terms for a maximum of two consecutive terms. The Constituency Development Fund Committee must meet at

least 12 times but no more than 24 times (including subcommittee meetings). Quorum is one half of the total membership.

The Constituency Development Fund Committee remains in office until elections/by-elections whereby the new MP appoints a new CDFC. The MP shall convene a new Constituency Development Fund Committee within 60 days after taking office.

Functions of the CDFC

The Constituency Development Fund Committee is responsible for the allocation of funds to various projects and does so as it sees fit. Within its discretion, it determines the installments with which to release monies to projects. It shall ensure that appropriate consultations with relevant government departments are done to ensure realistic cost estimates. It also ranks projects in order of priority.

The Fund Manager

The Fund Manager is seconded to the Constituency Development Fund Committee by the Board. The Fund Manager sits in CDFC meetings but is not allowed to vote.

Responsibilities of the Fund Manager

The Fund Manager is the custodian of all records and equipment during the term of office and during transition. This person will compile and maintain a record showing all receipts and disbursements on a monthly basis for every project and sub-project in the constituency. He/she will submit a monthly and annual report to the Constituency Development Fund Committee not later than 60 days after end of financial year. New regulations have strengthened this office. The fund manager is charged with the appointment of the projects tender committee, according to a September 2009 Gazette on public procurement³⁴.

Governmental Bodies Dealing with CDF.

District Government Departments

The CDF law states clearly that the district government has an important role to play in the implementation of CDF projects. According to the Act, the departmental head of the relevant ministry should oversee CDF projects under his/her docket and maintain records of disbursements and progress of projects.

The District Development Officer

³ *The Public Procurement and Disposal (amendment) Regulations, 2009, Gazette Supplement No. 63, 18th September, 2009*

⁴ *The Public Procurement and Disposal Regulations, 2009, Gazette Supplement 141, 18th September, 2009*

The District Development Officer (DDO) is the development officer under the Ministry of Planning and National Development. The DDO issues the Authority to Incur Expenditure (AIE). Under recent regulations, the DDO is also a mandatory member of the projects tender committee.

The District Accountant

The District Accountant is a mandatory signatory on all CDF cheques. The District Accountant must maintain separate CDF books of accounts in accordance with government audit regulations. The District Accountant must also ensure compliance with procurement guidelines. He/she must also ensure that all projects have a Project Committee and that they have the capacity to handle procurement and maintain proper records. Under recent regulations, the District Accountant is also a mandatory member of the projects tender committee.

The Member of Parliament (MP)

The duplication of roles of the Member of Parliament (MP) in CDF has become one of the most controversial aspects of the fund. The role of the MP, and the composition and lack of clarity on the roles and powers of the CDF institutions raise fundamental challenges in the implementation of the Fund.

PART IV: THE CDF PROJECT CYCLE

The CDF Project cycle consists of several stages: *Identification, planning, implementation and monitoring*. It's worth noting that equal representation irrespective of political, gender, tribal, racial affiliations among others is vital for successful implementation of CDF projects.

There is need for gender balance at every stage a project undergoes to ensure the concerns and experiences of women as well as of men are addressed in the design, implementation, monitoring and evaluation of policies and programmes, so that women and men benefit equally, and inequality is not perpetuated.

Project identification and selection

The CDF Act provides that the elected Member of Parliament for every constituency shall, within the first year of a new parliament and at least once every two years thereafter, convene locational meetings in the constituency to deliberate on development matters in

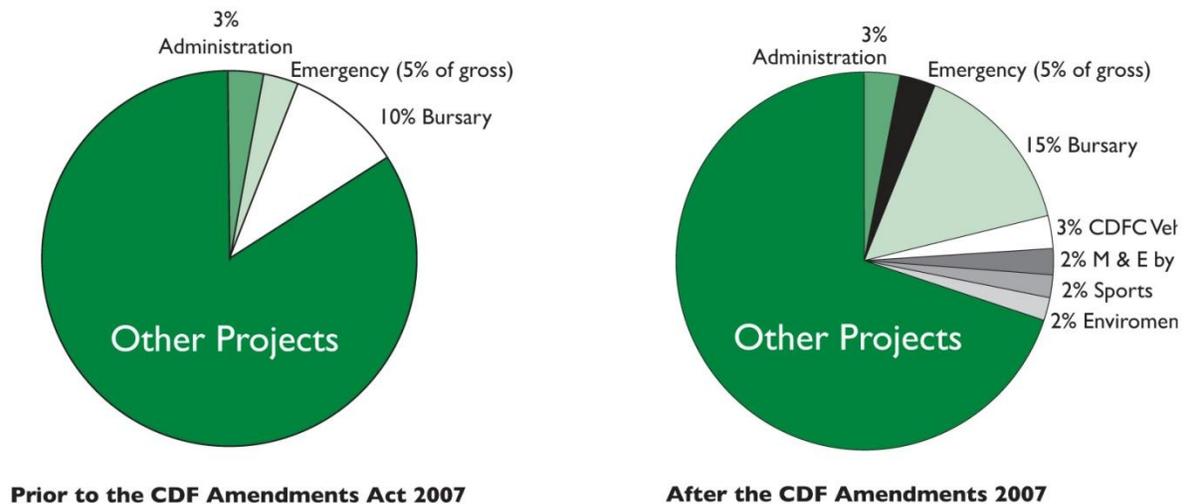
the location, the constituency and the district. Each location shall come up with a list of priority projects to be submitted to the Constituency Development Fund Committee which shall deliberate on project proposals from all the locations in the constituency.

Types of projects

Projects shall be community based in order to ensure that the prospective benefits are available to a widespread cross-section of the inhabitants of a particular area. Any funding shall be for a complete project or a defined phase, unit or element of a project and may include the acquisition of land and buildings. In the same vein, all projects shall be development projects and may include costs related to studies, planning and design or other technical input for the project but shall not include recurrent costs of a facility other than as provided for in the act.

Statutory Funding Provisions indicate the percentage ratios in utilization of the funds as follows: *CDFC recurrent expenses 3%, sports activities 2%, Monitoring and Evaluation 2%, Environment Activities 2%, Education Bursary, Mocks and assessment schemes 15%, Administrative activities 3% and Emergency – 5%.* This is illustrated in the next diagram.

The Breakdown of CDF allocations illustrated below;



PART V: THE PROJECT MANAGEMENT COMMITTEES [PMCS]

The Project Committee is recognized in the CDF Amendment Act 2007 as the committee responsible for implementation of a project. It may be nominated or elected, or may be pre-existing, such as school boards. The PMCs play a pivotal role in CDF project implementation; it is at this level that project requests/proposals are raised, approved projects implemented, procurement and documentation undertaken and subsequent M&E takes place.

The CDF Act recognizes the Constituency Development Fund Committee, Project Committee and District Project Committee as public entities and, therefore, they are bound by government procurement rules and regulations, meaning they must employ government procurement methods.

[A] Initiating project requests.

PMCs initiate a request for funding based on a felt need. The PMC can be of several types; an existing institution committee, a registered development group. Or can be formed solely for the purpose of the project.

Most CDFCs require a BQ and work plan be prepared as supporting documentation for the request for funding, to ensure that the project cost is realistic and project viable. CDF guidelines require that informal community initiatives be registered with the DSS (district social services) for the sake of accountability.

The CDF law stipulates that projects must be community-based to ensure that the prospective benefits are available to a widespread cross-section of the inhabitants of a particular area. The project may be a joint project co-funded through self help actives or funded by another development or government agency.

Most CDFCs require a written request for funding. Once a particular project is approved the CDF should notify the PMC in writing of its allocation.

[B] Project Implementation and Management

The CDF law provides that the Project Management Committees (PMCs) will implement projects with support from the CDFC and technical advice from the relevant Government department.

CDF Implementation guidelines provide that PMCs will receive project grant cheques from the CDFC through the Constituency Development Account Fund Manager after the Fund Account Manager has verified that:

- The PMC is registered with the relevant government department and list of PMC members submitted to him/her in official PMC minutes;
- The District Accountant has issued an introduction letter to the PMC to open PMC Bank account and the bank account number submitted to him/her;
- The PMC has had their proposal endorsed by the relevant government department to solicit their technical inputs and ensure their projects are well costed;
- The PMC has a Project Work plan and Budget for project implementation;
- The PMC has in place the necessary technical documents e.g. BQs, architectural drawings, etc.
- The PMC has opened a project file where all project documents and correspondence will be filed;
- The PMC for an ongoing project has fully accounted for the funds released to them in the previous allocation;
- The PMC has established a Project Tender Committee to procure project goods and services and their names given in the PMC minutes submitted to him/her;

Find overleaf, a sample copy of a work plan and bill of quantities;

Sample work plan and budget: Mimwata Pr.School, Rongai.

RONGAI CDF PROJECT
P.O BOX 12848-20100 GPO
NAKURU

MOBILE: 0720-285069/0720730618/0202439039

NAME OF THE PROJECT....MIMWAITA PRIMARY....SCHOOL.
LOCATION.....BOROR.....
POSTAL ADDRESS.....BOX 170 ..RONGAI.....

Planned activity	Materials Required	Qty	Unit cost [KSHS.]	Total value [KSHS.]	Contracted Persons	Timeframe	M&E
Flooring [2 classrooms]	Cement	16Pkts	780	12480	Mache Hardware		
	Hardcore	8 Lorries	3700	14,800			
	Ballast	10 Tonnes	8400	84,000			
	Sand	24 Tonnes	800	19200			
	Labour			30,000			
	Subtotal			160,480			
Plastering [2 classrooms]	Cement	10 Pkts	780	7800	Mache Hardware.		
	Sand	16 Tonnes	800	12,800			
	Labour			20,000			
	Sub Total			39,600			
	Total Cost			200,080			

[Extracted from Rongai CDF files]

Sample BQ: Construction of Boror` cattle dip, Rongai Constituency.

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
Dip tank					
A	cement	125	Bags	620	77,500
B	Sand	18	Tons	1200	21,600
C	Ballast	28	Tons	1200	33,600
D	225mm building stones	725	Ft.	20	14,500
E	Round mild steel Bars[10mm]	29	Pieces	420	12,180
F	Round mild steel Bars[8mm]	6	Pieces	280	1,680
G	Wire mesh [Type A393]	45	No.	450	20,250
Timber structure					
H	Diameter cedar post[100mm]	10	No.	250	2,500
I	Sawn cypress post [1.9m long]	90	LM	45	4,050
J	Sawn cypress 150 by 25mm	45	LM	65	2,925
K	Sawn cypress 75 by 150mm	35	LM	69	2415
M	Sawn cypress 75 by 50mm	90	LM	69	6210
N	Mild steel traps 900mm long	10	No.	350	3,500
O	Mild steel traps 250mm long	4	No.	250	1,000
P	Mild steel traps 1300mm long	40	No.	450	18,000
Carried to collection					223,935

[Extracted from Rongai CDF files]

[C] Project Management Committee Procurement

CDF Procurement is governed by the following;

- *The Public Procurement and Disposal Act, 2005*

- *Procurement and Disposal Regulations, 2006* ;
- *The Public Procurement and Disposal Act, (Amendment) Regulations 2009*;

The Public Procurement and Disposal Regulations, 2006 define the procurement cycle as the cycle that starts with the **initiation** of the process of an individual procurement to when goods, works, and/or services have been **delivered** and **accepted**.

Project Committees, Constituency Development Committees and District Project committees are regarded as public entities and also regarded as procurement entities **subject to government procurement regulations**.

Specifically, the procurement Act is aimed at achieving the following objectives:

- To maximize economy and efficiency
- To promote competition and ensure that competitors are treated fairly
- To promote the integrity and fairness of those procedures
- To increase transparency and accountability in those procedures
- To increase public confidence in those procedures and
- To facilitate the promotion of local industry and economic development.

The procurement law provides that all procurement entities must establish tender committees. In the case of CDF the list of tender committee members' names and full details must be submitted to the CDFC for transparency reasons. Tender committees are accountable for the decisions they make and should be allowed to conduct their work without interference.

Procurement regulations also stipulate the types of procurement and threshold allowed for different levels of procurement as given in the table overleaf.

Table 4: **CDF Procurement Thresholds**⁶

The procurement thresholds for the tender committees are as follows:

	Thresholds/Ceilings	Implementing tender committee	Procurement method
1	Ksh 0 – 100,000	All tender committees depending on the project being implemented	Direct Procurement or request for quotation
2	Between Ksh 100,000 and Ksh 5,000,000	All tender committees depending on the project being implemented	Request for quotation or alternative procurement method appropriate
3	Between Ksh 5,000,000 and Ksh 10,000,000	Constituency Development Tender Committee and the District Projects Tender Committee (if the DPTC is implementing a project cross-cutting the constituencies)	Open tender or alternative procurement method appropriate
4	Above Ksh 10,000,000	District Projects Tender Committee	Open tender or alternative procurement method appropriate

Stages of the procurement process

Procurement planning (Section 26 of procurement Act)

Each procuring entity is required to prepare a procurement plan (section 26 (3) of the public procurement Act), the contents of which shall include:⁵a detailed breakdown of the goods works or services required, a schedule of planned delivery, implementation or completion dates for all goods, works or services required (Time frame), an estimated value of the goods, works or services and an indication of the appropriate procurement required.

Advertisement/ Notification of Procurement Opportunities/Requirement

It's vital for the public to be notified of the existing procurement opportunities. This can be through public notice boards, local barazas and the local media or newspapers and other existing communication channels.

Tender/Quotation opening

⁵ See 'The Public Procurement and Disposal Act, 2005; The subsidiary legislation on Public Procurement in 2006.

This stage is also critical to the procurement process. Tender opening should be witnessed by candidates if available. A minimum of three members should sign. Finally, minutes of all the proceedings should be taken.

Tender/Quotation Evaluation

It's noteworthy that prices for standard items or off the shelf items be compared. If items are technical, evaluation is done to ascertain whether it is the item required (assistance can be obtained from respective Government departments)

Adjudication by Constituency Development Fund Tender Committee

All procurements shall be adjudicated by properly constituted Constituency Development Fund Tender Committee which must meet the quorum required of 5 members. The recommendation for a tender award should be to the lowest price bid meeting the requirements.

Notification of Award

The recommended bidder should be informed in writing or through placement of an order. Other interested parties should be notified of the tender/contract award through the public notice board and other avenues of communication indicating the winning bidder, awarded sum etc.⁶

Administration of Contract Award

The tender committee should ensure that the full quantities, qualities and prices are delivered. Contracts should be entered between the CDFC, Project Management Committee depending on ceilings and capacity of the Constituency Development Fund Committee.

In the same vein an LPO shall be issued to the supplier/contractor to enable them undertake the works/supplies.

Payment of contractors

Payment of contractors or suppliers shall only be made based on proof of completion or delivery as per delivery notes, receipts and technical verification of work undertaken;

⁶ Check The CDF Social Audit Guide [popular version]; A handbook for communities, @OSIEA, 2008, by Wanjiru Gikonyo.

CDF Procurement

Chart 5: **Stages in the CDF procurement process**



Tender Methods

While an open tender is the preferred procurement procedure, CDF guidelines allow committees to use other methods as is appropriate. Nonetheless, the following transactions must be by open tender—hire, sale, lease of buildings/facilities and disposal of stores equipment. The methods allowed are:

Restricted tendering

Under certain circumstances—in procurement of specialized goods/services or where the time and cost of evaluating a large number of tenders is disproportionate to the value of the contract—restricted tendering is allowed, but tenders should be addressed to a minimum of three candidates. The Tender Committee must give a written report to the Minister of Finance where restricted tendering is used.

Direct procurement

Sourcing is done directly from one supplier may be used during emergencies. If contract value exceeds Ksh 300,000, authority must be obtained from the Minister of Finance

Request for proposals

A minimum of three proposals must be obtained. Used when it is not feasible for the Tender Committee to formulate precise specifications.

Request for quotations

Used for small purchases of standardized goods/works/services. Must request quotations from a minimum of three candidates. Selected based on the lowest price.

Sample notice: a PMC file from Rongai constituency.

Tender notice:

**MIMWAITA PRIMARY SCHOOL
P.O BOX 170,RONGAI**

TENDER ADVERTISEMENT

Mimwaita Primary School wishes to invite tender bids from eligible contractors and suppliers of Building materials for the Construction of classrooms funded by CDF.

Tender documents for the project may be obtained from the Head Teacher's office at the School during working hours [8.00 a.m-4.00 p.m] with effect from **16th March 2005** upon payment of a non-refundable fee of Kenya Shillings **One Thousand (Kshs.1000)** only payable to Mimwaita Primary School.

Completed tender documents in plain sealed envelopes and marked with the tender number **CDF/2005**,shall be addressed and sent or forwarded to:

**THE CDF TENDER COMMITTEE
MIMWAITA PRIMARY SCHOOL
P.O BOX 170,
RONGAI.**

Or deposited in the Head Teacher's office at the school before Friday 18th March 2005.

The SMC reserves the right to reject any tender and is not bound to award to the lowest bidder or any bidder nor give reasons for its rejection.

[Extracted from Rongai CDF files]

AGREEMENT BETWEEN REV.JAMES MAINA AND MIMWAITA PRIMARY SCHOOL
CDF PROJECT COMMITTEE DATED 22-1-2007

Rev.James Maina ID NO.....327596.....has been awarded the tender of doing finishing work of eight classrooms as per his tender bids of plastering the walls and floors at the cost of Kshs.12,000 per classroom.

The work should be done as per the **Ministry of Public Works requirement's reference** to their description that he has a copy from the school.

Each party should honor the agreement. In case of breach of agreement the party in default will have to pay 25% of the total amount to the other party.

The work should be done according to the availability of funds and in honor of the CDF pace.
The agreement was required by:

Rev.James Maina.....ID NO.....327596
Mr. Ezekiel Chepkwony.....ID NO.....7641119
Mr. Allan Nyondah.....ID NO.....57978906

[Extracted from Rongai CDF files]

[D] Accounting of the CDF Funds at the PMC level

According to Section 8 (3), of the CDF Act 2003 all disbursements to the Constituency shall be made to the Constituency Bank Account in accordance with Section 45 of the Act. The Minister, with the concurrence of the Constituencies Fund Committee, shall for each financial year allocate funds to each constituency in accordance with section 19. Once funds are allocated for a particular project, they shall remain allocated for that project and shall not be RE-ALLOCATED during the financial year for any other purpose whether in the Constituency or anywhere else without the approval of the BOARD.

At the end of each financial year, every constituency shall submit a RETURN in the form set out in the *Fourth Schedule* showing for each project, the amount allocated, the amount disbursed and any unspent funds no longer needed for that project and intended to be re-allocated.

Every constituency which has UNSPENT FUNDS at the end of the financial year shall, in the form set out in the *Fifth Schedule*, submit a request to the Board detailing how they intend to re-allocate the unspent funds.

The signatories to the account shall be the District Accountant whose signature on every cheque shall be compulsory ; a nominee of the District Project Committee; the Treasurer and Secretary of the Constituency Development Fund Committee (A cheque shall bear three signatures) as to comply with Regulation 15(4).

Prerequisites for Accounting:

The CDF Implementation guidelines stipulate that PMC’s should maintain the following records;

- At the PMC level the Fund Account Manager shall assist the project management committee in preparing books of accounts;
- The PMC’s are meant to keep the following documents; *simplified tender documents, payment voucher, and Cash book, Expenditure Returns and Bank Statement and Bank Reconciliation.*
- The PMC shall forward their returns to the CDFC at the completion of a phase or whole project.

Important PMC records

Tender documents	<ul style="list-style-type: none"> • Advertisement • Tender opening minutes • Tender analysis minutes • Letter/s of award • Tender Contracts • Supplier and contractor register
Folder to maintain	<ul style="list-style-type: none"> • Payment vouchers • Expenditure Returns • Before disbursement of additional tranche the PMC must reconcile the funds spent

Progress Reports	Reports must be made on the progress of the project, this should include the level of construction, photographs and arising issues/disputes, and so forth.
Cash book	A cash book for recording all monies that are received and those that are paid out.
Banking records	<ul style="list-style-type: none"> • Bank statements • Reconciliation • Cheque book where a current account is maintained • Withdrawal slips where a savings account maintained
A folder to keep original copies of invoices/cash Sales receipt.	These will have supportive documents such as quotations and meeting minutes
A ledger book	A ledger should be kept to record all purchases made by the project.

[E] Reporting, Monitoring and project sustainability.

Reporting:

Progress reports are vital in ensuring that projects are being implemented so as to be completed within acceptable parameters and time span and to give the desired benefits.

Monitoring:

Based on the reports, the Monitoring and Evaluation team will be able to come up with an evaluation check list which would guide its assessment of each project visited. Evaluation tools include a standard pre-set questionnaire.

The methodologies used include direct observation, project files document perusal (where available), photographic recordings, and interviews with people on site. In conducting monitoring and evaluation, the teams should look at: *Project Work plans, Activity Progress Report and Project financial, procurement and overall management.*

Emphasis must be given to participatory monitoring with actors being: The community, Project Management Committee, CDFC Constituency Development Fund Committee, DPC and Relevant Government Departments, and the community. The following are the

key prerequisites in community project monitoring: *Must be Community friendly monitoring; Measure the achievement against the work plan and cost estimates; All PMCs must be advised to keep record of materials, Equipment, Funds received and utilized; All PMCs must prepare progress reports on project implementation; All PMCs must be advised to identify problems and bottlenecks.*

Sustainability:

Projects initiated should always be aimed at serving the community and for posterity. Thus the planning team should at all costs prioritize activities that can be sustained by the existing resources in the locality.

Factors that determine project sustainability include the extent to which it is responding to felt needs of the community, the extent to which it is captured in the relevant government department implementation plans and complementary to ongoing development in the area and the level of citizen ownership and involvement in the project. Thus sound planning is the foundation for project sustainability.

PART VI STANDARDS FOR EFFECTIVE PMC'S

PMC's should be representative and should ensure all stakeholders in the location are represented; PMC's should ensure they have an equitable gender balance. An effective PMC will have members with a diversity of skills and competencies able to administrate and implement development projects.

Planning

- CDFC should implement participatory and accountable planning framework similar to the LATF/LASDAP. The CDFC should also adopt a clear calendar of public meetings. E.g. Twice annual constituency meetings, quarterly location/ward meetings. These meetings would then be the basis for planning, status updates and monitoring the progress of CDF at constituency and local level.
- The CDFC should undertake participatory strategic planning and establish close collaboration with civil society/public. MRF/PIP example. A well prepared strategic plan and close collaboration between council and resident groups resulted in increased council revenues of 100%. This included weekly income and revenue meetings, liaison office, improvement of accounting and reporting process.
- Strategic planning should identify comparative advantages and resource potential s of the constituency. Bondo action aid program, Yatta CDF example. Link local needs and opportunities to technology.

- Community wealth creation: Consider wealth creation projects e.g. South Imenti banana and macadamia projects.
- Harmonized planning with government- strong collaboration with technical government officers reaps benefits e.g. Tetu water projects, South Imenti roads and water.

Bursary

There is a need to streamline bursary into a common planning framework at constituency level [a Common Constituency Bursary planning committee].

The bursary planning and allocation process should be fully participatory from sub-location level and open to public scrutiny at every stage. Similarly, the bursary beneficiary lists should be widely displayed [public notice boards] for accountability.

Inclusivity

Both the **CDFC and the PMC** should have one third of either gender equally represented in positions of authority. The CDF committees should have representation of the disabled and other marginalized groups. Conversely, CDF meetings should be held at a time and venue suitable for all genders to attend.

Gender sensitivity should be practiced in project identification stages to ensure all are heard. E.g. communities where women are not able to speak out, sessions for women should be held separately. The disabled and other marginalized should be included through rigorous mobilization and open dialogue to avoid gate-keepers

Public meeting conduct should promote respectful and open dialogue to avoid the culture of imperial and dictatorial leadership. This should be replaced with accountable officers to enable effective citizen-CDFC partnership

Open Information Policy

The CDFC and PMC's should adopt an open information policy for all CDF records, reports and procedure especially pertaining to government officers and procurement.

- Display of information: Current approved schedules, the list of bursary beneficiaries including the amount and institution should be available at the CDFC and chiefs offices. Information covering previous years should be available upon request form a

file of the same. A circular requiring this already exists but it is vague about what information should be displayed and its enforcement none existent.

- Supplier/contractor information: Detailed information on contractors/suppliers who undertake CDF work should be available upon request. This includes all CDF and public projects ever undertaken, directors of the companies and other information contained in the confidential supplier questionnaire. This will prevent collusion and conflict of interests.
- Accountability Boards: All CDF projects should have accountability boards displaying project title and code, year of funding, amount allocated, and amount spent to date.
- Publicity for meetings - All meetings should be well publicized using local dissemination networks to ensure as wide participation as possible. A calendar of meetings should be maintained.
- Meeting minutes should be well-prepared to capture the important information simply and clearly.

Close collaboration with citizens

The CDFC and PMC should work closely with citizens, through a schedule of public meetings.

Responding to complaints

The CDFC/PMC should respond quickly and visibly to complaints about contractors and from citizens through an effective citizen

Procurement

The CDFC and PMC's need to develop innovative ways to curb collusion, for instance:

- All CDFC and PMC members should be disqualified from CDF contracts. They should also be disqualified from benefiting from CDF contracts through kin and business acquaintances.
- All contractors/suppliers should provide a comprehensive background information should address the directors/owners, related business interests (e.g. ownership of hardware stores by a contractor and other practices that stifle fair competition), past experience, list of all government works undertaken and status of those projects.

- The database of eligible contractors should be available for public scrutiny at the CDF office.
- Non-performing contractors should be blacklisted, and the constituency database should reflect blacklisted contractors.
- CDF procurement should be conducted on a scheduled basis at location and constituency level based on the size of the contracts. Monthly scheduled procurement meetings where new bids are announced, tenders opened and evaluated tenders awarded is a simple way to circumvent the collusion. The meetings should be open to public scrutiny. The procedures of these meetings would be minuted. This would enable the relevant technical officers attend scheduled meetings and make meaningful contribution. A record of all tenders at constituency and project level should be maintained and available to the public for scrutiny. A schedule of tenders for deliberation should be posted in advance of each meeting to enable preparation. Participants should be able to scrutinize submitted bids. Contractors and suppliers must submit full supplier information. Proceeding should be minuted.

Conduct of public CDF Meetings

The meetings should make available project work plans, individual project progress reports, individual project disbursement reports, list of contractors, and list of disciplinary action. Proceedings should minute.

Collaboration with Government departments - Harmonization workshop (DPC)

We propose an annual commencement of year workshop between CDFC, development actors and relevant government department heads and officers. All constituency projects to be tabled at this meeting. **A joint constituency work plan** to be developed detailing the assignment of relevant officers to specific projects, time frames and reporting lines. An **end of year constituency technical evaluation workshop** would serve as an evaluation workshop to evaluate progress on work plans, completed projects, ongoing, cases of abuse, evaluation of contractors and suppliers and so forth.

Democratization and tolerance

For successful implementation of the CDF projects, democratic values and ethos should be entrenched at the local level. These can be realized through creation of efficient channels of participation and information. Community members should be free to voice their comments without fear of intimidation or victimization. Similarly, officials to CDF bodies

at the grassroots should follow a free and fair electoral process so that legitimate offices are mandated to run the CDF activities.

Evaluation Questions to guide the PMC Training

In order to gauge the effectiveness of the PMC the trainer will use the following training questions to accompany the training;

THE PMC EVALUATION TOOL.

Project Planning and Identification	How does CDF project planning take place in the constituency/frequency/who is involved?
	Is the process for selecting projects well understood and open to the public?
	To what extent has CDF been responsive to the pressing needs of different parts of the community?
	How was the specific project initiated? Is there a project proposal?
	Who are the target beneficiaries? Is project of benefit to a cross section of community?
	Is the planning process responsive to the needs of all community members including women, disabled, youth and other marginalized? How?
	Are technical govern officers involved in the project identification stage? How do PMC's ensure their project is realistically costed?
	In what way can planning and identification be improved in the constituency?
Implementation and technical competence	How were PMC members selected? Are women represented on the PMC committee? Are women involved in core functions such as tendering etc?
	Does the PMC undertake procurement directly or through the CDFC? Did the project undertake procurement on a full contract basis or on works basis?
	To what extent are members of the project committee understand the CDF implementation guidelines and procurement regulations
	To what extent is the specific project committee compliant in record keeping? Work plan, BQ, minutes (etc)

	How does the PMC collaborate with government technical officers?
	Do all suppliers/contractors have a contract that clearly states their obligations?
	Have you experienced any cases of bogus or dubious contractors? Have you blacklisted any?
	How can procurement processes employed by the PMC and CDFC be made more transparent to avoid corruption?
Project Reporting and Monitoring	Does the specific PMC have up-to-date progress report? Has it undertaken reconciliation before receiving money for the next tranche?
	How is Monitoring and evaluation of CDF projects undertaken in the constituency?
	Are there any measures for the PMC's and CDFC to report to the public on progress of ongoing projects?
	How can reporting be strengthened in the constituency?
	How can monitoring be strengthened in the constituency?
Public Participation & Accountability	Does the PMC and CDFC routinely update project beneficiaries on ongoing project status?
	How are citizen involved in planning and monitoring? (if not already covered)
	Are citizens able to access relevant project information such as project allocations, work plans, BQ's, contracts, expenditure records, progress reports?
	Do the PMC and CDFC respond to citizen complaints promptly?
	Are meeting held at a time convenient for both men and women to attend?
	How has your committee ensured that all community members including disabled, youth and other marginalized groups are effectively represented and involved in CDF?
	How can citizen involvement CDF projects in the constituency be improved?
Redress	Do the CDFC and PMC have a complaints procedure in place? How effective is it?

	Have you launched any complaints against CDF officers? To whom did you address it? What was the outcome?
	Has any clear action been taken against corrupt contractors/ officials?
	How can redress be strengthened in CDF management in your constituency?

QUALITIES AND SKILLS OF AN EFFECTIVE TOT

[A] Qualities

An effective TOT should have

- A commitment to the improvement of local community livelihoods
- Prior use or training in participatory methodologies
- Experience in working with communities
- Maturity to manage people, resolve conflicts
- Leadership qualities- humility, respectful to all, firm and able to both listen, guide and lead community dialogue
- Understanding of decentralized funds operations
- Understanding of development needs of the local community
- Ability to link local challenges to national reform agenda
- Be impartial, non-partisan, and non-confrontational.

[B] Skills

- Use interactive approach-Question and Answer.
- Use visual effectively
- Sequence ideas and establish the conceptual framework for each new idea
- Local language, use simple language avoid NGO speak-indicators etc
- Link each point to experiences/ community and personal

- Speak to all
- Seek to engage all participants
- Drive to the establishment of common standards of performance
- Don't be afraid to admit what you don't know
- Link to larger national reforms
- Be proactive emphasize on potential of funds not corruption of local officers
- Be well prepared
- Full comprehension of legal and implementation framework
- Don't be afraid to refer
- Recognize that you will also learn from trainees always acknowledge and motivate creative solutions and sharing of best practice
- Document- prepare training report capturing baseline information, common standards

[C] Getting started

Prior to commencing the training, allocations data for individual projects in target constituencies needs to be generated for analysis. The following project records should also be obtained for target constituencies:

From CDFC

Up to date project allocations (up to 2009/10)

Up to date status report on all projects

PMC tender committee members

PMC Relevant Records

Project files with- funding allocation letter, project proposal, Work plan, BQ & drawings, meeting minutes, tender records (advertisement, evaluation, award letter) contractor agreement/s, contractor/supplier profile, delivery notes, LPO's, receipts, returns/reconciliations.

GLOSSARY:

The Institute for Social Accountability (TISA) is a locally registered trust committed towards the achievement of sound policy and good governance in the use local development funds in Kenya, to uplift livelihoods of, especially, the poor and marginalized. TISA works through direct advocacy actions, learning processes and capacity building. TISA implements several of its programs through stakeholder networks.

TISA seeks to:

- Promote effective citizen engagement in local development.
- Promote transparency and accountability in the management of local development funds.
- Capacitate duty bearers in target funds to perform effectively and uphold accountability practices.
- Influence the development of a harmonised and effective decentralised framework in Kenya.

Here are some of the key terms used in the manual:

Accountability: Accountability is the acknowledgment and assumption of responsibility for actions, products, decisions, and policies including the administration, governance, and implementation within the scope of the role or employment position and encompassing the obligation to report explain and be answerable for resulting consequences.

The Centre for Social Accountability, CSA defines social accountability as: *‘The right to obtain justifications and explanations for the use of public resources from those entrusted with the responsibility for their management, the performance of officials and service providers in progressively realising the human rights of those they serve. Conversely, officials and service providers have a duty to provide justifications regarding their performance and take corrective action in instances where public resources have not been used effectively to realise human rights and capabilities’*

Bill of Quantities: it is an itemized list of materials, parts, and labor (with their costs) required to construct, maintain, or repair a specific structure.

Best practices: the most efficient (least amount of effort) and effective (best results) way of accomplishing a task, based on repeatable procedures that have proven themselves over time for large numbers of people.

Community participation: Sharing by citizens in any kind of community in communal decision making processes and definitions of problems; Procedures whereby members of a

community participate directly in decision-making about developments that affect the community.

Community involvement: the full range of research, consultation and participation of communities and individuals in the decision making process.

Community engagement: informing and communicating with people, building awareness of strategic issues and creating opportunities for dialogue and involvement in decisions and solutions.

Citizen Participation:

According to a World Bank report of 1995, participation is defined as a '*process through which stake-holders influence and share control over development initiatives and the decisions and resources which affect them*'. This perspective implies consultation or collective decision making at all levels of the project cycle. Moreover, the focus is often on direct participation of primary stakeholders, rather than indirect participation through elected representatives.

Democratic: Embracing principles of democracy: equality before the law, participation, representation, accountability, transparency and inclusivity in decision making.

Democratization: Act of making something, a community, organization an entity or nation democratic.

Decentralization: is the process of dispersing decision-making governance closer to the people and/or citizen. Can also mean the transfer of power, authority, functions, responsibilities and resources from an institution in the central government to an institution closer to the public [at the grassroots].

Decentralized funds: Funds and financial strategies managed at the local as opposed to the national level systems i.e. direct funding of projects at the grassroots. In Kenya they include: The Constituency development Fund [CDF], Local Authority Transfer Fund [LATF], The Bursary Fund, The HIV and AIDs Fund, The Roads Maintenance Levy Fund, The Youth Enterprise Fund among others.

Good Governance' is commonly used as a term to subsume a list of attributes such as transparency, the rule of law, public participation, efficient use of resources, etc. in the use of public resources. It includes the perspective on how citizens are able to articulate their interests, their rights and mediate their differences. The latter is a very important aspect in a highly inequitable society as in Kenya.

Gender Equity: means fairness and justice in the distribution of benefits and responsibilities between women and men; is the giving boys and girls, women and men equal opportunities in the utilization of personal capabilities to realize full human rights.

Inclusivity: Derived from the term inclusion which means the practice of ensuring that people in organizations feel they belong, are engaged, and connected through their work to the goals and objectives of an organization, system or policy. For instance, ensuring that both men and women, boys and girls, the disabled, marginalized and everybody in the community or society is and feels represented on CDF committees has equal access to employment opportunities, and other services- e.g. Bursary, by ensuring that citizen's [gender, persons with disabilities, the marginalized] issue are captured in the Monitoring and Evaluation framework.

Inequality: A statement that of two quantities one is specifically less than (or greater than) another; when discussing poverty, inequality often refers to the income gap between the rich and poor of society.

Monitoring and evaluation:

Monitoring is the systematic, regular collection and occasional analysis of information to identify and possibly measure changes over a period of time.

Evaluation is the analysis of the effectiveness and direction of an activity and involves making a judgment about progress and impact.

Open tender: Bidding process that is open to all qualified bidders and where the sealed bids are opened usually in public for scrutiny and are chosen on the basis of price and quality. Also called competitive tender or public tender.

Procurement: Procurement is the acquisition of goods and/or services at the best possible total cost of ownership, in the right quantity and quality, and at the right price....

Public procurement; The process used by governments, regional and local public authorities or bodies governed by public law in the acquisition of public goods and services.

The right to information: is an important human right and is necessary for the enjoyment of all other rights. It is protected under section 79 of the constitution of Kenya. Access to relevant, timely and authoritative information pertaining to public expenditure and processes is indispensable in to promoting effective citizen participation in development.

Social audit: A social audit is the process through which all details of a public project are

Scrutinized at a public meeting. A social audit examines all aspects of a public Project, including the management of finances, officers responsible, recordkeeping, access to information, accountability, and levels of public involvement, among others.

Sustainability: The ability to keep in existence or maintain; Practices and mechanisms put in place that would ensure the continued viability of a product or practice well into the future: Able to be sustainable into the future.

Tender: a bid: a formal proposal to buy at a specified price.

Tolerance: The willingness to recognize and respect the beliefs or practices of others.

Work plan: A document describing in detail the activities required to complete a specific scope of work within a specific period of time.

TISA/KEWOPA PMC constituency training program [A day]

TIME	ACTIVITY/TOPIC	FACILITATOR
9.00-9.30	Arrival and registration	KEWOPA
9.30AM-10.45AM	Introduction, norms and expectations Topic: CDF Project Planning and Identification <i>(CDF Background, Institutions and CDF Project cycle)</i>	
10.45AM-11. 00M	BREAK	
11.00AM-13.15PM	Topic: CDF Implementation <i>Role and responsibility of the PMCs</i> <i>Procurement, Accounting and Reporting.</i> <i>(Group work)</i>	
13.00PM-13.45PM	LUNCH BREAK	

14.00PM-16.00	<p>Setting Performance Standards and Preparation of common memorandum</p> <ul style="list-style-type: none"> -Accountability -Participation -Inclusivity -Compliance and reporting <p>Way forward</p> <p>End of Workshop.</p>	
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REFERENCES:

The Constitution of Kenya

The Constituency Development Fund Act, 2003

The CDF Social Audit Guide, Popular Version, by Wanjiru Gikonyo, OSIEA 2008

The Public Procurement and Disposal Act, 2005

The subsidiary legislation on Public Procurement, 2006,

The Public Procurement and Disposal (Amendment) Regulations, 2009

The Public Officer Ethics Act, 2003,

Training notes for CDC Workshops, by the CDF Board.

