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PROGRAM APPRAISAL DOCUMENT

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PROPOSED CREDIT

IN THE AMOUNT OF SDR 144.4 MILLION

(US$200 MILLION EQUIVALENT)

TO THE

REPUBLIC OF KENYA

FOR A

DEVOLUTION SUPPORT PROGRAM-FOR-RESULTS

February 18, 2016

Urban, Rural and Social Development Global Practice

Africa Region

Public Disclosure Authorized

CURRENCY EQUIVALENTS

(Exchange Rate Effective December 31, 2015)

Currency Unit	=	Kenya Shilling (KES)
KES 102.3	=	US$1
US$1.39	=	SDR 1
KENYAN FISCAL YEAR		
July 1	-	June 30

ABBREVIATIONS AND ACRONYMS

ACPA	Annual Capacity and Performance Assessment
ADP	Annual Development Plan
AG	Auditor General
APA	Annual Performance Assessment
APR	Annual Program Report
BPS	Budget Policy Statement
CARA	County Allocation Revenue Act
CB	Capacity Building
CID	Criminal Investigations Department
CIDP	County Integrated Development Plan
CIR	County Implementation Report
CoB	Controller of Budget
CoG	Council of Governors
CPAM	County Performance Assessment Manual
CPS	Country Partnership Strategy
CRA	Commission on Revenue Allocation
CRF	County Revenue Fund
DFID	Department for International Development-UK
DLI	Disbursement-Linked-Indicator
DORA	Division of Revenue Act
DP	Development Partner
DPSM	Directorate of Public Service Management
DSWG	Devolution Sector Working Group
EACC	Ethics and Anti-Corruption Commission
EMCA	Environmental Act
EIA	Environmental Impact Assessment
ESSA	Environmental and Social Systems Assessment
EU	European Union
FM	Financial Management
GRS	Grievance Redress Service
GoK	Government of Kenya
HoAU	Heads of Accounting Units
HR	Human Resource

HRM	Human Resource Management
HRMIS	Human Resource Management Information System
IAD	Internal Audit Department
IFMIS	Integrated Financial Management Information System
IPSAS	International Public Sector Accounting Standards
IPSASB	International Public Sector Accounting Standards Board
ISSAI	International Standards of Supreme Audit Institutions
JSC	Joint Steering Committee
KADP	Kenya Accountable Devolution Program
KDSP	Kenya Devolution Support Operation
KRA	Key Results Area
KSG	Kenya School of Government
TCIP	Transparency and Communications Infrastructure Project
LATF	Local Authority Transfer Fund
LG	Local Government
LLI	Leadership, Learning and Innovation
M&E	Monitoring and Evaluation
MoDP	Ministry of Devolution and Planning
MoPSYGA	Ministry of Public Service, Youth and Gender Affairs
MoU	Memorandum of Understanding
MPC	Minimum Performance Condition
MTEF	Medium-Term Expenditure Framework
MTI	Medium-Term Intervention
NEMA	National Environmental Management Authority
NCBF	National Capacity Building Framework
ODPP	Office of the Director of Public Prosecution
OPRC	Operational Procurement Review Committee
P2P	Procure-to-Pay
PAP	Program Action Plan
PBB	Program-Based Budget
PBO	Parliamentary Budget Office
PDO	Program Development Objective
PforR	Program-for-Results
PFM	Public Financial Management
PFMR	Public Financial Management Reform
PFMRS	Public Financial Management Reform Secretariat
PforR	Program-for-Results
PFMA	Public Financial Management Act
PG	Performance Grant
POM	Program Operational Manual
PPDA	Public Procurement and Disposal Act
PPRA	Public Procurement Regulatory Authority
PSASB	Public Sector Accounting Standards Board
SCoA	Standard Chart of Accounts
TA	Technical Assistance
TC	Technical Committee

ToR	Terms of Reference
UKAid	United Kingdom Department for International Aid
ULGDP	Urban Local Government Development Project
ULGSP	Urban Local Government Strengthening Program
UNDP	United Nations Development Program
USAID	United States Agency for International Development
USMID	Support to Municipal Infrastructure Development
VfM	Value-for-Money

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REPUBLIC OF KENYA

DEVOLUTION SUPPORT PROGRAM-FOR-RESULTS

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PAD DATA SHEET

KENYA

DEVOLUTION SUPPORT PROGRAM-FOR-RESULTS

PROGRAM APPRAISAL DOCUMENT

AFRICA REGION

Urban, Rural and Social Development Global Practice

Basic Information			
Date:	February 18, 2016	Sectors:	Sub-national government administration (100%)
Country Director:	Diariétou Gaye	Themes:	Decentralization, Urban, Social, Governance
Senior Global Practice Director	Ede Jorge Ijjasz-Vasquez		
Practice Manager:	Sameh Wahba		
Program ID:	P149129		
Team Leader(s):	Christopher Finch Jane Kiringai		
Program Implementation Period: Expected Financing Effectiveness Date: June 30, 2016 Expected Financing Closing Date: December 31, 2020		Start Date: March 15,2016	End Date: December 31, 2020

Program Financing Data		
[ ] Loan [X] Credit	[ ] Grant	[ ] Other

For Loans/Credits/Others (US$M):

Total Program Cost :	287.3	Total Bank Financing :	200.0
Total Co financing :	0	Financing Gap :	0

Financing Source	**Amount** (US$M)
BORROWER/RECIPIENT	87.3
IDA	200.0
Total	287.3

Borrower:	Republic of Kenya		
Responsible Agency:	Ministry of Devolution and Planning		
Contact:	Ms. Mwanamaka Mabruki	Title:	Principal Secretary
Telephone No.:	+254 (20) 2250645	Email:	Psdevolution2013@gmail.com
Responsible Agency:	The National Treasury		
Contact:	Dr. Kamau Thugge	Title:	Principal Secretary
Telephone No.:	+254 (20) 2252299	Email:	ps@treasury.go.ke
.			

Expected Disbursements (in USD Million)

Fiscal Year	FY 16	FY 17	FY 18	FY 19	FY 20	FY 21
Annual	6.4	14.7	45.2	62.75	66.75	1.2
Cumulative	6.4	21.1	66.3	129.05	198.8	200

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Program Development Objective: to strengthen capacity of core national and county institutions to improve delivery of devolved services at the county level.

Compliance

Policy

Does the program depart from the CPS in content or in other significant respects?	Yes [ ] No [X]
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Does the program require any waivers of Bank policies applicable to Program-for-Results operations?	Yes [ ] No [X]
Have these been approved by Bank management?	Yes [ ] No [ ]
Is approval for any policy waiver sought from the Board?	Yes [ ] No [X]
Does the program meet the Regional criteria for readiness for implementation?	Yes [X] No [ ]

Overall Risk Rating: High

Legal Covenants

Name	**Recurrent**	**Due Date**	**Frequency**
Program Operational Manual		By Effectiveness	
Description of Covenant: The Recipient has prepared and adopted the Program Operations Manual in accordance with the provisions of Section I.D.5 of Schedule 2 to The Financing Agreement.			
KDSP Secretariat, KDSP Technical Committee, and KDSP Joint Steering Committee		By Effectiveness	

Description of Covenant: The Recipient has established the KDSP Secretariat, KDSP Technical Committee, and KDSP Joint Steering Committee, in accordance with the provisions of Section I.D.2 of Schedule 2 to The Financing Agreement.			
Functional system for tracking Program expenditures and outputs		June 30, 2016	
Description of Covenant: The Recipient, through National Treasury, the National Treasury shall, by no later than June 30, 2016, provide the Association with evidence of the Recipient's system for tracking Program expenditures.			
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Team Composition			
Bank Staff			
Name	**Title**	**Specialization**	**Unit**
Christopher Finch	Snr. Social Development Specialist	Task Team Leader	GSURR
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George Larbi	Practice Manager	Overall Guidance	GGODR
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		Resources Management	
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Christine Owuor	Consultant	Governance & Integrated Risk Assessment	GGODR
Dahir Warsame	Consultant	Procurement	GGODR
Renjit Sukumaran	Consultant	Capacity Building	
Jamexis Christian	Consultant	Environmental and Social Assessment	OPSPQ
Jesper Steffensen	Consultant	Overall grant design	GSURR
David Webber	Consultant	PforR Operations Advisor	OPSPQ
Tito Kodiaga	Consultant	Environmental and Social Assessment	GSURR
Annette Omollo	Consultant	Social Accountability	GSURR
Geoff Handley	Consultant	Economic Assessment	GGODR
Mark Owuondo	Consultant	Environmental and Social Assessment	GSURR
Non-Bank Staff			
Name	**Title**	**City**	

I. STRATEGIC CONTEXT

A. Country Context

1. **Although Kenya has maintained a good track record in macroeconomic management,** with economic growth rebounding after the 2009 crisis and remaining robust in the range of 5 percent, prevailing levels of growth (around 2 percent growth in income per person) have not been sufficient to make a significant dent on poverty currently estimated at about 43 percent.[1]

2. **There are major and persistent disparities in poverty levels, human development indicators and access to services across different regions**[2]. Poverty appears to have lessened in recent years, but levels of inequality remain higher in Kenya than in neighboring countries. Poverty levels vary widely (See Figure 1), and are highest in the arid and semi-arid regions in the north and north east -- areas with very little annual rainfall and low agricultural potential. Still, most poor people live in the more urbanized, agriculturally productive counties. Kenya's gini coefficient is estimated at about 0.45, one of the highest in the East African Community region. High levels of income inequality and inequitable access to basic services impede poverty reduction, and can feed conflict.

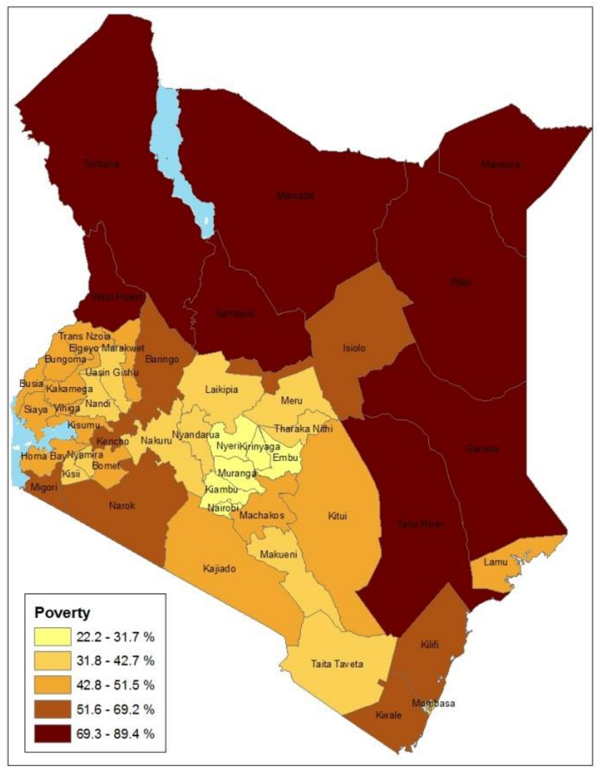

Figure 1: Poverty levels vary widely between and within counties

3. **Kenya has steadily improved economic management, and scores relatively well on measures of citizen voice and press freedom.** However, the public sector faces persistent governance challenges, and the business environment is not enabling the growth rates needed to significantly reduce poverty – due to a combination of constraints in infrastructure, quality of business services, and corruption that impede investment and productivity

[1] As outlined in the County Partnership Strategy and elsewhere, Kenya has experienced relatively steady growth that has been predominantly driven by domestic consumption and services, rather than extractive industries; it is likely that the benefits from growth have been spread broadly across income groups. Still, it is notable that Kenya's growth is largely urban (Nairobi and Mombasa alone account for about 40 percent of the country's wage earnings), while there has been a slow overall rate of increase in agricultural productivity.

[2] The populations, land areas, levels of urbanization, and economic potential of the new counties vary widely. County populations range from 102,000 in Lamu, to 3.5 million in Nairobi. County land areas range from Mombasa, with 219 km2, to Marsabit, with 70,961 km^2.

improvements[3]. These impediments hinder service delivery, private sector-led growth and job creation, which in turn exacerbate inequality and increase conflict vulnerabilities. These governance challenges disproportionately impact the poor.

4. **Kenya's 2010 Constitution seeks to address these challenges, and represents a fundamental shift in the country's policy and institutional framework.** The Constitution seeks to rebalance executive, legislative and judicial powers, and to increase the responsiveness, inclusiveness, and efficiency of government service delivery. It provides for multiple reforms, including a strengthened legislature, judiciary, decentralization, new oversight bodies, and increased transparency and accountability to citizens. Implementation has largely proceeded according to Constitutional timetables, as the Government established new oversight bodies, and overhauled the legal architecture to make way for 47 new elected county governments and county assemblies.

B. Sectoral and Institutional Context

5. **Among the many reforms ushered in by the Constitution, devolution is arguably the most ambitious.** Devolution brings a tectonic shift in Kenya's institutions, as multiple powers, responsibilities, and funds have shifted from the national government to 47 elected county governments. Devolution reforms seek to tackle long-term, deeply entrenched disparities between regions; shift from highly centralized, top-down government to a more responsive, "bottom-up" form of government; allow greater degrees of autonomy to different regions; reduce unequal access of the population to basic services, and address key drivers of conflict. Kenya's devolution is one of the most ambitious underway in the world, given that it involves the simultaneous transfer of power and finances to an entirely new level of government.

6. **Devolution formally began with the March 2013 elections, which proceeded peacefully without widespread violence.** Forty-seven new county governors, county assemblies, and senators were elected, consolidating multiple former levels of government. Central ministries were consolidated, from 40+ preceding the elections down to 18 new ministries, including a new Ministry of Devolution and Planning. A new Senate, representing the counties in the national legislature, was established. New inter-governmental bodies – including the Council of Governors (CoG), the Integrated Budget and Economic Council – were established soon afterwards.

7. **The 47 county governments quickly assumed responsibilities for delivering devolved services,** including health, agriculture, urban services, and local infrastructure. Other devolved functions include county roads, county planning and development, management of village polytechnics, and county public works and services.[4] Although the Constitution envisaged a three-year incremental transition and transfer of these functions, most functions were transferred to the new counties within the first six months following March 2013 elections. National government maintains a policy and standard setting in these areas.

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[3] See, Country Economic Memorandum, World Bank, Forthcoming. The Global competitiveness report 2015

[4] Unlike devolution in many countries, in Kenya basic education remains a national function, with the exception of pre-primary education.

8. **The counties receive annual transfers from national government of over US$2.5 billion (KSh.250 billion) to carry out these devolved functions.** This financing is primarily provided through an unconditional transfer – called the "Equitable Share" – of nationally collected revenues. The Constitution provides that counties receive a minimum of 15 percent of national revenues of the last audited financial year. Counties were allocated KSh.190 billion (US$2.2 billion), KSh.226 billion (US$2.5 billion), and KSh.259 billion (US$2.6 billion) for the fiscal years 2013/14, 2014/15 and 2015/16, amounting to about 3.9 percent of gross domestic product (GDP) per year.

9. **The Equitable Share is then shared among the counties via a progressive formula that gives historically marginalized counties a larger per capita transfer than historically privileged counties.** The formula, known as the "Equitable Share formula," is based on population (45 percent), poverty (20 percent), equal shares (25 percent), land area (8 percent), and a 'fiscal discipline' component (2 percent) that is currently shared on an equal basis. County populations, land areas, levels of urbanization, and economic potential vary widely – county populations range from 102,000 in Lamu to 3.5 million in Nairobi. A consequence of this formula is that historically marginalized counties, in arid and semi-arid regions of the country, have significant discretionary budget resources, whereas historically privileged counties, including most urban areas, face fiscal constraints. The Constitution also provides for an Equalization Fund amounting to 0.5 percent of total nationally generated revenues (not yet implemented), as well as for conditional transfers – currently covering provincial hospitals, and the operation and maintenance of health facilities. The Constitution grants limited revenue-raising powers to counties (the largest being property rates and single business permits), thus most counties remain highly transfer-dependent.

10. **The first three years of devolution have brought notable progress, as well as significant challenges,** as counties seek to simultaneously deliver devolved services and build brand-new institutions and systems. New county governments and assemblies have been established and are beginning to deliver investments and services, including services never seen previously in some disadvantaged regions and communities. Not unexpectedly, there are also major challenges: attracting, training, and retaining competent staff, and managing staff and wage bills inherited from former local authorities and ministries in devolved sectors; managing public finances; translating county development priorities into budgets and actual projects; and managing political and ethnic tensions within counties. There are regular allegations of mismanagement of public funds, and signs that some forms of conflict have also "devolved". Progress is hindered by sustained competition – between county and national governments, between county governments and assemblies, between governors and senators, as new intergovernmental mechanisms are established. Nonetheless, public support for devolution has remained quite strong, with around two-thirds of Kenyans expecting that devolution will bring more opportunities than risks.

11. **These achievements and challenges highlight the major implications that devolution has for poverty reduction, service delivery and economic growth, and governance.** There is widespread agreement that devolution has created a new reform space, and new momentum, for more responsive, equitable, efficient and accountable local service delivery. Converting this into actual improvements in on-the-ground service delivery will depend on the quality of county institutions – and their capacity to effectively plan, finance, implement and monitor investments

and services – as well as on the incentives that drive them. In summary, the early years of devolution provide a window of opportunity to strengthen new county institutions and systems, and to reinforce positive incentives. However, this will require significant dedicated effort, and financing.

C. Relationship to the Country Partnership Strategy and Rationale for Use of Instrument

12. **Supporting the rollout of devolution is one of three top priorities in the World Bank's Country Partnership Strategy** (CPS) for FY 2014-18. This reflects the major implications that devolution brings for Kenya's goals to achieve shared prosperity, reduce poverty, and address pervasive inequality. The roll-out of devolution will also be a critical determinant of whether other objectives in the CPS can be achieved, including: (a) better livability in key urban centers; (b) improved agriculture productivity; c) improved delivery of health services; (d) reduced vulnerability to climate change, especially in the Arid and Semi-Arid Lands (ASALs); and (e) enhanced transparency in the use of public resources.

Rationale for Bank Engagement and Choice of Financing Instrument

13. **The operation draws on extensive analysis and technical assistance on devolution that the Bank has provided to Kenya** since shortly after the Constitution was promulgated. Supported by Bank budget and trust funds, a cross-practice World Bank team under the Kenya Accountable Devolution Program has provided analytical and technical support on fiscal decentralization, devolved public financial and human resource management, planning and monitoring and evaluation (M&E), and citizen engagement to national and county governments. This has highlighted the need to build capacity and deepen incentives for national and county governments to strengthen core systems for devolved government, including intergovernmental mechanisms. In turn, this will provide a foundation for counties to deliver more effective and equitable devolved services, and leverage the US$2.5 billion that counties receive annually via the Equitable Share.

14. **The rationale for using the Program-for-Results (PforR) financing instrument is as follows. First,** introducing a results-based approach to building capacity for devolution will leverage the effectiveness of other capacity building resources at both national and county levels. The PforR instrument will support the government to introduce a well-targeted incentive structure in which clearly identified performance is linked to disbursement -- leveraging the institutional outcomes the Program is meant to achieve. By systematically measuring capacity results, the operation will help other capacity building resources to be effective, including those provided by counties themselves and by development partners. This addresses a key gap in the Government's capacity building framework, which has been hindered by the lack of a clear set of desired results and a regular, systematic way of measuring progress. The choice of instrument is supported by experience in similar Programs in the region. **Second,** the PforR instrument will expand the government financing dedicated to devolution capacity building in five key results areas (KRAs), complementing external partner financing. **Third,** the PforR will strengthen alignment of national and county results. The operation supports complementary actions by national government and by county governments to strengthen core capacities for devolved public financial management, human resource management, M&E and public participation. Disbursement-Linked Indicators (DLIs) specifically target national government actions that will

help counties respond to the conditions, capacity and performance measures, and incentives in the Program-supported grants. **Fourth,** since the PforR focuses on enhancing existing country systems and financing for capacity building, it will reinforce government's own program and system strengthening initiatives, including through providing results-based financing (RBF) directly to counties.

15. The operation also complements large Bank-financed portfolios in devolved sectors where counties now play the main role in service delivery: - health, agriculture, urban development, community-driven development, and local infrastructure – which will also depend on the same devolved systems.

II. PROGRAM DESCRIPTION

A. Program Scope

Government program

16. **In response to the major capacity challenges posed by devolution, the national and county governments developed the National Capacity Building Framework (NCBF) in 2013.** The overall objective of the NCBF is "to ensure the devolution process is smooth and seamless to safeguard the delivery of quality services to the citizenry." The NCBF has five pillars: Training and Induction; Technical Assistance to Counties; Inter-governmental Sectoral Forums; Civic Education and Public Awareness; and Institutional Support and Strengthening. During the first two years of devolution, under the NCBF, the national government put in place multiple new laws and policies, rolled out systems (e.g. the integrated financial management information system – IFMIS), designed and rolled out induction trainings for large numbers of new county staff from different levels of county government, and initiated medium-term capacity initiatives focused on the new counties.

17. **Following a review of implementation, the Government has developed the NCBF Medium-Term Interventions (NCBF-MTI),** a results-focused implementation program and expenditure framework for the NCBF covering the period FY14/15 – FY17/18. The MTI provides a set of results and outputs against which capacity building activities at both levels of government can be measured. It provides the basis for a more coherent, well-resourced, and coordinated devolution capacity support across agencies at national and county levels, as well as by other actors. The MTI defines priority objectives, outputs, and budgets for building devolution capacity across 5 key result areas:

a) KRA 1: Public Financial Management

b) KRA 2: Planning, Monitoring and Evaluation

c) KRA 3: Human Resource and Performance Management

d) KRA 4: Devolution and Inter-Governmental Relations

e) KRA 5: Civic Education and Public Participation

18. **For each key result area, the Government's Medium-Term Interventions program defines both national and county level results,** as well as key outputs and activities. In most cases, achieving priority results in each KRA depends on both national government and county government actions.

19. **Many of the priority capacity results under the NCBF program will depend on counties to take specific implementation measures.** Global and Kenyan experience, including experience under the NCBF, have highlighted that centrally-executed capacity building programs, although they provide critical inputs, by themselves may not be adequate to catalyze sub-national government capacity results. Supporting and incentivizing counties to achieve these results is equally or more important.

20. **Based on this experience, the Government intends to introduce new fiscal transfers – performance-based grants -- from the central government to counties.** The 2015 Budget Policy Statement (BPS) states that the national government will design a performance grant framework "to support county governments as the centers for service delivery and economic expansion, especially in the areas of public financial management (PFM), good governance practices and supporting the counties to be fully operational," as well as to enhance fiscal responsibility principles. The draft 2016 Budget Policy Statement builds on this proposal:

> *"Counties will be free to 'opt into' the grant, which will entail agreeing to prepare and implement a capacity building plan, an annual performance assessment, reporting on grant funds received, among other 'conditions'. In the first year (2016/17), participating counties will receive a basic allocation shared out as follows: 50 percent using the equitable share formula and 50 percent equally. In subsequent years, well-performing counties will receive an extra allocation shared out using an index combining the equitable share formula and [their] performance scores. Counties will be able to invest proceeds from the capacity/performance grant on a range of eligible development projects as per their approved County Integrated Development Plans (CIDPs)."*

21. **Performance and capacity grants to counties are thus envisioned to be a key instrument of devolution capacity building**– by helping to define key capacity results at the county level, regularly assess progress, and strengthen incentives for counties to achieve these results. In turn, counties that manage to strengthen these key PFM, human resource and performance management (HRM), planning and M&E, and citizen education and public participation capacities will be better equipped to manage county revenues and service delivery, achieve county development objectives, and access other sources of development financing.

22. **These government-executed activities are complemented by extensive support from multiple development partners who are supporting devolution capacity support under the NCBF.** The three largest programs are supported by the United Nations Development Program (UNDP), the European Union (EU), and the United States Agency for International Development (USAID), as well as by the Bank's Kenya Accountable Devolution Program, which is funded via a multi-donor trust fund (MDTF) financed by the Department for International Development-UK (DfID), DANIDA, the EU, Finland, Sweden, and USAID. Together, these programs will provide more than US$100 million in devolution capacity building support over the coming four to five years. Through the Devolution Sector Working Group (DSWG), discussions are

underway with partners on how to align activities around the NCBF-MTI, as well as on how the new fiscal transfers and annual capacity and performance assessment – supported by the Program – can reinforce and complement capacity building supported directly at the county level. Much of the development partners' support focuses on the five NCBF-MTI key results areas, toward which the partners provide a wide range of capacity building inputs, often to specific targeted counties.

The PforR Program: Kenya Devolution Support Program

23. **The Kenya Devolution Support Program (KDSP) will support implementation of the five key results areas (KRAs) under the NCBF-MTI.** It will finance results around the strengthened capacity of both national and county institutions in the five key results areas:

- ***KRA 1 - Public Financial Management*** including improved county budgeting, revenue management; use of IFMIS; financial accounting, recording and reporting, procurement, and internal and external audit performance.
- ***KRA 2 – Planning and Monitoring and Evaluation*** including improved county planning, progress reports, monitoring & evaluation, and linkages between county plans and budgets.
- ***KRA 3 - Human Resource and Performance Management*** including county staffing plans, HR competency frameworks, appraisal and performance contracting systems.
- ***KRA 4 – Devolution and Inter-Governmental Relations*** including introduction of a new performance-based conditional grant.
- ***KRA 5 - Civic Education and Public Participation:*** enhanced rollout of civic education and county civic education units; greater number of counties that meet the County Government Act requirements for public participation and transparency.

24. **For each KRA, the PforR will support national and county-level results** that contribute to strengthened institutions for devolved service delivery. Essentially, the PforR will support and incentivize national government to provide improved capacity building support to counties in each KRA, while simultaneously supporting counties to make system and capacity improvements.

National results

25. **The national activities supported by the PforR** will include improved county audits, assessments of county capacity, and enhanced provision of policies, systems, guidelines, training modules, and technical assistance that counties require to strengthen their PFM, HRM, planning and M&E, and citizen engagement and public participation systems mechanisms. These will include the following results:

26. **Result 1: Improved timeliness and quality of county audits.** The Office of the Auditor General's annual audits of county financial statements are a critical measure of county financial management (FM) performance. These audits play an important role in assessing overall county fiduciary capacity and governance, and they will also provide a key measure in determining how

much a county can receive through the new grants. As it adapts to new responsibilities, the Office of the Auditor General completed the first set of county audits more than six months after the statutory deadline. The Program will therefore include support to the Office of the Auditor General to conduct these audits in a timely fashion aligned with its statutory obligations.

27. **Result 2: County capacity in the NCBF-MTI Key Results Areas is assessed annually and is linked to funding through a new performance-based grant system.** The NCBF Status Review found that implementation of the NCBF has been hindered by the lack of a framework of results measuring county institutional capacity, combined with a regular assessment of progress. Although the government has mobilized significant capacity building resources, it has proven difficult to measure the effectiveness of the inputs provided, as well as to make sure that capacity building resources are channeled to where they are most needed. The Program will therefore introduce an assessment methodology, called an Annual Capacity and Performance Assessment (ACPA), which combines self-assessment with an external assessment conducted by an independent firm. Self-assessment will help counties become familiar with, and design capacity building interventions, which address the unique needs of each county. External assessment will be conducted annually to ensure objectivity in monitoring progress, especially as funding will be linked to performance as detailed below. The ACPA methodology is based on a year-long design process that has included detailed field testing in several counties. To ensure objectivity, the assessment will be conducted by an independent firm that is hired through a competitive procurement process, with results independently verified. County representatives will be involved in determining the terms of reference (ToRs), and serve on the Technical Committee (TC) that oversees the procurement process.

28. **Results 3 to 6: Improved national government-executed capacity support to counties in PFM, HR, planning and M&E, and civic education and public participation.** Based on the results of the ACPA, the National Treasury **(result 3),** Ministry of Devolution and Planning (MoDP) **(result 4),** Ministry of Public Service, Youth and Gender Affairs (MoPSYGA)-Directorate of Public Service Management (DPSM) **(result 5),** and the Kenya School of Government (KSG) **(result 6)** will enhance the quantity and quality of their capacity building support for counties on PFM, planning and M&E, HRM, and public participation. KDSP will accelerate and deepen support that national ministries and KSG provide to counties. In each KRA, the Program will accelerate the design and rollout of:

- National guidelines, regulations, and systems that counties need to strengthen their institutional capacity.
- Structured learning (classroom training) including uncompleted county training curricula and modules in four KRAs (PFM, HRM; planning and M&E; civic engagement and public participation).
- Technical assistance and on-the-job learning to help county staff apply and master new responsibilities in each KRA.
- New learning modalities and knowledge exchange platforms, incorporated into national and county-executed capacity building, including: (a) systematic capturing of devolution experiences; (b) platforms for exchange and learning between counties (peer-to-peer learning); (c) greater emphasis on tailoring capacity building to demand-side needs.

County results

29. **At the county level, the capacity and performance grants supported by KDSP will finance and support county capacity building activities, investments, and incentives** for improved performance. The grants will flow through government systems as a conditional transfer from national to county governments. All counties that qualify to access the capacity and performance grants will receive grants for capacity building averaging US$300,000. Starting in year two, all counties that meet more rigorous conditions will be eligible to receive larger grants averaging an additional US$1.5 million to fund part of their investment program.

30. **Result 7: Increased number of counties have basic fiduciary, procurement, environmental and social management, grievance redress systems, and staff in place.** Since only counties that meet minimum standards will be eligible to compete for the grants, the grants will incentivize counties to ensure that basic fiduciary, environment, and social management measures, systems, and staff are in place. Meeting these minimum conditions will enable counties to compete for the grants, and will also strengthen core county systems to effectively manage other resources to achieve priority county results.

31. **Result 8: Improved performance of participating counties in PFM, HRM, planning and M&E, and civic engagement and public participation.** The program will incentivize and support counties to strengthen the core systems needed for effective service delivery, infrastructure investment, and governance. Counties that meet the minimum performance conditions will then be able to receive larger grants to supplement county investments under their County Integrated Development Plans (CIDPs). These grants will depend on the results of the annual capacity and performance assessment that will review county capacity on approximately 35 performance measures. County scores (between 1-100) will determine county grant allocations for the coming fiscal year based on:

- public financial management (30 points)
- human resource and performance management (12 points)
- planning and monitoring and evaluation (20 points)
- civic education and public participation (18 points)
- investment and social/environmental management (20 points)

Implementation of the results

32. **National government capacity building results will be defined and assessed annually**. Participating ministries and agencies will each develop annual work plans that plan interventions to address weaknesses identified by counties and through the annual capacity and performance assessment. These work plans will be supported by resources in the government budget. As noted above (para 23), national capacity building will focus on rolling out guidelines, systems, classroom training, technical assistance, knowledge exchange to support counties in the NCBF-MTI focus areas reviewed in the assessment and supported by the grants. Departments will monitor and report on implementation of these work plans, which will be reviewed by the Technical Committee including county representatives. The government's Performance Contracting Unit will verify whether departments have met target implementation rates.

33. **Each year the annual capacity and performance assessment (ACPA) will assess counties on three sets of indicators:** (a) Minimum Access Conditions, (b) Minimum Performance Conditions, and (c) Performance Measures. The ACPA will be conducted by an independent firm procured by a Secretariat housed in MoDP, under the oversight of the KDSP Technical and Joint Steering Committees. The allocations, based on this assessment, will be included in the draft Budget Policy Statement and relevant draft budget legislation submitted to the National Assembly in February. The Minimum Access Conditions, Minimum Performance Conditions, and Performance Measures, summarized in Annex table 1.1, are drawn from the NCBF-Medium Term Interventions, and were further refined through an extensive design process involving multiple agencies and departments and field testing in several counties. They were developed in parallel with the Fiduciary Systems Assessment and the Environmental and Social Systems Assessment conducted as part of PforR preparation, and are designed to address key gaps and capacity needs that emerged from those assessments.

34. **To qualify to receive any capacity and performance grants allocation, counties must meet Minimum Access Conditions, including:** signing a letter of commitment agreeing to grant conditions; developing an annual capacity building plan; implementing the previous year's capacity building plan satisfactorily (from the 2nd assessment onwards); and adhering to the capacity building investment menu.

35. **Each year, counties that meet the Minimum Access Conditions (MACs) will receive a 'Level 1' allocation averaging KSh.30 million** (approx. US$300,000). With the exception of the assessment for grants in FY 2016/17, the assessment of achievement of these MACs will be conducted as part of the ACPA conducted by an external firm, to be hired by MoDP. The assessment teams will conduct fieldwork in September – October each year, starting in 2016. For the 2016/17 allocation, counties will conduct a self-assessment as the basis for developing capacity building plans. An independent consultant contracted by MoDP will then review whether these plans meet the Program requirements. This assessment will be overseen by the KDSP Technical Committee, where the two levels of government are represented, which will verify whether the Disbursement-Linked Indicator (DLI) for FY 2016/17 grant disbursements has been achieved.

36. **To receive larger "Level 2' grants for county investments, counties will need to meet the Minimum Performance Conditions (MPCs).** These measures of a county's basic capacity in PFM, environmental and social management, and complaints handling are designed to assess whether a county has the basic systems and capacities to manage additional funds. As mentioned above, these MPCs also draw on findings of the Fiduciary and Environmental & Social systems assessments conducted by the Bank. The size of the Level 2 allocation to each county will depend on their score on a set of performance measures, assessed through the ACPA, and will average around KSh.150 million (approx. US$1.5 million).

37. **Grants will be sequenced over time,** starting with Level 1 capacity grants in the first year followed by Level 2 grants covering a broader range of investments in subsequent years. The menu of capacity building investments covers organizational development and system development, technical assistance and peer learning, relevant equipment investments, and training activities. Counties that meet the minimum performance conditions will be able to fund a broader set of investments, which includes any development project included in their CIDPs,

except for projects that have a substantial risk of significant adverse environmental or social impact. Throughout the Program, counties that meet only minimum access conditions and not minimum performance conditions will be limited to capacity building investments. The investment menu is described in more detail in Annex 10.

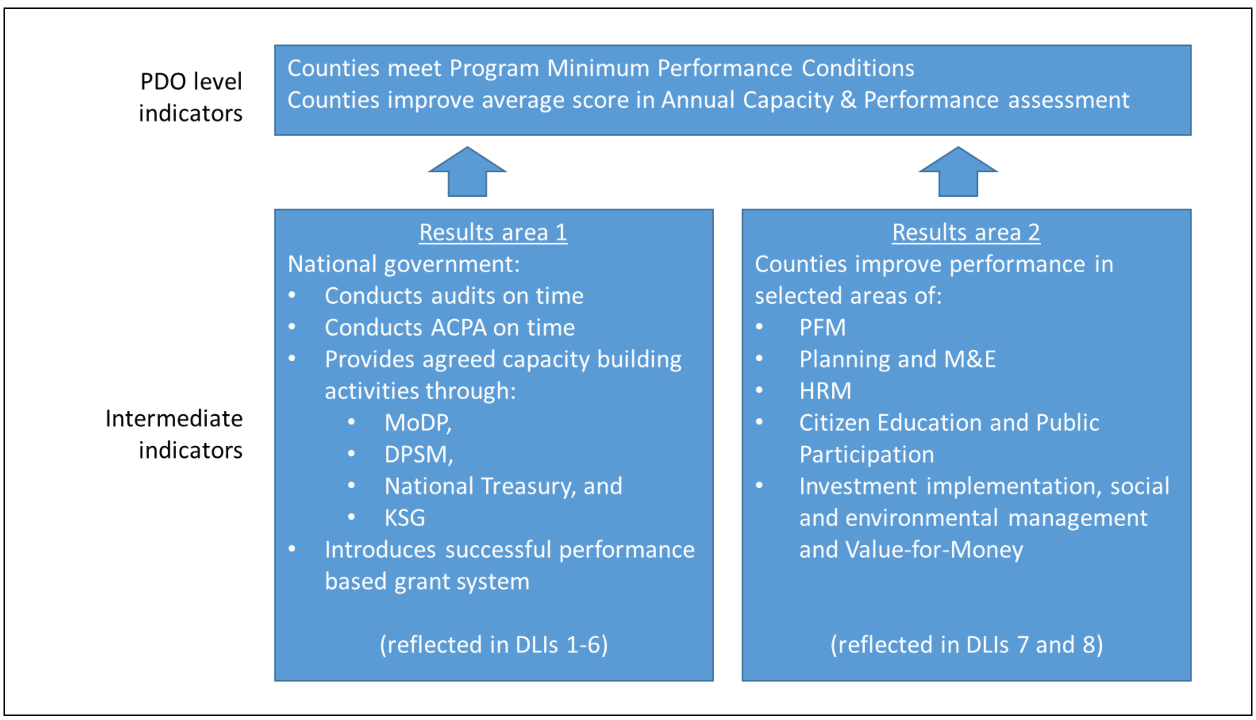
Table 1: Program Financing Summary (US$ Million)

Source	Amount (US$ Million)	% of Total
Government	**87.3**	**30**
IDA	**200.0**	**70**
Total Program Financing	**287.3**	**100**

B. Program Development Objective

38. **The Program Development Objective (PDO)** is to strengthen capacity of core national and county institutions to improve delivery of devolved services at the county level. The Program's results framework has two PDO level indicators, supported by intermediate results that are categorized as national and county government results, as follows:

Figure 2: PDO Level Indicators and Intermediate Indicators



C. Program Key Results and Disbursement-Linked Indicators

39. **The Program's Disbursement-Linked Indicators are structured to reflect achievement of these PDO-level and intermediate results.** All of the DLIs focus on strengthening institutional performance. The first set of DLIs aims to strengthen the monitoring

and assessment of county performance and the provision and coordination of capacity building by national government level agencies. These DLIs directly support national government and intergovernmental results, above. They contribute to the PDO level indicators by improving the effectiveness of support to county capacity through better monitoring of capacity improvements and strengthened capacity building activities. The second set of DLIs aim to strengthen county institutions in actually strengthening their capacity and systems in the same key results areas, and performing functions critical to infrastructure provision and service delivery and good governance. The DLIs contribute towards Program results primarily by strengthening the incentive structure around county performance.

Figure 3: Disbursement Linked Indicators (DLIs) – National Government Results and County Government Results

	Disbursement-Linked Indicator (DLI) summary	**Amount (US$ Million)**
National Government Results	1: Office of the Auditor General conducts county audits on time	5
	2: Timely implementation of the Annual Capacity and Performance Assessment (of which up to US$1.9 million will be financed through a Project Preparation Advance)	10
	3: Ministry of Devolution and Planning delivers capacity building support. (KRAs 2, 4 and 5)	7.5
	4: Ministry of Public Service, Youth & Gender Affairs-Directorate of Public Service Management delivers capacity building support.(KRA 3)	2.5
	5: National Treasury delivers capacity building support (KRA 1)	10
	6: Kenya School of Government delivers capacity building support. (all KRAs)	5
County Government Results	7: Counties meet Minimum Access Conditions	33
	8: Counties meet Minimum Performance Conditions	127
Total		200

National government results

40. **DLIs focusing on monitoring and assessment.** A total of US$15 million has been allocated for these results (including US$1.9 million financed through a Project Preparation Advance, and US$13.1 million through Program DLIs) to support monitoring and assessment of county performance to better inform planning and delivery of national and county capacity building activities.

- DLI 1: Office of the Auditor General submits audit reports on time and in compliance with the International Standards of Supreme Audit Institutions (ISSAI) for all counties that have submitted financial statements in compliance with the Public Financial Management Act (PFMA) and prevailing accounting standards.
- DLI 2: Introduction and timely implementation of annual capacity and performance assessment by the Ministry of Devolution and Planning.

41. **DLI funds will be disbursed upon timely completion of monitoring and assessment activities.** The capacity of the Office of the Auditor General to conduct audits of county financial statements within the required timeline is a substantial risk to the Program. The Program design addresses this risk through DLI 1. This DLI creates a significant incentive to ensure that the Officer of the Auditor General has capacity and is sufficiently resourced to meet required audit timelines. The Office of the Auditor General has developed a roadmap for improved capacity that proposes an improvement in timeliness of audits over the first two years of the Program, reflected in DLI 1 timelines. Under the oversight of the Technical Committee, MoDP will establish a KDSP Secretariat that will coordinate the annual capacity and performance assessment. The Assessment will be conducted by an independent firm, contracted by MoDP, but the Technical Committee (TC) will play an oversight role to ensure confidence in the process from a broad range of stakeholders represented in the Technical Committee (including the CoG Secretariat).

42. **<u>DLIs focusing on national government capacity building activities</u>.** A total of US$25 million has been allocated for these DLIs, which will support national government results by providing incentives to national government agencies to implement a well-coordinated, financed, strategically relevant set of capacity building activities for counties. The DLIs incentivize both the planning and coordination of activities, including linkages to budgets and departmental work plans, and also the degree of implementation of these plans. The submission of the prioritized annual work plans conforming to the agreed processes and format set out in the Program Operational Manual (POM) will trigger the disbursement of funds in year 1. Subsequently, disbursement will be based on a points system that considers the timely submission of annual work plans and the completion rate against annual work plan targets. Annex 4 Technical Assessment describes focus areas and indicative results for the respective national agency capacity building.

- DLI 3: Ministry of Devolution and Planning implements annual planned activities to strengthen countrywide frameworks and systems and to address county capacity gaps.
- DLI 4: Ministry of Public Service, Youth and Gender Affairs-DPSM implements annual planned activities to strengthen countrywide frameworks and systems and to address county capacity gaps.
- DLI 5: National Treasury implements annual planned activities to strengthen countrywide frameworks and systems and to address county capacity gaps.
- DLI 6: Kenya School of Government implements annual planned activities to address county capacity gaps.

County government results

43. **<u>DLIs focusing on counties</u>.** A total of US$160 million has been allocated to these DLIs, which will support county-level results by increasing incentives for county capacity and improvements in institutional performance. DLI 7 supports counties to improve the planning and delivery of their own capacity building activities. The Program will disburse upon national government allocation of grant funding to qualifying counties to implement an approved capacity building plan. DLI 8 supports counties to meet Minimum Performance Conditions that reflect a

county's basic fiduciary, environmental, social, and investment management, as well as citizen engagement. It further incentivizes them to improve performance in these same areas against the Performance Measures. The allocation received by each county will depend on their relative performance on these measures. Therefore, incentives will be focused at the individual county level, rather than across all counties.

- DLI 7: Counties have participated in an annual assessment of performance and met Minimum Access Conditions.
- DLI 8: Counties have participated in an annual assessment of performance, met Minimum Access Conditions and Minimum Performance Conditions for grant funding and implemented projects according to Program requirements.

D. Key Capacity Building and Systems Strengthening Activities

44. **The Program will support capacity building and systems strengthening both at national and county levels.** At the national level, as described in the Program Description, the Program will support: (a) capacity of the Office of the Auditor General to conduct timely county audits; (b) functioning of the KDSP Secretariat/MoDP to manage and coordinate the administrative aspects of the process including the ACPA; (c) enhancing the planning, delivery, financing of devolution-focused capacity building activities provided by MoDP, MoPSYGA-DPSM, National Treasury and KSG, and better coordinating and monitoring the effectiveness of these interventions. At the county level, the ACPA at the heart of the Program will measure improvements in counties' institutional capacity and systems. This Assessment will inform multiple Program activities, including the allocation of the capacity and performance grants, the prioritization of county-executed capacity building activities, and Program-supported national-executed capacity building.

45. **Specific areas of county capacity targeted under the PforR will also be augmented via the US$22 million Kenya Accountable Devolution Program managed by the Bank.** This multi-donor trust fund, supported by DfID, DANIDA, the European Union, USAID, Sweden, and Finland, enables Bank-executed analytical and technical assistance in six key areas of devolution capacity that map closely to the Government's NCBF and to the KDSP: (a) fiscal impacts of devolution; (b) public financial, and human resource management; (c) planning and M&E, performance monitoring, and open data; (d) social accountability and citizen engagement; (e) support to devolved service delivery sectors; (f) knowledge exchange. While these resources will support a set of results discrete from the PforR, they will complement the PforR results.

III. PROGRAM IMPLEMENTATION

A. Institutional and Implementation Arrangements

46. The Program will be implemented using the existing intergovernmental architecture as enshrined in the Kenya Constitution 2010 and implementing legislation.

County Governments

47. **The majority of Program funds will be ultimately executed at the county level. Program Grant funds will be disbursed to the County Revenue Fund (CRF).** County Treasuries (CT) will apply to the Controller of Budget (CoB) for release of funds from the CRF to county operating accounts. Counties will spend funds according to national laws and regulations, including those relating to environmental and social assessment and complaints handling. All expenditures will be recorded in IFMIS. Grant financed activities will be identifiable within IFMIS. County Treasuries will also submit quarterly reports, which summarize which county projects have been financed using capacity and performance grant funds. The CoB will trial the inclusion of this information in the regular quarterly budget implementation reports that are submitted to the CoB, and will be copied to MoDP and NT.

48. **The counties will be responsible for planning, budgeting, implementing and reporting on Program-funded activities,** consistent with their mandate under the County Government Act and the Public Finance Management Act. The county secretary will be the focal person, responsible for implementing and reporting on Program activities and the contact point for e.g. the annual capacity and performance assessment and other interventions. Counties will be represented on the Joint Steering Committee and the Technical Committee. Counties will have a role in the procurement of the ACPA assessment teams via the Technical Committee's oversight function.

49. **County governments will also be responsible for implementing activities to improve capacity in the NCBF key results areas, as measured by the ACPA.** Counties will complete Annual Capacity Building Plans, based on needs assessments informed by the ACPA. Counties will execute these plans and report on progress towards plan objectives. Counties will also complete and submit an annual capacity self-assessment, and will facilitate the independent assessment teams in verification of the capacity assessments.

National Government

50. **Several national government entities will support program implementation.** MoDP will be responsible for overall Program Management, while NT will be responsible for Program financial management. Both the National Treasury and MoDP, as well as MoPSYGA-DPSM and KSG, will provide capacity building support to counties in the Program KRAs. The Office of the Auditor General will be responsible for all Program audits. The CoB and the National Environmental Management Authority (NEMA) will also support Program implementation. The DSWG, which has overall responsibility for the NCBF, will share information on the government program that will influence KDSP.

51. **In order to support the functions under the KDSP, a small dedicated Secretariat/Unit will be established within MoDP** to support the operations of the new grant scheme, related capacity building support and the coordination of the annual capacity and performance assessment. The KDSP Secretariat will be placed within the Directorate of the MoDP responsible for capacity building and will report, through the relevant Director, to the Principal Secretary (PS) Devolution in the Ministry of Devolution and Planning, and will provide reports and secretariat functions to the KDSP Joint Steering Committee and Technical

Committee. The Secretariat will include at least the following 6 full-time professional staff[5]: (a) program coordinator; (b) intergovernmental fiscal relations expert; (c) capacity building specialist; (d) financial management specialist; (e) procurement and social/environmental safeguards specialist; and (f) monitoring and evaluation specialist.

52. **Participating ministries and agencies will be responsible for appointing focal persons and teams to coordinate capacity building plans and activities across departments,** ensuring that adequate budget and staffing are mobilized, liaising with and supporting the KDSP Secretariat, and integrating their KDSP support within ministerial/departmental work plans, budgets, staff responsibilities, and performance contracts. A draft intergovernmental agreement clarifying respective roles and responsibilities of participating government entities will be included in the Program Operations Manual and the GoK expects to formalize this in an appropriate intergovernmental instrument early in the implementation process.

Governance arrangements

53. **Implementation of the NCBF is coordinated by the Devolution Sector Working Group (DSWG), which has broad government and Development Partner representation.** To ensure ownership and coordination of government-executed activities under the KDSP, the government is establishing a KDSP Joint Steering Committee and Technical Committee, with a dedicated KDSP Secretariat. This will complement the broader DSWG framework by providing a forum and governance focused on coordination and improvement of government-executed capacity building support. These arrangements are described in more detail in annex 1.

B. Results Monitoring and Evaluation

54. **The objective of the Program M&E system is to generate timely and relevant feedback on implementation progress against the targets defined in the results framework.** This will allow both the GoK and Bank teams to assess implementation progress and address challenges and issues in a timely manner. The overall Program will be monitored and evaluated through the use of a number of M&E tools throughout implementation, including county budget implementation reports and financial statements, the annual capacity and performance assessment, capacity building implementation reports on the national and county capacity building plans, and a planned Program Mid-Term Review.

55. **The program has an elaborated Program Result Framework,** (Annex 2), which will be monitored on an annual basis throughout the implementation of the 5 year-Program. Participating counties will prepare County Implementation Reports which will include:

- Information on physical outputs – namely, the sector investment projects that were initially planned and subsequently implemented with capacity and performance grants funds;
- Planned and implemented capacity development activities;

[5] Subject to normal staff turn-over / replacement processes

- How the county has addressed environmental/social management requirements for each county project financed; and
- How the county has dealt with procurement grievances and corruption cases.

56. **County Implementation Reports will either be developed as stand-alone Program reports, or will be incorporated into existing reporting requirements.** MoDP has developed planning and reporting formats (for the data that cannot be captured in IFMIS reports) for the planning and use of the grant funds for counties. The CoB will trial the inclusion of this information within the Quarterly Budget Implementation Reports currently submitted to the Controller of Budget, with copies submitted to MoDP and the National Treasury. If reports are not integrated into existing reporting structures, counties will compile separate Program reports following formats described in the POM. County reports will be reviewed and collected as part of the ACPA, as compliance with key reporting requirements is included in the assessment. Timely submission of reports will also be a trigger for continued disbursement of grant funds.

57. **Subsequently, MoDP will use the County Implementation Report and other sources to compile their Annual Program Report** that will include: (a) Summary of the ACPA results, including the performance of participating counties and the disbursed amounts; (b) Summary of aggregate information on environmental and social assessments and management; (c) Summary of aggregate information on procurement grievances; and (d) Summary of aggregate information on fraud and corruption issues. The report will also summarize grievances and complaints addressed through national government and oversight agencies.

58. **The KDSP Secretariat is responsible for planning, contracting out and supervising the implementation of the annual capacity and performance assessment**, which is the major M&E tool for verifying the performance of the counties. The annual assessment will be carried out by an independent firm to ensure the objectivity of the process. The assessment will be carried out in accordance with the POM / Capacity and Performance Assessment Manual. The Secretariat will ensure timely communication and reporting on implementation progress, program expenditures and county assessment results. To manage the Program M&E system, MoDP will ensure an M&E Specialist is in place in the KDSP Secretariat. The role of the M&E Specialist will be to collect implementation information and prepare an annual progress report, including on progress against the program indicator targets.

C. Disbursement Arrangements and Verification Protocols

59. **Disbursements against DLIs 1 - 6 will be annual. Disbursements against DLIs 7 and 8 will be bi-annual.** Disbursements will be timed to reflect disbursements of the Capacity and Performance Grants from national government to counties. An initial disbursement on Program effectiveness will be made to repay PPA funds drawn down by government.

60. **The basis for verification for DLIs 1, 2, 7 and 8 will be the annual capacity and performance assessment.** The independent firm hired to conduct the ACPA will submit their report to the KDSP Technical Committee for verification. However**,** the ACPA firm will not be hired in time for verification of the first disbursements against these DLIs. Therefore the first disbursement of DLI 1 will be verified by the KDSP Technical Committee on the basis of the

audit reports submitted to the Senate. The first disbursement of DLI 7 will be verified by KDSP Technical Committee based on an assessment by independent consultants hired by MoDP. The first disbursement of DLI 2 will be verified by the Performance Contracting Unit in MoPSYGA-DPSM. The ACPA will measure the performance of counties against the Program's minimum access conditions, minimum performance conditions and performance measures (see annex 1 for a summary of Program Minimum conditions and Performance Measures). Results of the ACPA will be verified by the KDSP Technical Committee, and quality assured by the Bank (the Bank may contract independent consultants to spot check the findings of the ACPA as an input to the verification process). Verified ACPA results will be the basis for disbursements of DLIs 1, 2, 7 and 8.

61. **The verification of DLIs related to national government performance (DLIs 3, 4, 5 and 6) will be based on annual workplans and implementation reports** produced by the implementing ministries and KSG based on the desired results, guidelines and templates described in the POM and associated capacity building manual. The Ministries will submit these work plans and implementation reports to the KDSP Secretariat for an initial review. These will then be submitted to the Performance Contracting Unit within the DPSM for independent review. The Performance Contracting Unit will submit a report to the KDSP Technical Committee affirming that the work plans conform with the requirements described in the POM, and affirming the implementation rate achieved. The TC will verify this report and the consequent level of achievement of disbursement-linked results. The potential conflict of interest in a unit within the MoPSYGA-DPSM verifying a DLI achieved by the same Department has been considered acceptable because of the role of the KDSP Secretariat and Technical Committee in supporting and assuring this verification, and the regular PCU practice of contracting external, independent evaluators to assess performance.

IV. ASSESSMENT SUMMARY

A. Technical (including program economic evaluation)

Strategic relevance

62. **The primary strategic goal of the Program is to improve the capacity of county governments to manage resources effectively** to deliver improved services and infrastructure investments. The Program design recognizes that building sub-national capacity cannot be achieved through supply-side capacity building activities alone. The Program therefore combines support for improved national government-executed capacity building with incentives and investments for counties themselves to make measurable capacity improvements. The combination of annual assessment, greater investment in capacity building support, and improved incentives for county performance on institutional capacity will deliver faster and broader achievement of NCBF results. The primary strategic challenges posed by the country and sector context have been well addressed by the Program design. The design balances the political economy need to include all counties in the Program, with the need to ensure that the limited Program resources can create a significant incentive effect. This is achieved through the two-level grant design, and the exponential allocation principle.

Technical Soundness

63. **The Program design responds to prominent technical challenges.** The Program includes support to the Office of the Auditor General to ensure that county audit reports are available in time for Grant appropriations through the budget cycle. The Program includes significant support to strengthen institutional structures and systems that are crucial in order for counties to deliver devolved services effectively, including strengthened fiduciary, human resource management, and citizen feedback systems. It also supports establishment of new grant management systems to reinforce inter-governmental financing in the new devolved architecture. The design focuses on strengthening the implementation of the NCBF, namely coordination of activities of many actors, and complementing traditional classroom training and technical assistance, with a strengthening of the incentive structures for counties themselves to demonstrate measurable improvements in institutional capacity. Finally, the performance grant is designed to be appropriate to the Kenya context, by being available to all counties, allowing a broad investment menu, introducing a strong performance incentive, and utilizing existing reporting structures wherever practical. The grant and annual performance assessment design have benefited significantly from lessons learned from experience within Kenya and the wider region, in particular Kenya's Local Authority Transfer Fund-LATF, Ethiopia's Urban Local Government Development Project-ULGDP, and Uganda's Support to Municipal Infrastructure Development-USMID Program.

Expenditure Framework

64. **National level Program expenditures will be managed through departmental budgets**, complemented by detailed activity level capacity building workplans, linked with annual departmental plans, budgets, and performance contracts. National level expenditures will be directed primarily toward implementation of oversight activities and capacity building support, primarily through recurrent government operational costs and contracting of technical assistance (TA) and service providers.

65. **Grants will follow requirements of the Constitution and the Public Financial Management Act**, and be managed by counties in accordance with government legislation and regulations. In addition, a Grant Manual will detail environmental and social safeguard procedures and Grant reporting requirements. Grants will finance capacity building activities from a limited investment menu and small to medium-sized sectoral investment projects. Grants will not be used to finance salaries or major large-scale capital works.

66. **The government has decided that 100 percent IDA financing is the optimal funding arrangement** during the introduction of the new capacity and performance grants. However, GoK is fully committed to ensuring the fiscal sustainability of the grant beyond the timeframe of the Program. To ensure that adequate consideration is given to future financing arrangements, a formal stock-take and process of discussion on financing of the grant will be undertaken, beginning in year 3 of the Program when the full capacity and performance grants begin disbursing.

Table 2: Estimated Program Expenditures

Item	Amount (US$ Million)
Expenditures by national government agencies	127.3
Grants to county governments	160.0
TOTAL	**287.3**
Program funding sources	
IDA	200.0
GoK	87.3
TOTAL	**287.3**

Economic Evaluation

67. **The economic analysis of the Program assessed two types of returns:** (a) the likely returns from investments financed by the capacity and performance grants; and (b) the likely returns from county public spending resulting from the strengthened public administration systems to be developed under the project, including a discussion of the likely benefits of improved quality of county public expenditures and increased capacity. Although the exact composition of investments to be undertaken across the counties is unknown, rural and urban roads are repeatedly cited by counties and citizens as their top investment priorities. Cost-benefit-analysis shows strong economic benefits of KDSP investments in road rehabilitation and maintenance. Combining the streams of costs and benefits over the lifetime of the urban roads results in an economic rate of return (ERR) of 29 percent. KDSP will both use and strengthen existing national and county government systems through a combination of targeted capacity building support and performance-based grant incentives. It is difficult to quantify potential economic returns from likely improvements in public investment management, but expected county improvements in the efficiency of investments and in the allocation of county investment budgets (to activities with greater economic returns) would yield significant improvements in economic returns as well as potentially freeing up additional fiscal space.

B. Fiduciary

68. **The assessment reviewed the fiduciary aspects of the two Ministries** (MoDP[6] and NT), KSG, and County Governments, in a manner consistent with the Bank Policy and Bank Directive on Program-for-Results Financing.

69. **The country-level fiduciary systems for the two Ministries, KSG and County Governments have both strengths and challenges.** The strengths include the enactment of various legislation to strengthen PFM systems, notably: PFM Law of 2012, the roll-out of IFMIS, and implementation of the PFM reforms including use of the standard chart of accounts (SCoA), use of electronic funds transfer, direct payments through G-pay/T24 system to improve efficiency in payments, setting up of the public sector accounting standards Board (PSASB) and

[6] Including the Directorate of Public Service Management, which at the time of the assessment was still within MoDP

adoption of international public sector accounting standards (IPSAS) and the strengthening of the capacity of the Office of the Auditor General.

70. **The identified challenges include;** poor linkage of procurement plans and work plans to the budget, and weak capacity of the procurement function, material in-country funds flow delays, weaknesses in internal control systems, challenges in the quality and timeliness of financial reporting, delays in setting up effective ministerial and county audit Committees, material audit report qualifications and delays in addressing outstanding audit issues, delays in issuance of audit reports for national and county governments by the annual December 31 deadline and carry-over of previous years' unresolved audit issues. At the county level, the challenges are mainly teething problems which are being addressed by individual counties with capacity building support from the National Government and various donor partners.

71. **The Constitution and legal framework have strong provisions on combatting fraud, corruption, and handling complaints on maladministration and service delivery.** This legal framework gives significant and independent powers to the Office of the Director of Public Prosecutions (ODPP), Ethics & Anti-Corruption Commission (EACC), and Ombudsman to exercise their relevant mandates at both national and county government levels. The EACC has a well-functioning, well-known and accessible complaints management system, linking key investigative, and transparency agencies. While the EACC has a robust complaints handling mechanism that works well with the National Treasury and the MoDP, the situation needs strengthening in counties where complaints handling mechanisms are still being fully established.

72. **The PforR operation is designed to strengthen key capacity and systems, at national and county levels, in areas where challenges remain** related to fraud and corruption. Financial management and procurement weaknesses account for over 50 percent of reports currently being investigated by the EACC regarding KDSP implementing agencies. Key mitigation measures of KDSP include: (a) national capacity building DLI to strengthen county PFM and procurement systems and capacity, including improved guidelines, training, systems rollout and technical assistance for counties; (b) minimum conditions (under DLI 8) that counties must meet to access larger grants, including satisfactory county audits, consolidated procurement plans, and complaints systems in place; and (c) performance measures (under DLI 8) that will further incentivize counties to address areas of weakness, including measures related to improved county financial accounting, recording and reporting, use of IFMIS, strengthened internal controls, quality of county audits, and improved legislative oversight. The program action plan (PAP) includes further actions to mitigate risks. Key risks and mitigation measures are compiled into a summary table in the fiduciary systems assessment.

73. **The implementation of KDSP fraud and corruption mitigation measures will be augmented by Bank support** to ongoing anti-corruption reform initiatives under the Kenya Accountable Devolution Program activities related to governance improvement (P157209)[7]. These initiatives include undertaking county corruption risk assessments and monitoring of

[7] The overall objective of the Kenya Governance Improvement Program is to support Kenyan Authorities and Non-Governmental stakeholders at national and sub-national levels to better achieve their development objectives by improving resource management through a programmatic series of activities. The program will seek to strengthen both country systems and World Bank portfolio performance.

implementation or recommendations made therefrom, training of community based anti-corruption monitors to participate in the fight against corruption and unethical practices at the county level, training of integrity assurance officers and aggressive county anti-corruption outreach programs. The Kenya Governance Improvement Program will also be supporting capacity building of the complaints management system at the county level.

74. **Due to the nature of the challenges, the conclusion of the fiduciary assessment** is that the combined overall fiduciary risk for the Program has been ***assessed as HIGH.*** The Program Action Plan (PAP) contains risk mitigation measures to increase capacity and improve systems and procedures. These specific mitigation measures are reinforced by relevant DLIs, including minimum conditions and performance measures that will be monitored during the Program's implementation. Mitigation policies are specified in the PAP. The Bank's fiduciary team will work closely with Government counterparts as part the PFM dialogue and Program implementation support. ***The conclusion of the assessment is that the PFM system complemented by the Program-specific mitigation measures is adequate to support the operation.***

C. Environmental and Social

75. **The Bank has conducted an Environmental and Social Systems Assessment (ESSA)** of the proposed Program for potential environmental and social impacts and determined that there is a moderate risk that the Program will support activities or investments that will lead to major environmental or social impacts. Based on the Program design, there are no activities likely to have significant **adverse** impacts that are sensitive, diverse or unprecedented and that may affect an area broader than the sites subject to physical works.

76. **The ESSA concluded that the existing environmental and social management procedures of the counties and NEMA are adequate for use under the KDSP.** Nevertheless, the ESSA identified potential issues related to the capacity of County government, and NEMA at the county level; and construction and operational phases of proposed projects including potential resettlement.

77. **For county government-executed capacity activities, the ESSA found that while existing systems and the Program design are adequate to manage environmental and social impacts associated with the planned capacity and performance grants, there are some issues relating to staffing and capacity at the county level.** Based on consultations with county representatives from 12 of the 47 counties, the ESSA found that the county capacity to manage social and environmental risks is nascent and quite variable. In addition, the ESSA found that while both county government staff and NEMA staff at the county level tend to possess adequate or basic qualifications, both NEMA and county governments are currently under-staffed and under-funded to handle the current volume of projects.

78. **With regard to county government investment projects supported by grants, the Program intends to support the construction and or rehabilitation, maintenance, and upgrading of key facilities in various sectors**, which are likely to lead to construction and operation impacts on the environment. Potential adverse impacts during construction and operations include among others, air pollution from dust and exhaust emissions; nuisances such

as noise, blocking access paths; water and soil pollution from the accidental spillage of fuels or other materials associated with construction works, as well as solid and liquid wastes from construction sites and worker campsites; traffic interruptions and accidents among others.

79. **These types of impacts, however, are generally site-specific, and limited in scope and magnitude.** These impacts are and can be for the most part prevented or mitigated with standard operational procedures and good construction management practices.

80. **KDSP will not support investments that lead to significant displacement of people causing impacts on property and livelihoods.** Nevertheless, proposed investments may lead to limited displacement (economic and physical), which could be temporary or permanent as well. A resettlement action plan (RAP) will be required for any investment with a likelihood of displacement. Furthermore investments displacing over 200 people will be excluded from KDSP support unless they are deemed critical by the county, in which case they will have to satisfy the additional safeguard conditions described in the investment menu. Other mitigation measures to minimize displacements include a requirement that whenever possible, investments be located in public land and within Right of Way for investments that are linear in nature. Guidelines for screening and mitigating social impacts will be included in the POM, and guidelines for resettlement will include considerations for vulnerable groups.

81. **Several features built into the PforR design further limit the risk of grant-funded county projects having significant environmental and social impacts**. **First,** the size of the expected grants will be relatively small, and so the grants will be unlikely to fund major infrastructure or other projects with significant impacts. **Second,** counties will need to satisfy basic minimum conditions of environmental capacity before they can qualify for a Level 2 grant (for investments). **Third,** the investment menu of eligible uses for the grants excludes county projects that are likely to have significant negative environmental or social impact. As such, the following types of projects will be excluded:

- Projects that require environmental impact assessments (EIAs)
- Projects that will result in the relocation of more than 200 people. However, in exceptional cases where more than 200 people are likely to be displaced a KDSP investment may only become eligible if unanimous consensus has been achieved with all people to be affected or displaced by the proposed investment. Furthermore, there should be proof/evidence that there has been a broader public consultation and engagement of all the relevant land acquisition institutions, and also that land take is in accordance with the legal framework on land acquisition in Kenya.
- KDSP investments will be implemented on communal lands only in circumstances when free, prior and informed consultation and broad consensus have been demonstrated to have taken place with affected communities who unanimously agree to have the land used for that investment with or without compensation. Without fail, the consultations would have to be properly documented, including an attendee list (also absentees), dates, photos, minutes of meeting, issues raised, agreements reached, mode of consensus building, etc. Also, agreements of land gift should be endorsed by all and better still thumb printed or signed. All communal land identified and determined to have issues related to historical injustices (e.g. historical claims over land) will be excluded from any

KDSP investment. The National Land Commission (NLC) and County Land Management Boards (CLMBs) established in all Counties have a register of all land with historical land injustices claims. Therefore, the Counties will undertake proper land checks by consulting and working closely with the NLC/CLMBs to ensure that investments do not take place on any contested land identified by the NLC/CLMB as such. Hence, a screening of whether a particular land is under dispute (e.g., historical claims on land) will have to take part prior to the finalization of the planning process jointly with NLC and CLMB to determine ownership of all land public, private and communal.

- All public land encroached by communities will be ineligible for implementing a KDSP investment until and unless the County governments duly compensate the encroachers for losses of assets. There exists no gap between the Environmental Act-EMCA- regulations enforced by NEMA and Bank operating procedures.

82. **Fourth,** compliance with this investment menu is a "minimum condition" for counties to access grants for investments. The ACPA will review whether each county has followed the investment menu; and if a county has not, it will be excluded from competing for grants in the following year. **Fifth,** despite limited county capacity, the government's overall capacity to screen proposed projects and require EIAs of projects with significant risks is quite robust. The ESSA found that excluding projects that require EIAs will effectively limit most of the possible environment and social risks. **Finally,** the PforR operation is designed to annually assess and gradually strengthen county capacity to manage social and environmental risks. The annual assessment of counties will measure key aspects of county environmental and social capacity. Additional measures based on the ESSA of the capacity of implementing institutions for environmental and social management will be incorporated into the PAP.

83. The existing government system, complemented by the Program design features described above, are adequate to support the Program.

84. **Grievance Redress Mechanism:** Communities and individuals who believe that they are adversely affected as a result of a Bank supported PforR operation, as defined by the applicable policy and procedures, may submit complaints to the existing program grievance redress mechanism or the WB's Grievance Redress Service (GRS). The GRS ensures that complaints received are promptly reviewed in order to address pertinent concerns. Affected communities and individuals may submit their complaint to the WB's independent Inspection Panel which determines whether harm occurred, or could occur, as a result of WB non-compliance with its policies and procedures. Complaints may be submitted at any time after concerns have been brought directly to the World Bank's attention, and Bank Management has been given an opportunity to respond. For information on how to submit complaints to the World Bank's corporate Grievance Redress Service (GRS), please visit http://www.worldbank.org/GRS. For information on how to submit complaints to the World Bank Inspection Panel, please visit www.inspectionpanel.org.

D. Integrated Risk Assessment Summary

Risk	Rating

Risk	Rating
Technical	Substantial
Fiduciary	High
Environmental and Social	Moderate
Disbursement-Linked Indicator	Moderate
Other	N/A
Overall Risk	**High**

85. **Initial Program design and the Kenya CPS identify a number of risks at the country level as well as around the devolution process and the proposed Program**. These include risks around national and county capacity to manage devolution, the continuing rapid transition to devolution, technical risks around the quality and scope of available capacity building support for devolution, and the design and implementation of performance grants and the engagement of counties in program design. They also include fiduciary and environmental/social risks around the capacity of county governments to manage proposed grants to counties, as well as the capacities of oversight institutions and agencies to adequately support and oversee them.

86. **Significant progress has been made since 2013 in development of sub-national and inter-governmental processes and capacities**. Notwithstanding this progress, the overall risk rating remains *high*. This risk rating is a consequence of the vulnerabilities in the emerging devolution system, which greatly increases the level of uncertainty regarding Program implementation. This vulnerability has been observed in the overall inter-governmental architecture, with regard to the still emerging framework for conditional grants covering the appropriation and accountability of national funds transferred to county governments. Vulnerability is also observed in the country-wide accountability framework, with many counties communicating uncertainty in the application of certain constitutional and legal requirements. Finally, vulnerability is observed at the county level, despite significant improvements in the first three years of devolution. During thorough assessments, county practices regarding internal audit, use of IFMIS, quality of financial reporting, procurement practices and the relationship between executive and legislative branches were observed. Although the Program is designed to directly support improvements in these areas, Program funds will nevertheless flow to counties that have not yet reached high levels of capacity across the full spectrum of public financial management responsibilities. The residual risk therefore remains high. This risk assessment is valid as of the time of Program design, and is in the context of the nascent stage of devolution in Kenya. Many of the risks identified are expected to be reduced during the life of the Program by ongoing reforms and institutional strengthening.

87. **As noted, the entire operation will be designed to strengthen key government capacities and systems that will help to address many of the related technical, fiduciary, social and environmental risks**. Specific capacity building actions on public financial, and human resource management, planning and M&E, and civic engagement and public participation (e.g., complaints handling mechanisms) are built into project design, including minimum conditions, and performance measures in grants to counties. Further mitigation measures have been designed based on the findings of the assessments and detailed preparation work.

E. Program Action Plan

88. **To address Program risks, participating institutions will undertake the following actions**:

- To maximize political acceptance and participation in the ACPA and capacity and performance grants, MoDP will continue to ensure sufficient consultation with counties, and will conduct a rigorous sensitization process prior to launch of any assessments or grant allocations. The first assessment will be a self-assessment, rather than an external assessment, to promote awareness and ownership by counties.
- To ensure sufficient quality assurance to and strengthen the governance of the Program, a Joint Steering Committee and Technical Committee, both with national and county representation, will be established.
- To address weaknesses in capacity to manage capacity and performance grants funds at the county level, the program will support improved county PFM, procurement, and fraud and corruption capacity through: (a) supporting the national government in improving, finalizing and rolling out national regulations, guidelines and systems to support county PFM activities and in developing training materials and providing capacity building support to counties; (b) providing a demand-driven capacity building facility to enable counties to secure additional capacity building support to meet county specific needs; and (c) creating greater incentives for meeting PFM requirements by providing a grant linked to performance.
- To address the risk that delays in finalization of county audits compromise disbursement of grant funds, the Program design includes provision for substantial support to Office of the Auditor General to build capacity to meet audit requirements. Audit progress will be carefully monitored during Program implementation.
- To ensure sufficient capacity for Program coordination and implementation, including support to county governments, MoDP will establish a KDSP secretariat with a minimum of six (6) dedicated full time officers by Effectiveness.
- To ensure adequate reporting by counties on compliance with grant guidelines, MoDP will work closely with CoB and the National Treasury to ensure integration of Program reporting requirements in regular budget implementation reporting. Budget codes will be established to enable review of funds utilization across activities, using IFMIS and the SCoA to track the capacity and performance grants and national expenditures supporting the Program.
- To maximize incentive effects of the ACPA and capacity and performance grants, MoDP will ensure wide communication of ACPA results and capacity and performance grants allocations and sensitization for a broad range of stakeholders on the ACPA process.
- Eligibility criteria and detailed procedures for resettlement and compensation consistent with the Government of Kenya, and Bank policy will be included in the POM.

- To ensure accuracy in ACPA results, the Bank will review results through participation in a sample of ACPA field visits and/or spot checks of ACPA results, either directly or through hiring consultants to perform these tasks.
- To minimize potential adverse environmental and social impact, Program minimum conditions will ensure adequate capacity to implement relevant safeguard provisions and will supplement country safeguard systems with capacity building to ensure mitigation of risks.
- To enhance coordination, MoDP, MoPSYGA-DPSM, National Treasury and KSG will appoint focal points/teams to coordinate capacity building activities and ensure adequate annual budget for the Program is reflected in annual printed budget estimates. The GoK expects to develop an interagency agreement formalizing respective roles and responsibilities.
- Grant conditions will be included in the CARA to ensure a strong legal framework.
- A methodology and ToRs for value-for-money audits will be developed and added to Capacity and Performance Assessment Manual by December 2017.
- To ensure adequate planning for sustainability of Program financing, MoDP and the National Treasury will conduct a review of the implementation of the first year of full grant disbursements, and discuss options for financing of the Capacity and Performance Grant beyond FY 2019/20 at the KDSP Steering Committee.
- Sensitization of counties will be conducted, including training of environmental and social management systems and complaints handling procedures.

Annex 1: Detailed Program Description

KENYA: DEVOLUTION SUPPORT PROGRAM

1. **The Project Development Objective is to strengthen capacity of core national and county institutions to improve delivery of devolved services at the county level.** This will be achieved by supporting national government oversight, monitoring and capacity building activities, and by providing additional financing to counties based on performance in core institutional functions.

2. **The Program supports implementation of the government's NCBF**. The government has defined the NCBF-MTI as a set of priority objectives, outputs, activities and budgets for devolution capacity across 5 KRAs:

- Public Financial Management
- Planning, Monitoring and Evaluation
- Human Resources and Performance Management
- Devolution and Inter-Governmental Relations
- Civic Education and Public Participation

3. **The NCBF-MTI includes both government and donor executed activities.** The three largest development partner-executed programs are supported by the UNDP, the EU, USAID briefly described below, as well as by the Bank's Kenya Accountable Devolution Program, which is provided via a Multi-Donor Trust Fund. Together, these programs will provide more than US$100 million in devolution capacity building support over the coming 4 to 5 years. Via the DSWG, discussions are underway with partners on how to align activities around the NCBF-MTI, as well as on how the new fiscal transfers and the annual capacity and performance assessment can reinforce and be complemented by capacity building supported directly by external partners at the county level.

4. **KDSP is being introduced to strengthen national and county government-executed capacity building activities under the NCBF-MTI.** The Program scope covers capacity building activities executed by both national and county governments across the 5 NCBF-MTI key results areas, audit of county financial statements, the implementation of ACPA, and the execution of sectoral investment projects at county government level, financed by a new performance-based conditional grant.

5. **The Ministry of Devolution and Planning will introduce an Annual Capacity and Performance Assessment (ACPA) system.** This assessment system will monitor progress towards the NCBF-MTI county level results. The assessment will be conducted by an independent firm, contracted by MoDP. The results of the ACPA will be subject to quality assurance by the Bank, and will be verified by a KDSP Technical Committee. The Office of the Auditor General will improve the timeliness and quality of audits of county financial statements, and these audit reports will inform the ACPA.

6. **On the basis of the annual capacity and performance assessment, national government will allocate a new conditional grant, the 'Capacity & Performance Grant', to** counties**.** All counties will be entitled to participate in the Program to receive the capacity and performance grants, by signing a Participation Agreement. However, to receive an allocation under the Grant, counties will need to meet minimum access conditions (see annex table 1.1). Counties that meet these minimum access conditions will receive an average allocation of KSh.30 million[8] (approx. US$300 thousand) to spend on an investment menu of capacity building activities. Counties that, in addition to meeting the minimum access conditions, meet a further set of Minimum Performance Conditions (see annex table 1.1), will receive an additional allocation averaging KSh.150 million[9] (approx. US$1.5 million). These counties will be able to spend grants on an expanded investment menu (see below). The size of the grant received by these counties will vary depending on their relative performance, as measures through the ACPA Performance Measures (see annex table 1.1), and depending on their relative size as measured by the equitable share formula. The grant size is expected to vary between US$400,000 – 600,000 for a very small, low performing county to US$6 to 8 million for a very large, well performing county.

7. **Counties will finance a range of capacity building and sectoral investments using the Capacity and Performance Grant.** Capacity building investments will include costs of training for county officials, hiring of TA, purchase of equipment relevant to capacity building in the five KRAs and investment implementation, development of systems for relevant functions (e.g. revenue automation systems) and other related activities. Counties that meet minimum performance conditions will also be able to fund a range of sectoral investments. These investments can be in any devolved function, but will exclude projects that are deemed by NEMA to need a full EIA Study before a license can be issued, or would not comply with a simple set of social impact restrictions enumerated in the capacity and performance grants manual. These investments will be small to medium-sized in nature, given the limited size of the capacity and performance grants, which will average US$1.8 million and will not exceed US$8 million for any county, and the exclusion of any projects requiring a full EIA study. Salary costs of regular staff and activities related with micro-credits, loans and financing schemes are also excluded from the capacity and performance grants financing.

8. **Participating counties will be required to develop annual capacity building plans, and report on implementation of these plans.** The format for these capacity building plans is designed to ensure that capacity building activities respond to weaknesses identified in the

[8] The level 1 grant is allocated between counties as follows:
FY 2016/17: Annual allocation for qualifying county i = KSh.15 million + [KSh.15 million X 47 X {equitable share percentage of county i / sum of equitable share percentages of all counties}]
Subsequent years :Annual allocation for qualifying county i = KSh.15 million + [KSh.15 million X number of qualifying counties X {equitable share percentage of county i / sum of equitable share percentages of all counties that meet the minimum access conditions}]

[9] The level 2 grant is allocated between counties as follows:
Annual allocation for qualifying county i = (Performance Factor for county i) X [Equitable Share for county i] / [the sum of {(Performance Factor) X Equitable Share} for all counties that meet the Minimum Performance Conditions] X annual grant aggregate amount
Where: *Annual grant aggregate amount = KSh.150 million X number of counties that meet minimum performance conditions*.

ACPA. Counties will indicate in these plans the activities that they intend to finance from the capacity and performance grants and other county revenues, as well as identifying capacity building support needed from national government agencies.

9. **National government agencies will also develop capacity building plans based on the ACPA results and needs identified** in county capacity assessments. MoDP, MoPSYGA-DPSM and NT will plan for improvements to, and dissemination of guidelines and other materials to support county activities, and for technical support to counties. KSG will also play a lead role in capacity building support for counties, particularly in: (a) preparation of the annual consolidated Training Calendar; (b) development and standardization of training modules and curriculum in all KRAs and Investment Implementation areas; (c) developing Training of Trainer (ToTs) and accreditation of ToTs and external TA (individuals and institutions); (d) functioning of learning and knowledge sharing platform within and across counties; (e) monitoring effectiveness and relevance of capacity building activities; (f) development of national repository of all knowledge and learning materials at the national and decentralized levels. In addition, KSG would support MoDP, MoPSYGA-DPSM and the National Treasury in delivering the structured learning in all KRAs as well as during sensitization and self-assessment process.

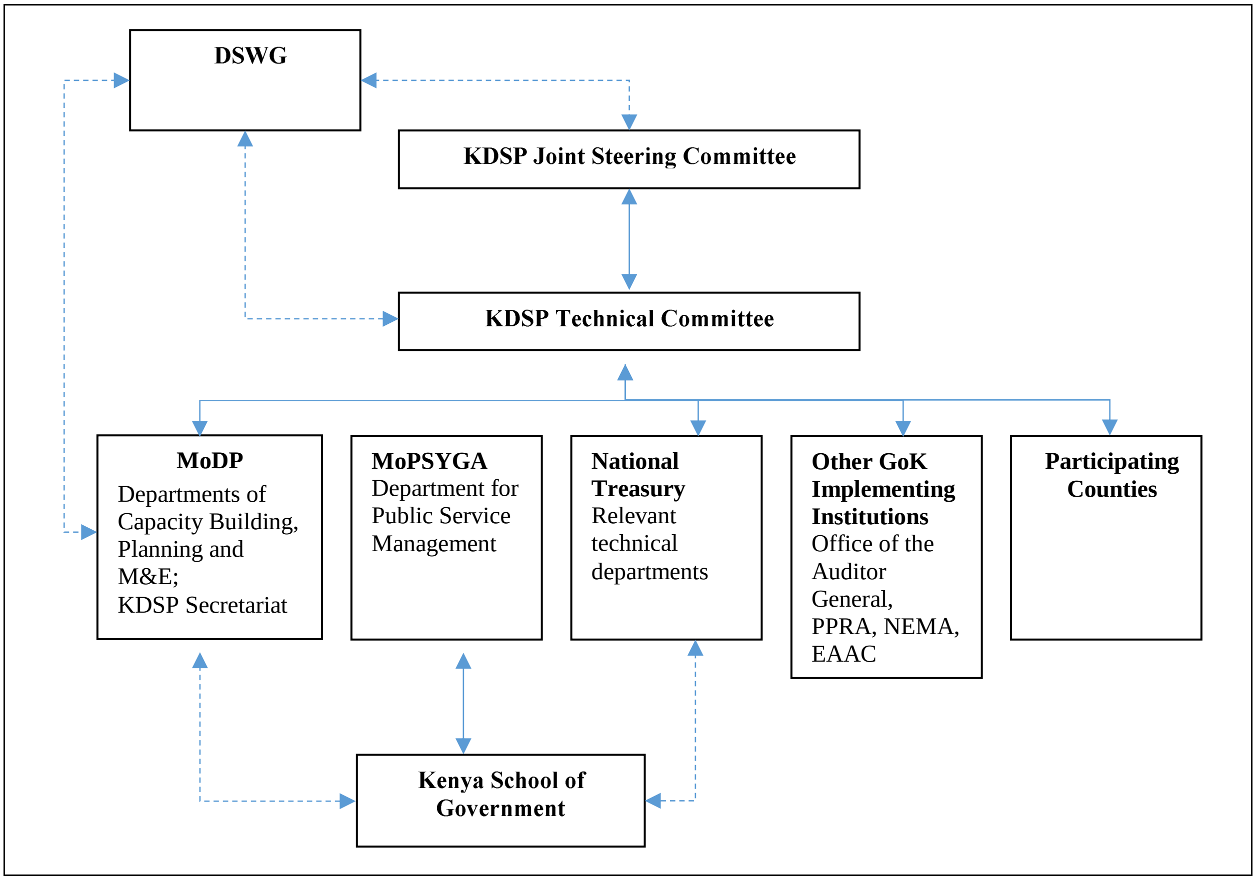
10. **Implementation of the NCBF will be coordinated by the DSWG**, which has a broad government and development partner representation. To ensure full ownership and adequate coordination of government-executed activities under the NCBF, GoK is establishing a KDSP Joint Steering Committee, and a Technical Committee, with a dedicated KDSP Secretariat. This will complement the broader DSWG framework by providing a forum and governance focused on coordination and improvement of government-executed capacity building support.

11. **The KDSP Joint Steering Committee will be established to provide strategic leadership and broad oversight of the program.** Co-chaired by the Cabinet Secretary of MoDP, and a Governor representing the participating counties, membership will include the National Treasury and any other members as determined by the Joint Steering Committee. The Joint Steering Committee will be responsible for making policy decisions regarding emerging policy issues, which have impact on the Program. The Joint Steering Committee will meet at least twice a year. The Steering Committee will liaise closely with the Devolution Sector Working Group, which has broader government and development partner representation, and is responsible for overall NCBF implementation.

12. **The KDSP Technical Committee will comprise** high-level officials from participating county governments, the National Treasury, MoDP, CoG, Public Procurement Regulatory Authority (PPRA), CoB, Commission on Revenue Allocation (CRA), Intergovernmental Technical Relations Committee, KSG and others, and will be chaired by the PS for Devolution, MoDP. The Technical Committee will support the effective implementation and coordination of activities across the Program. Key tasks will be to oversee the Secretariat, oversee the procurement and implementation of the ACPA, review and approve the ACPA results, review complaints and make recommendations on onward fund request release from the National Treasury to counties (see the timetable below), review national government capacity building plans, and verify achievement of Program disbursement-linked results. The Committee will meet when needed, and minimum four times a year.

13. **The main implementing agencies at national level will be MoDP, the National Treasury, Office of the Auditor General, and KSG.** Besides implementing capacity building support, MoDP will provide overall Program management, coordination and reporting, including hiring of the ACPA teams. NT will provide overall FM support, including managing the flow of grant funds from the consolidated fund to counties. A number of national level oversight bodies will also play a role in Program grievance handling processes, which will follow existing government systems.

Annex Figure 1.1: KDSP Governance and Institutional Arrangements for the KDSP



14. **County government departments will be the main implementing agencies under the Program.** Those that opt in to the Program will undertake self- and external assessments, develop capacity building plans, budget for use of grant funds, plan for and execute sectoral investments following grant guidelines, and report on use of funds, including handling of any complaints relating to fraud and corruption, procurement or environmental and social grievances.

Annex Table 1.1: Summary of the Minimum Access Conditions, Minimum Performance Conditions, Performance Measures, and Timing of Application (see Capacity and Performance Assessment Manual, Annex to the Program Operating Manual – for full details)

Indicators	First ACPA (impact FY 2016/17)	Second ACPA October 2016	Third ACPA (Oct 2017) and following ACPAs
Minimum Access Conditions for Capacity Performance Grants (level 1)			
1. Signed participation agreement	Yes	Yes	Yes
2. Capacity building plan developed	Yes	Yes	Yes
3. Compliance with investment menu	Yes (plan)	Yes (plan)	Yes (plan and utilization)
4. Min. 80 % plan implementation			Yes
Minimum Performance Conditions for Capacity Performance Grants (level 2)			
1. Compliance with minimum access conditions		Yes	Yes
2. Financial statements on time		Yes	Yes
3. Audit opinion is neither adverse nor disclaimed		Yes Transitional	Yes
4. Annual planning documents published (county integrated development plan, annual development plan, and Budget)		Yes	Yes
5. Adherence with the investment menu			Yes Transitional
6. Consolidated Procurement plans		Yes	Yes
7. County Core staff in place		Yes	Yes
8 Functional social and environmental management system as described in the Grants manual		Yes – phasing in	Yes- full application
9. Citizens' complaint system in place		Yes	Yes
Performance Measures for the Capacity Performance Grant (level 2)			
I. Public Financial Management			
1.1. Budget format and quality		Yes	Yes
1.2. Clear budget calendar & milestones		Yes	Yes
1.3. Credibility of budget (budget estimate v outturn)		Yes	Yes
1.4. Revenue administration		Yes	Yes
1.5. Percentage increase in Own Source Revenue		Yes	Yes
1.6. Timely quarterly budget implementation reports		Yes	Yes
1.7. Quality of financial statements		Yes	Yes
1.8. Quality of internal management financial reports		Yes	Yes
1.9. Up-date of assets register for all assets		Yes	Yes
1.10. Internal Audit arrangements operationalized		Yes	Yes
1.11. Effective and efficient IA Committee		Yes	Yes
1.12. Total value of audit queries is below a threshold		Yes	Yes
1.13. Reduction in audit queries since previous year		Yes	Yes
1.14. Legislative scrutiny of audit reports		Yes	Yes
1.15. Quality in procurement processes		Yes	Yes

Indicators	First ACPA (impact FY 2016/17)	Second ACPA October 2016	Third ACPA (Oct 2017) and following ACPAs
II: Planning and M&E			
2.1. M&E/Planning unit and frameworks operational		Yes	Yes
2.2. Operational County M&E Committee		Yes	Yes
2.3. CIDP formulated and up-dated according to guidelines		Yes	Yes
2.4. ADP submitted on time and conforms to guidelines		Yes	Yes
2.5. Linkage between CIDP, ADP & Budget		Yes	Yes
2.6. Production of CAPR		Yes	Yes
2.7. Evaluation of CIDP projects		Yes	Yes
2.8 Feedback from CAPR to ADP		Yes	Yes
III. Human Resource Management			
3.1. Organizational structures & staff plans		Yes (transitional)	Yes
3.2. Job descriptions, specifications and competency framework		Yes	Yes
3.3. Staff appraisals and performance contracting		Yes	Yes
IV. Civic Education and Public Participation			
4.1. Civic Engagement Unit established		Yes	Yes
4.2. Roll-out of civic education activities		Yes	Yes
4.3. Communication & engagement Framework operational		Yes	Yes
4.4. Participatory planning and budgeting forums held		Yes	Yes
4.5. Citizens' feed back		Yes	Yes
4.6. Publication of core PFM information		Yes	Yes
4.7. Publication of all legislative bills		Yes	Yes
V. Investment Implementation and Social and Environmental Performance			
5.1. % of planned projects implemented		Yes	Yes
5.2. Projects implemented within cost estimates		Yes	Yes
5.3. Adequate maintenance budget provided for		Yes	Yes
5.4. ESSA reports/audits completed		Yes	Yes
5.5. EIA/EMP procedures followed		Yes	Yes
5.5. Value for Money			Yes

ACPA: CAPR: County Annual Progress report; **CEU:** Civic Education Unit; **CIDP:** County Integrated Development Plan; **CPG:** Capacity and Performance Grants; EIA: Environmental Impact Assessment; **EMP:** Environmental Management Plan; **ESSA:** Environmental and Social Assessment; **FS:** Financial Statements; **IA:** Internal Audit; **MAC:** Minimum Access Conditions (to level one grants); PFM: Public Financial Management; **MPC:** Minimum Performance Conditions (level 2 grants); **OSR:** Own Source Revenues; **PM:** Performance measures, **POM:** Program Operational Manual; **VfM:** Value for Money.

Annex 2: Results Framework and Monitoring

KENYA: DEVOLUTION SUPPORT PROGRAM

Project Development Objective (PDO): To strengthen capacity of core national and county institutions to improve delivery of devolved services at the county level.

PDO Level Indicators*	DLI	Core	UoM	Baseline	YR 1 FY15	YR 2 FY16	YR 3 FY17	YR 4 FY18	YR 5 FY19	Frequ-ency	Data Source & Methodology	Respo-nibility	Description
PDO Indicator 1: Counties have strengthened institutional performance as demonstrated in the ACPA - Score in the ACPA for institutional performance of participating counties [average across all counties] **(DLI 8)**	☒	☐	No.	N/A – Baseline for most indicators will be set in FY 15 during the first ACPA (from October – November. 2016).*	n.a.	n.a.	+5%	+5%	+5%	Annual	Annual Capacity & Performance Assessment (ACPA) This performance score will be obtained through an in-county annual assessment of core institutional capacity across the four priority areas from the NBCF: PFM, HR, M&E/Planning, and Citizen engagement and implementation performance. The score will be calculated as the sum of a range of agreed performance criteria across the five areas. Measured as percentage increase in the average scores of all counties.	MoDP	See performance measures outlined in the detailed performance assessment tool, included in the POM. * Therefore there will be no increase in performance in FY 15 (GoK FY 2015/16), as this will be measured in the second ACPA FY 17.
PDO Indicator 2: MC – Number of counties which comply with the **minimum performance conditions** **(DLI 8)**	☒	☐	No.	0	n.a.	n.a.	20	30	35	Annual	Counties have undergone annual assessment of performance and met access conditions	MoDP	Note: the number of counties complying with the MPC is determined in the FY prior to allocation.

INTERMEDIATE RESULTS

Intermediate Result Indicators*	DLI	Core	UoM	Baseline	YR 1 FY15	YR 2 FY16	YR 3 FY17	YR 4 FY18	YR 5 FY19	Frequ-ency	Data Source & Methodology	Respon-sibility	Description
Building country-wide institutional capacity for devolution													
IR Indicator 1.1: Number of months taken to produce a full set audits of financial statements of counties **(DLI 1)**	☒	☐	No.	12 months +	11	7	7	7	7	Annual	Review of date of submission of complete set of audit reports to assemblies.	Office of the Auditor General	Months since end of FY
IR Indicator 1.2: ACPA and value for money audits completed on time **(DLI2)**	☒	☐	Yes/ No	n.a.	n.a.	Yes	Yes	Yes	Yes	Annual	Availability of final and agreed ACPA in time for inclusion in the Division of Revenue Act-DORA and County Allocation and Revenue Act-CARA*. * Year 1 will be a self-assessment	MoDP	Note: ACPA will include results from VfM from year 3 only. First ACPA will be completed in FY 15/16 and impact on FY 16/17 grants.
IR Indicator 1.3: Annual capacity building plans for county governments are completed **(DLI 3)** Planned MoDP capacity building activities are implemented according to the annual implementation plan **(DLI 3)**	☒	☐	Yes / No	n.a.	Plan developed	Plan developed Previous plan 70% impleme-nted	Plan developed Previous plan 75% impleme-nted	Plan developed Previous plan 80% impleme-nted	Plan developed Previous plan 80% impleme-nted	Annual	Verified through implementation/ county field reports and county records, reports from MoDP on CB activities and consolidated report from the ACPA secretariat (annually) reviewed by the Bank.	MoDP	Implementation rate
IR Indicator 1.4: Annual HRM capacity building activities for county governments are completed **(DLI 4)** Planned DPSM capacity building	☒	☐	Yes / No	n.a.	Plan developed	Plan developed Previous plan 70%	Plan developed Previous plan 75%	Plan developed Previous plan 80%	Plan developed Previous plan 80%	Annual	Verified through implementation/ county field reports and county records, reports from MoDP on CB activities and consolidated report from the ACPA secretariat	MoDP	Implementation rate

INTERMEDIATE RESULTS													
Intermediate Result Indicators*	**DLI**	**Core**	**UoM**	**Baseline**	**YR 1 FY15**	**YR 2 FY16**	**YR 3 FY17**	**YR 4 FY18**	**YR 5 FY19**	**Frequ-ency**	**Data Source & Methodology**	**Respon-sibility**	**Description**
activities are implemented according to annual implementation plan **(DLI 4)**						impleme-nted	impleme-nted	impleme-nted	impleme-nted		(annually) reviewed by the Bank.		
IR Indicator 1.5: Annual PFM capacity building activities for county governments are completed **(DLI 5)** Planned NT PFM capacity building activities are implemented according to annual implementation plan (DLI 5)	☒	☐	Yes / no	n.a.	Plan developed	Plan developed Previous plan 70% impleme-nted	Plan developed Previous plan 75% impleme-nted	Plan developed Previous plan 80% impleme-nted	Plan developed Previous plan 80% impleme-nted	Annual	Verified through implementation/ county field reports and county records, NT reports and consolidated report from the ACPA secretariat (annually) reviewed by the Bank.	National Treasury	Implementation rate
IR Indicator 1.6: Kenya School of Government implements annual planned activities to address county capacity gaps **(DLI 6)** Planned KSG capacity building activities are implemented according to the annual implementation plan (DLI 6)	☒	☐	Yes / no	n.a.	Plan developed	Plan developed Previous plan 70% impleme-nted	Plan developed Previous plan 75% impleme-nted	Plan developed Previous plan 80% impleme-nted	Plan developed Previous plan 80% impleme-nted	Annual	Verified through implementation/ county field reports and county records, KSG reports and consolidated report from the ACPA secretariat (annually) reviewed by the World Bank.	KSG	Implementation rate
IR 1.7: Inter-Governmental Relations are	☐	☐									Annual report	MoDP	No. having opted into grant for the FY (e.g. in FY

INTERMEDIATE RESULTS													
Intermediate Result Indicators*	**DLI**	**Core**	**UoM**	**Baseline**	**YR 1 FY15**	**YR 2 FY16**	**YR 3 FY17**	**YR 4 FY18**	**YR 5 FY19**	**Frequ-ency**	**Data Source & Methodology**	**Respon-sibility**	**Description**
strengthened Number of counties that have opted into C&P Grant system			No.	n.a.		15	25	35	35	Annual			16, the no. of counties that opted into the Grant for FY16).
Capacity & Performance-based grants – County institutional performance													
IR Indicator 2.1: **Strengthened county PFM capacity** Average (for all counties) aggregate deviation between budget and outturn (average across all sectors) reduced by: Value of audit queries as % of total expend-itures reduced by: Number of counties with 25 steps in the IFMIS procurement process adhered to increase by:	☐	☐	%	TBD during ACPA in Feb 2016-Jun. 2016.	n.a. n.a. n.a.	Baseline established Baseline established Baseline established	+10% +10% +5%	+5% +7% +5%	+5% +5% +5%	Annual	County performance to be verified through the Annual Capacity & Performance Assessment KRA 1 on PFM	NT	Measures the average annual increase (in percentages) in the ACPA scores of the participating counties
IR Indicator 2.2: **Improved M&E and Planning capacitates** Number of CIDPs that adhere to Guidelines increased by: Number of counties producing County	☐	☐	%	TBD during the ACPA in Feb-.	n.a. n.a.	Baseline established Baseline established	+5% +5%	+7% +6%	+10% +7%	Annual	Results to be provided by the ACPA, KRA 2 on Planning and M&E	MoDP	Measures the average annual increase (in percentages) in the ACPA scores of the participating counties

INTERMEDIATE RESULTS													
Intermediate Result Indicators*	**DLI**	**Core**	**UoM**	**Baseline**	**YR 1 FY15**	**YR 2 FY16**	**YR 3 FY17**	**YR 4 FY18**	**YR 5 FY19**	**Frequ-ency**	**Data Source & Methodology**	**Respon-sibility**	**Description**
Annual Progress Reports on time (Sept. 30) increased by				2016-Jun. 2016.									
Number of counties where the County M&E Committee (COMEC) meets regularly increased by:					n.a.	Baseline established	+10%	+10%	+5%				
IR Indicator 2.3: **Improved HR and performance management capacity**	☐	☐									Determined through the ACPA KRA 3 on HR	MoDP	Measures the average annual increase (in percentages) in the ACPA scores of the participating counties
Number of counties with staff performance appraisal process operationalized increased by			%	TDB during the ACPA in Feb-. 2016-Jun. 2016.	n.a.	Baseline established	+10%	+10%	+5%	Annual			
Number of counties with performance contracts for level 1 (and or 2) increased by			%		n.a.	Baseline established	+10%	+5%	+5%				
IR Indicator 2.4: **Strengthened citizen education and public participation at the county level**	☐	☐									Determined through the ACPA KRA 5 on citizen engagement	MoDP	Measures the average annual increase (in percentages) in the ACPA scores of the participating counties
Number of counties with established and functional civic education units increased by.			%	TDB during the ACPA in Feb-. 2016-	n.a.	Baseline established	+10%	+10%	+5%	Annual			
					n.a.	Baseline	+7%	+6%	+5%				

INTERMEDIATE RESULTS													
Intermediate Result Indicators*	**DLI**	**Core**	**UoM**	**Baseline**	**YR 1 FY15**	**YR 2 FY16**	**YR 3 FY17**	**YR 4 FY18**	**YR 5 FY19**	**Frequ-ency**	**Data Source & Methodology**	**Respon-sibility**	**Description**
Number of counties with evidence of citizen input in plans and budgets increased by: Number of counties with the following documents published online: CIDP, ADP, Annual Budget, Fiscal Strategy Paper, and the County Annual Progress Report increased by.				Jun. 2016.	 n.a.	established Baseline established	 +7%	 +6%	 +4%				
IR indicator 2.5 **Improved investment implementation and value-for-money** Number of counties that prepare Annual Environmental and Social Audits/reports increased by: Number of counties projects with a satisfactory value-for-money level increased by:	☐	☐	 % %	 TDB during the ACPA in Feb-. 2016-Jun. 2016.	 n.a. n.a.	 Baseline established Baseline established	 +6% n.a.	 +6% +5%	 +6% +7%	 Annual	Determined through the ACPA	MoDP	* VfM only starts from Year 3 (3rd. ACPA). Measures the average annual increase (in percentages) in the ACPA scores of the participating counties

Annex 3: Disbursement Linked Indicators, Disbursement Arrangements and Verification Protocols

KENYA: DEVOLUTION SUPPORT PROGRAM

N.B. Explanatory notes and details are included in a notes section below the three DLI tables

DLI Matrix

	Total Financing Allocated to DLI US$ Million	*As % of Total Financing Amount*	*DLI Baseline*	*Indicative Timeline for DLI Achievement*					
				Year 1[10] FY15	*Year 2 FY16*	*Year 3 FY17*	*Year 4 FY18*	*Year 5 FY19*	*Year 6 FY20*
DLI 1 Office of the Auditor General submits audit reports on time and in compliance with ISSAI for all counties that have submitted financial statements in compliance with the PFMA and prevailing accounting standards.			0	47 reports	47 reports	47 reports	47 reports	47 reports	N/A
Allocated amount	5	2.5%		US$1 million	US$1 million	US$1 million	$US1 million	US$1 million	n.a.
DLI 2 Introduction and timely implementation of Annual Capacity & Performance Assessments by MoDP.			0	County sensitization conducted. KDSP Technical Committee established	Capacity and performance grants allocated in DORA and CARA for FY16 Annual Program Report submitted for	ACPA conducted for capacity & performance grants allocations for FY 17 Annual Program	ACPA conducted for capacity and performance grants allocations for FY 18 Annual Program	ACPA conducted for capacity and performance grants allocations for FY 19 Annual Program	ACPA conducted for capacity and performance grants allocations for FY 20 Final Program report

[10] Kenya Fiscal Year July 2015-June 2016.

	Total Financing Allocated to DLI US$ Million	*As % of Total Financing Amount*	*DLI Baseline*	*Indicative Timeline for DLI Achievement*					
				Year 1[10] *FY15*	*Year 2 FY16*	*Year 3 FY17*	*Year 4 FY18*	*Year 5 FY19*	*Year 6 FY20*
					FY 15	Report submitted for FY 16	report submitted for FY 17	Report submitted for FY 18	submitted
Allocated amount	8.1	4%		US$1 million	US$1.7 million	US$1.7 million	US$1.25 million	US$1.25 million	US$1.2 million
DLI 3 MoDP implements annual planned activities to strengthen countrywide frameworks and systems and to address county capacity gaps			0	6-month FY 15 (Jan-June 2016) CB plan developed	Annual CB plan for FY 16 developed; Previous 6-month FY 15 CB plan 70% implemented	Annual CB plan for FY 17 developed; Previous annual FY 16 CB plan 75% implemented	Annual CB plan for FY 18 developed; Previous annual FY 17 CB plan 80% implemented	Annual CB plan for FY 19 developed; Previous annual FY 18 CB plan 80% implemented	n.a.
Allocated amount	7.5	3.75%		US$0.75 million	US$2.25 million	US$1.5 million	US$1.5 million	US$1.5 million	n.a.
DLI 4 MoPSYGA implements annual planned activities to strengthen countrywide frameworks and systems and to address county capacity gaps			0	6-month FY 15 (Jan-June 2016) CB plan developed	Annual CB plan for FY 16 developed; Previous 6-month FY 15 CB plan 70% implemented	Annual CB plan for FY 17 developed; Previous annual FY 16 CB plan 75% implemented	Annual CB plan for FY 18 developed; Previous annual FY 17 CB plan 80% implemented	Annual CB plan for FY 19 developed; Previous annual FY 18 CB plan 80% implemented	n.a.
Allocated amount	2.5	1.25%		US$0.25 million	US$0.75 million	US$0.5 million	US$0.5 million	US$0.5 million	n.a.
DLI 5 National Treasury implements annual planned activities to strengthen countrywide frameworks and systems and				6-month FY 15 (Jan-June 2016) CB plan developed	Annual CB plan for FY 16 developed; Previous 6-month FY 15	Annual CB plan for FY 17 developed; Previous annual FY 16	Annual CB plan for FY 18 developed; Previous annual FY 17	Annual CB plan for FY 19 developed; Previous annual FY 18	n.a.

	Total Financing Allocated to DLI US$ Million	*As % of Total Financing Amount*	*DLI Baseline*	*Indicative Timeline for DLI Achievement*					
				Year 1[10] *FY15*	*Year 2 FY16*	*Year 3 FY17*	*Year 4 FY18*	*Year 5 FY19*	*Year 6 FY20*
to address county capacity gaps					CB plan 70% implemented	CB plan 75% implemented	CB plan 80% implemented	CB plan 80% implemented	
Allocated amount	10	5%		US$1 million	US$3 million	US$2 million	US$2 million	US$2 million	n.a.
DLI 6 Kenya School of Government implements annual planned activities to address county capacity gaps			0	6-month FY 15 (Jan-June 2016) CB plan developed	Annual CB plan for FY 16 developed; Previous 6-month FY 15 CB plan 70% implemented	Annual CB plan for FY 17 developed; Previous annual FY 16 CB plan 75% implemented	Annual CB plan for FY 18 developed; Previous annual FY 17 CB plan 80% implemented	Annual CB plan for FY 19 developed; Previous annual FY 18 CB plan 80% implemented	N/A
Allocated amount	5	2.5%		US$0.5	US$1.5 million	US$1 million	US$1 million	US$1 million	n.a.
DLI 7 Counties have undergone annual capacity & performance assessment and met access conditions.			0	n.a.	15 Counties	25 Counties	35 Counties	35 Counties	n.a.
Allocated amount	33	16.5%			US$4.5 million	US$7.5 million	US$10.5 million	US$10.5 million	n.a.
DLI 8 Counties have undergone annual capacity and performance assessment and have met minimum access conditions and minimum performance conditions for			0	n.a.		20 Counties	30 Counties	35 Counties	n.a.

	Total Financing Allocated to DLI US$ Million	*As % of Total Financing Amount*	*DLI Baseline*	*Indicative Timeline for DLI Achievement*					
				Year 1[10] *FY15*	*Year 2 FY16*	*Year 3 FY17*	*Year 4 FY18*	*Year 5 FY19*	*Year 6 FY20*
grant funding and implemented projects according to Program requirements									
Allocated amount	127	63.5%			0	US$30 million	US$45 million	US$52 million	n.a.
Preparation Advance to be repaid in accordance with section 2.07(a) of the General Conditions									
	1.9	1%		US$1.9 million					
Total Financing Allocated:	200	100%	0	US$6.4 million	US$14.7 million	US$45.2 million	US$62.75 million	US$69.75 million	US$1.2 million

DLI Verification Protocol Table

No.	DLI	Definition/ Description of Achievement	Scalability	Data Source	Verification Entity	Procedure
1	Office of the Auditor General submits audit reports on time and in compliance with ISSAI for all counties that have submitted financial statements in compliance with the PFMA and prevailing accounting standards.	This indicator will be fulfilled when Office of the Auditor General, or their delegated agencies, which includes certified private audit firms, carry out and complete the timely financial audits of county governments, in compliance with ISSAI standards, and submit these signed audit reports. (See notes below).	Yes (partly)	Annual Capacity and Performance Assessment Year 1: report by the Office of the Auditor General county audit reports	Year 1: KDSP Technical Committee. Years 2-5: Independent private firm carrying out the annual performance assessment. (<u>*Note:*</u> *The terms of reference of the firm must be acceptable to the Bank)*	The Office of the Auditor General will provide a report attesting that the following: • Final, complete audit reports were submitted by the defined deadline • Any audit reports not submitted by this deadline were delayed by late submission of financial statements by counties, or by financial statements submitted failing to meet the required minimum standards. The Office of the Auditor General will attach signed copies of all completed audit reports to this report. The independent firm hired to conduct the ACPA will verify the information contained in the Office of the Auditor General report. For the audit of FY 2014-15 financial statements, the report of the Office of the Auditor General will be verified by the KDSP Technical Committee, as no independent firm will be contracted to conduct an ACPA in the first year of the Program. See note for further details.
2	Introduction and timely implementation of Annual Capacity and Performance	Year 1 and year 6 – see notes section below Years 2-5: This indicator will be fulfilled when two	Yes	Documentation showing that the Annual Capacity and Performance Assessment	KDSP Technical Committee / Performance Contracting Unit (in DPSM)	**Year 1:** KDSP secretariat submits an activity report to the Performance Contracting Unit in DPSM on awareness raising and sensitization.

No.	DLI	Definition/ Description of Achievement	Scalability	Data Source	Verification Entity	Procedure
	Assessments by MoDP.	conditions are fulfilled: 1. The ACPA is concluded in time for inclusion of capacity and performance grants allocations in the Division of Revenue Act and County Allocation of Revenue Act each year. 2. Starting in year 3 of the Program MoDP will also include a value for money assessment within the ACPA cycle.		(including Value for Money Assessment from Program Year 3 onwards) has been completed on time. Division of Revenue Act-DORA. County Allocation of Revenue Act - CARA. Annual Program Report.		Performance contracting unit verifies that adequate sensitization has been conducted, and submits the verification to the KDSP Technical Committee for endorsement. **Years 2-5:** The KDSP secretariat will submit the final report of the ACPA teams, together with the proposed grant allocations, and with copies of the final CARA and DORA attached, to the KDSP Technical Committee. The KDSP Technical Committee will verify that the ACPA procedure was correctly followed, and that the final allocations in the CARA and DORA match the allocations contained in the final report of the ACPA team. The Bank retains the right to join the ACPA and VfM assessments in the field as part of its implementation support, and to review the quality of the ACPA process. **Year 6:** The KDSP Secretariat will submit a copy of the annual Program Report for the previous year to the KDSP Technical Committee within four months of the end of the FY

No.	DLI	Definition/ Description of Achievement	Scalability	Data Source	Verification Entity	Procedure
3	MoDP implements the agreed annual planned activities to strengthen countrywide frameworks and systems and to address county capacity gaps	Year 1: MoDP submits a capacity building workplan that conforms to the formats in the POM. The workplan covers the period January – June 2016. Years 2-5: • MoDP submits an annual capacity building workplan that conforms to the formats in the POM. • MoDP submits an implementation report for the previous FY (for example, in year 2 of the Program, an implementation report for FY 15 is submitted)	Yes	Annual capacity building plan Annual implementation report.	KDSP Technical Committee / Performance Contracting Unit	Year 1:MoDP submits the workplan to the performance contracting unit via the KDSP Secretariat. The performance contracting unit verifies that the workplan meets the requirements outlined in the POM. The performance contracting unit submits the verification to the KDSP Technical Committee for final endorsement. Years 2-5: MoDP submits the workplan and implementation report to the performance contracting unit. The performance contracting unit verifies that the workplan and implementation report meet the requirements outlined in the POM. The performance contracting unit submits the verification to the KDSP Technical Committee for final endorsement.
4	MoPSYGA implements the agreed annual planned activities to strengthen countrywide frameworks and systems and to address county capacity gaps	Year 1: DPSM submits a capacity building workplan that conforms to the formats in the POM. The workplan covers the period January – June 2016. Years 2-5: • DPSM submits an annual capacity building workplan that conforms to the formats in the POM. • DPSM submits an implementation report for the previous FY (for example, in year 2 of the	Yes	Annual capacity building plan Annual implementation report.	KDSP Technical Committee / Performance Contracting Unit	Year 1:DPSM submits the workplan to the performance contracting unit via the KDSP Secretariat. The performance contracting unit verifies that the workplan and implementation report meet the requirements outlined in the POM. The performance contracting unit submits the verification to the KDSP Technical Committee for final endorsement. Years 2-5: DPSM submits the workplan and implementation report to the performance contracting unit. The performance contracting unit verifies that the workplan meets the

No.	DLI	Definition/ Description of Achievement	Scalability	Data Source	Verification Entity	Procedure
		Program, an implementation report for FY 15 is submitted)				requirements outlined in the POM. The performance contracting unit submits the verification to the KDSP Technical Committee for final endorsement.
5	National Treasury implements the agreed annual planned activities to strengthen countrywide frameworks and systems and to address county capacity gaps	Year 1: NT submits a capacity building workplan that conforms to the formats in the POM. The workplan covers the period January – June 2016. Years 2-5: • NT submits an annual capacity building workplan that conforms to the formats in the POM. • NT submits an implementation report for the previous FY (for example, in year 2 of the Program, an implementation report for FY 15 is submitted)	Yes	Annual capacity building plan Annual implementation report.	KDSP Technical Committee / Performance contracting unit	Year 1:NT submits the workplan to the performance contracting unit via the KDSP Secretariat. The performance contracting unit verifies that the workplan and implementation report meet the requirements outlined in the POM. The performance contracting unit submits the verification to the KDSP Technical Committee for final endorsement. Years 2-5: NT submits the workplan and implementation report to the performance contracting unit. The performance contracting unit verifies that the workplan meets the requirements outlined in the POM. The performance contracting unit submits the verification to the KDSP Technical Committee for final endorsement.
6	KSG implements the agreed annual planned activities to address county capacity gaps	Year 1: KSG submits a capacity building workplan that conforms to the formats in the POM. The workplan covers the period January – June 2016. Years 2-5: • KSG submits an annual capacity building workplan	Yes	Annual capacity building plan Annual implementation report.	KDSP Technical Committee / Performance contracting unit	Year 1:KSG submits the workplan to the performance contracting unit via the KDSP Secretariat. The performance contracting unit verifies that the workplan and implementation report meet the requirements outlined in the POM. The performance contracting unit submits the verification to the KDSP Technical Committee for final endorsement.

No.	DLI	Definition/ Description of Achievement	Scalability	Data Source	Verification Entity	Procedure
		that conforms to the formats in the POM. • KSG submits an implementation report for the previous FY (for example, in year 2 of the Program, an implementation report for FY 15 is submitted)				Years 2-5: KSG submits the workplan and implementation report to the performance contracting unit. The performance contracting unit verifies that the workplan and implementation report meet the requirements outlined in the POM. The performance contracting unit submits the verification to the KDSP Technical Committee for final endorsement.
7	Counties have undergone annual capacity and performance assessment and met the minimum access conditions.	This indicator will be satisfied when: 1. The ACPA Minimum Access Conditions have been met, and 2. Allocation of capacity and performance grant is included in the Division of Revenue Bill and County Allocation of Revenue Bill on the basis of the ACPA results. 3. When the funds for the previous tranche have been disbursed to the counties as per Program entitlements, unless such disbursements are withheld due to violation of law by one or more counties.	Yes	ACPA results DORB CARB Allocations to counties for previous FY.	Independent ACPA contracted team Year 2: KDSP Technical Committee	Year 1: no disbursement Year 2: • (see notes section below for variation on procedure for year 2) Years 3-5: • MoDP hires an independent firm to conduct the ACPA. The firm will follow the procedure provided in the CPAM, which is an appendix to the POM, which includes quality assurance by the KDSP Technical Committee and Bank. • The ACPA firm submits the final report to the KDSP Technical Committee, including the complete results of the ACPA and the resulting C&P Grant allocation. Copies of the draft CARB and DORB reflecting these allocations will be attached to this report. • National Treasury will submit reports to the Technical Committee confirming the disbursement of each tranche of the capacity and performance Grant to counties. • The Technical Committee will review the ACPA report to verify

No.	DLI	Definition/ Description of Achievement	Scalability	Data Source	Verification Entity	Procedure
						that the correct procedure was followed, and that the allocations included in the CARB and DORB reflect the allocations included in the ACPA report. The Technical Committee will also review the report of the National Treasury of grant disbursements to verify that they have conformed to Program entitlement. • Note: The WB will receive a copy of the draft and final reports from the ACPA and reserves the right to review the results and the quality of the assessments.
8	Counties have undergone annual capacity and performance assessment, met the minimum access conditions and minimum performance conditions for grant funding and implemented projects according to Program requirements	This indicator will be satisfied when: 1. The ACPA Minimum Access Conditions and Minimum Performance Conditions have been met, and 2. Allocation of capacity and performance grants included in the Division of Revenue Act and County Allocation of Revenue Act on the basis of the ACPA results 3. When the funds for the previous tranche have been disbursed to the counties as per Program entitlements, unless such disbursements are withheld due to violation of law by one or more counties.	Yes	ACPA results DORB CARB Allocations to counties for previous FY.	Independent ACPA contracted team and KDSP Technical Committee	Year 1: no disbursement Year 2: • no disbursement Years 3-5: • MoDP hires an independent firm to conduct the ACPA. The firm will follow the procedure provided in the CPAM, which is an appendix to the POM, which includes quality assurance by the KDSP Technical Committee and World Bank. • The ACPA submits the final report to the KDSP Technical Committee, including the complete results of the ACPA and the resulting C&P Grant allocation. Copies of the draft CARB and DORB reflecting these allocations will be attached to this report. • National Treasury will submit reports to the Technical Committee confirming the disbursement of each

No.	DLI	Definition/ Description of Achievement	Scalability	Data Source	Verification Entity	Procedure
						tranche of the C&P Grant to counties. • The Technical Committee will review the ACPA report to verify that the correct procedure was followed, and that the allocations included in the CARB and DORB reflect the allocations included in the ACPA report. The Technical Committee will also review the report of the National Treasury of grant disbursements to verify that they have conformed to Program entitlement. • Note: The Bank will receive a copy of the draft and final reports from the ACPA and reserves the right to review the results and the quality of the assessments.

Bank Disbursement Table

#	DLI	Bank financing allocated to the DLI (US$M)	Of which financing available for		Deadline for DLI achievement	Minimum DLI Value to be achieved to trigger disbursements of Bank	Maximum DLI value(s) expected to be achieved for Bank disbursements purposes	Determination of Financing Amount to be disbursed against achieved and verified DLI values
			Prior results	Advances				
1	Office of the Auditor General submits audit reports on time and in compliance with ISSAI for all counties that have submitted financial statements in compliance with the PFMA and prevailing accounting standards.	5			Year 1: June 30, 2016 Subsequent years: February 28th	All counties which have submitted annual FS in accordance with the PFM Act.	47	Year 1: All audit reports submitted by May 30 = US$1 million; All audit reports submitted by end of June= US$0.75 million Subsequent years: All audit reports submitted by January 31= US$1 million; All audit reports submitted by February 28= US$0.75 million.
2	Introduction and timely implementation of Annual Capacity and Performance Assessments (ACPA) by MoDP.	10			See notes section below	Timely ACPA excluding VfM assessment	Timely ACPA (including vfm) and Program report	Year 1 = US$1 million Year 2 - 3 = US$1.7 million if no Value for Money Assessment included in the relevant ACPA process; US$2.2 million if a Value for Money Assessment is included. Year 4 - 5 = US$0.75 million if no Value for Money Assessment included in the relevant ACPA process; US$1.25 million if a Value for Money Assessment is included. Year 6 = US$0.7 million if no Value for Money Assessment included in the relevant ACPA process; US$ 1.2 million if a Value for Money Assessment is included.
3	MoDP implements the agreed	7.5			Plan:	Fully	100%	Year 1: US$0.75 million

#	DLI	Bank financing allocated to the DLI (US$M)	Of which financing available for		Deadline for DLI achievement	Minimum DLI Value to be achieved to trigger disbursements of Bank	Maximum DLI value(s) expected to be achieved for Bank disbursements purposes	Determination of Financing Amount to be disbursed against achieved and verified DLI values
			Prior results	Advances				
	annual planned activities to strengthen countrywide frameworks and systems and to address county capacity gaps				Year 1: end March 2016 Years 2-5: by July 31 Implementation report: Years 1-5: within 2 months of end of FY	scalable	implemented	Year 2: US$2.25 million Years 3-5: US$1.5 million Year 6: US$0 If implementation of workplans is below target percentage, the disbursement will be reduced as follows: Disbursement = full disbursement amount / target implementation percentage X actual implementation percentage
4	MoPSYGA implements the agreed annual planned activities to strengthen countrywide frameworks and systems and to address county capacity gaps	2.5			Plan: Year 1: end March 2016 Years 2-5: by 31st July Implementation report: Years 1-5: within 2 months of end of FY	Fully scalable	100% implemented	Year 1: US$0.25 million Year 2: US$0.75 million Years 3-5:US$0.5 million Year 6: US$0 If implementation of workplans is below target percentage, the disbursement will be reduced as follows: Disbursement = full disbursement amount / target implementation percentage X actual implementation percentage
5	National Treasury implements the agreed annual planned activities to strengthen countrywide frameworks and systems and to address county capacity gaps	10		0	Plan: Year 1: end March 2016. Years 2-5: by 31st July Implementation report: Years 1-5: within 2 months of end of FY	Fully scalable	100% implemented	Year 1: US$1 million Year 2: US$3 million Years 3-5: US$2 Million Year 6: US$0 If implementation of workplans is below target percentage, the disbursement will be reduced as follows: Disbursement = full disbursement amount

#	DLI	Bank financing allocated to the DLI (US$M)	Of which financing available for		Deadline for DLI achievement	Minimum DLI Value to be achieved to trigger disbursements of Bank	Maximum DLI value(s) expected to be achieved for Bank disbursements purposes	Determination of Financing Amount to be disbursed against achieved and verified DLI values
			Prior results	Advances				
								/ target implementation percentage X actual implementation percentage
6	KSG implements the agreed annual planned activities to address county capacity gaps	5			Plan: Year 1: end March 2016 Years 2-5: by 31st July Implementation report: Years 1-5: within 2 months of end of FY	Fully scalable	100% implemented	Year 1: US$0.5 million Year 2: US$1.5 million Years 3-5: US$1 Million Year 6: US$0 If implementation of workplans is below target percentage, the disbursement will be reduced as follows: Disbursement = full disbursement amount / target implementation percentage X actual implementation percentage
7	Counties have undergone annual capacity and assessment of performance and met minimum access conditions.	33	0	0	ACPA Minimum Access Conditions met by the time of the Annual Capacity & Performance Assessment (timeline defined in the POM). Grant allocations included in the CARB and DORB according to the timeline requirements in the PFMA. The grant disbursements for the previous FY were disbursed to counties prior to the end of the previous FY. (See notes section below for differences in Year 2	0 (fully scalable)	47 counties	Year 1: no disbursement Year 2: DLI disbursement amount = USD equivalent of the sum of allocations to qualifying counties as per formula below: Annual allocation for qualifying county i = (KSh.15 million)+ (KSh.15 million X 47) X (equitable share percentage of County i/sum of equitable share percentage of all Counties) Year 3-5: DLI disbursement amount = USD equivalent of (KSh.30 million X number of counties that have met Minimum Access Conditions) This amount is allocated between counties as follows: Annual allocation for qualifying county i = (KSh.15 million) +

#	DLI	Bank financing allocated to the DLI (US$M)	Of which financing available for		Deadline for DLI achievement	Minimum DLI Value to be achieved to trigger disbursements of Bank	Maximum DLI value(s) expected to be achieved for Bank disbursements purposes	Determination of Financing Amount to be disbursed against achieved and verified DLI values
			Prior results	Advances				
					of the Program)			(KSh.15 million X number of Counties that meet Minimum Access Conditions) X (equitable share percentages of County i/sum of equitable share percentage of all Counties that meet Minimum Access Conditions) Disbursement will be made provided that previous disbursements from national government to county governments have all been made.
8	Counties have undergone annual capacity and performance assessment and, met the minimum access conditions and minimum performance conditions for grant funding and implemented projects according to Program requirements	127			ACPA Minimum Access Conditions and Minimum Performance Conditions met by the time of the Annual Capacity & Performance Assessment (timeline defined in the POM). Grant allocations included in the CARB and DORB according to the timeline requirements in the PFMA. The grant disbursements for the previous FY were disbursed to counties prior to the end of the previous FY.	0 (fully scalable)	47 counties	Years 1-2: no disbursement Years 3-5: DLI disbursement amount = USD equivalent of (KSh.150 million X number of counties that meet the minimum performance conditions) This amount is allocated between counties as follows: Annual allocation for qualifying county i = (KSh.150 million X number of counties that meet the Minimum Performance Conditions) X ({Performance Factor of county i X equitable share percentage of county i}/ {the sum of [Performance Factor X equitable share percentage] for all counties that meet Minimum Performance Conditions}) Disbursement will be made provided that previous disbursements from national

#	DLI	Bank financing allocated to the DLI (US$M)	Of which financing available for		Deadline for DLI achievement	Minimum DLI Value to be achieved to trigger disbursements of Bank	Maximum DLI value(s) expected to be achieved for Bank disbursements purposes	Determination of Financing Amount to be disbursed against achieved and verified DLI values
			Prior results	Advances				
								government to county governments have all been made.

DLI explanatory notes

DLI 1:

"Office of the Auditor General submits audit reports on time and in compliance with International Standards of Supreme Audit Institutions-ISSAI-for all counties that have submitted financial statements in compliance with the PFMA and prevailing accounting standards."

Notes:

- Where a county fails to submit financial statements by September 30 (the statutory deadline) and to the required standards (as published by the Public Sector Accounting Standards Board), the DLI will still be met even if Office of the Auditor General does not submit the audit for this county on time.
- The definition of 'on time' is provided in the Disbursement arrangements (below).

Definition of achievement of the DLI:

The DLI is achieved if:

- Timeliness of audit reports:
    - o The auditor general submits audit reports for all counties that submitted financial statements on time and to required formats.
    - o Submission of audit reports is as per legal requirements
- Agreed standards:
    - o the audit reports comply with the ISSAI standards

Deadline for achievement and disbursement amounts

- For the audit of county FY 2014-15 financial statements:
    - o 100 percent of the DLI amount (US$1 million) will disburse if the audit of all relevant financial statements (i.e. audits of financial statements for all counties that submitted financial statements on time and to required standards) are published by May 31, 2016.
    - o 75 percent of the DLI amount (US$0.75 million) will disburse if all relevant financial statements are published by June 30, 2016.
    - o Any outstanding audit reports or submission later than these deadlines means 0% DLI release.
- For the audit of subsequent financial statements:
    - o 100 percent of the DLI amount (US$1 million) will disburse if the audit of all relevant financial statements (i.e. audits of financial statements for all counties that submitted financial statements on time and to required standards) are published by 31st January (i.e. 7 months after the close of the fiscal year).
    - o 75 percent of the DLI amount (US$0.75 million) will disburse if all relevant financial statements are published by February 28 (i.e. 8 months after the close of the fiscal year).
    - o Any outstanding audit reports or submission later than these deadlines means 0% DLI release.

Verification procedure:

The Office of the Auditor General will provide a report attesting that:

- Final, complete audit reports were submitted by the defined deadline.
- That all submitted audits conformed to the INTOSAI standards with defined audit opinion.

- Any audit reports not published by this deadline were delayed by late submission of financial statements by counties, or by financial statements submitted failing to meet the required minimum standards.

The Office of the Auditor General will attach signed copies of all completed audit reports to this report.
The independent firm hired to conduct the ACPA will verify the information contained in the Office of the Auditor General report.
For the audit of FY 2014-15 financial statements, the report of the Office of the Auditor General will be verified by the KDSP Technical Committee[11], as no independent firm will be contracted to conduct an ACPA in the first year of the Program. The World Bank will review the verification.

DLI 2:
"Introduction and timely implementation of Annual Capacity & Performance Assessments by MoDP and timely Program reporting"

Disbursement Arrangements and verification procedure

Year 1:

- Definition of achievement of DLI:
    - County sensitization conducted by MoDP, following process outlined in POM.
    - First meeting of the Technical Committee has been held
- Deadline for achievement of DLIs:
    - County sensitization to be completed in time for the counties to meet conditions for accessing C&P grants.

- Disbursement amount: US$1 million
- Verification procedure:
    - KDSP Secretariat submits an activity report to the Performance contracting unit in DPSM on awareness raising and sensitization.
    - performance contracting unit verifies that adequate sensitization has been conducted, and submits verification to KDSP Technical Committee for final endorsement

Year 2-6

- Definition of achievement of DLI:
    - The ACPA is concluded in time for inclusion of capacity and performance grants allocations in the Division of Revenue Bill and County Allocation of Revenue Bill each year.
    - Starting in year 3 of the Program MoDP will also include a value for money assessment within the ACPA cycle.

[11] The KDSP Technical Committee will comprise of the key institutions responsible for supporting county capacity, including MoDP, National Treasury, The Ministry of Public Service, Youth and Gender Affairs' Directorate for Public Service Management, Kenya School of Government, Council of Governors Secretariat, Inter-Governmental Relations Technical Committee, Commission on Revenue Allocation, and Controller of Budget. The diverse membership, including representation of Council of Governors and independent commissions, will ensure objective verification.

- Deadline for achievement of DLIs:
    - The ACPA needs to be completed in time for the grant allocations to be included in the Division of Revenue Bill and County Allocation of Revenue Bill and national budget.

- Disbursement amount:
    - Years 2-3:
        - In years for which the relevant ACPA does not include a Value for Money Assessment: US$1.7 million
        - In years for which the relevant ACPA does include a Value for Money Assessment: US$2.2 million (VfM assessments are expected form year 3 onwards)
    - Years 4-5:
        - In years for which the relevant ACPA does not include a Value for Money Assessment: US$0.75 million
        - In years for which the relevant ACPA does include a Value for Money Assessment: US$1.25 million (VfM assessments are expected form year 3 onwards)
    - Year 6:
        - If the relevant ACPA does not include a Value for Money Assessment: US$0.7 million
        - If the relevant ACPA does include a Value for Money Assessment: US$ 1.2 million

- Verification procedure:
    - The KDSP secretariat will submit the final report of the ACPA teams, together with the proposed grant allocations, and with copies of the final CARA and DORA attached, to the KDSP Technical Committee. The KDSP Secretariat will also submit a copy of the annual Program Report for the previous year to the KDSP Technical Committee within three months of the end of the FY.
    - The KDSP Technical Committee will verify that the ACPA procedure was correctly followed, and that the final allocations in the CARA and DORA match the allocations contained in the final report of the ACPA team.
    - The World Bank retains the right to join the ACPA and VfM assessments in the field as part of its implementation support, provide quality assurance reviews of county assessments, and to review the quality of the overall ACPA process. The World Bank will therefore receive a copy of the ACPA team's draft as well as final assessment report at the same time as the KDSP Secretariat.

DLI 3

"MoDP implements the agreed annual planned activities to strengthen countrywide frameworks and systems and to address county capacity gaps".

Year 1:

- Definition of achievement of DLI:

- o MoDP submits a capacity building workplan that conforms to the formats[12] and scope in the POM. The workplan covers the period January – June 2016.
- Deadline for achievement of DLIs:
    - o End of March 2016

- Disbursement amount:
    - o US$0.75 million if the workplan meets all conditions in the POM.
    - o The allocation will decrease proportionally if the workplan covers a period of less than 6 months.

- Verification procedure:
    - o MoDP submits the wokplan to the performance contracting unit the KDSP Secretariat. The performance contracting unit verifies that the workplan meets the requirements outlined in the POM, and that the implementation report is accurate. The performance contracting unit submits the verification to the KDSP Technical Committee for final endorsement. The World Bank reviews the verification.

Year 2-5:

- Definition of achievement of DLI:
    - o MoDP submits an annual capacity building workplan that conforms to the formats and scope in the POM.
    - o MoDP submits an implementation report for the previous FY (for example, in year 2 of the Program, an implementation report for FY 15 is submitted) following the formats prescribed in the POM. Implementation report shows that the following implementation rates have been achieved:
        - ▪ FY15 plan 70 percent implemented
        - ▪ FY16 plan 75 percent implemented
        - ▪ FY17 plan 80 percent implemented
        - ▪ FY18 plan 80 percent implemented

- Deadline for achievement of DLIs:
    - o The annual capacity building workplan is submitted prior to the beginning of the Fiscal Year to which it pertains.
    - o The implementation report for the previous FY is submitted within two months of the new FY.

- Disbursement amount:
    - o If the workplan and implementation report meet all conditions in the POM, and implementation report shows that the target implementation rate of the planned activities were completed (calculated as per the methodology outlined in the POM, Appendix on the CB Manual):
        - ▪ Year 2: US$2.25 million
        - ▪ Year 3-5: US$1.5 million

[12] The format includes clear identification of results to be achieved

- If implementation rates are below the target rate, the disbursement decreases proportionally:
  - Disbursement = full disbursement amount / target implementation percentage X actual implementation percentage

- Verification procedure:
  - MoDP submits the wokplan to the performance contracting unit via the KDSP Secretariat. The performance contracting unit verifies that the workplan meets the requirements outlined in the POM, and that the implementation report is accurate. The performance contracting unit submits the verification to the KDSP Technical Committee for final endorsement. The World Bank reviews the verification.

DLI 4

"MoPSYGA implements the agreed annual planned activities to strengthen countrywide frameworks and systems and to address county capacity gaps".

Year 1:

- Definition of achievement of DLI:
  - MoPSYGA submits a capacity building workplan that conforms to the formats[13] and scope in the POM. The workplan covers the period January – June 2016.

- Deadline for achievement of DLIs:
  - End of March 2016

- Disbursement amount:
  - US$0.25 million if the workplan meets all conditions in the POM.
  - The allocation will decrease proportionally if the workplan covers a period of less than 6 months.

- Verification procedure:
  - MoPSYGA submits the wokplan to the performance contracting unit via the KDSP Secretariat. The performance contracting unit verifies that the workplan meets the requirements outlined in the POM, and that the implementation report is accurate. The performance contracting unit submits the verification to the KDSP Technical Committee for final endorsement. The World Bank reviews the verification.

Year 2-5:

- Definition of achievement of DLI:
  - MoPSYGA submits an annual capacity building workplan that conforms to the formats and scope in the POM.
  - MoPSYGA submits an implementation report for the previous FY (for example, in year 2 of the Program, an implementation report for FY 15 is submitted) following the formats prescribed in the POM. Implementation report shows that the following implementation rates have been achieved:
    - FY15 plan 70% implemented

[13] The format includes clear identification of results to be achieved

        - FY16 plan 75% implemented
        - FY17 plan 80% implemented
        - FY18 plan 80% implemented

- Deadline for achievement of DLIs:
    - The annual capacity building workplan is submitted prior to the beginning of the Fiscal Year to which it pertains.
    - The implementation report for the previous FY is submitted within two months of the new FY.

- Disbursement amount:
    - If the workplan and implementation report meet all conditions in the POM, and implementation report shows that the target implementation rate of the planned activities were completed (calculated as per the methodology outlined in the POM, Appendix on the CB Manual):
        - Year 2: US$0.75 million
        - Year 3-5: US$ 0.5 million
    - If implementation rates are below the target rate, the disbursement decreases proportionally:
        - Disbursement = full disbursement amount / target implementation percentage X actual implementation percentage

- Verification procedure:
    - MoPSYGA submits the wokplan to the performance contracting unit via the KDSP Secretariat. The performance contracting unit verifies that the workplan meets the requirements outlined in the POM, and that the implementation report is accurate. The performance contracting unit submits the verification to the KDSP Technical Committee for final endorsement. The World Bank reviews the verification.

<u>DLI 5</u>

"National Treasury implements the agreed annual planned activities to strengthen countrywide frameworks and systems and to address county capacity gaps".

Year 1:

- Definition of achievement of DLI:
    - NT submits a capacity building workplan that conforms to the formats in the POM. The workplan covers the period January – June 2016.

- Deadline for achievement of DLIs:
    - End of March 2016

- Disbursement amount:
    - US$1 million if the workplan meets all conditions in the POM.
    - The allocation will decrease proportionally if the workplan covers a period of less than 6 months.

- Verification procedure:
    - NT submits the wokplan to the performance contracting unit via the KDSP Secretariat. The performance contracting unit verifies that the workplan meets the requirements outlined in the POM, and that the implementation report is accurate. The performance contracting unit submits the verification to the KDSP Technical Committee for final endorsement. The World Bank reviews the verification.

Year 2-5:

- Definition of achievement of DLI:
    - MoDP submits an annual capacity building workplan that conforms to the formats and scope in the POM.
    - MoDP submits an implementation report for the previous FY (for example, in year 2 of the Program, an implementation report for FY 15 is submitted) following the formats prescribed in the POM. Implementation report shows that the following implementation rates have been achieved:
        - FY15 plan 70% implemented
        - FY16 plan 75% implemented
        - FY17 plan 80% implemented
        - FY18 plan 80% implemented

- Deadline for achievement of DLIs:
    - The annual capacity building workplan is submitted prior to the beginning of the Fiscal Year to which it pertains.
    - The implementation report for the previous FY is submitted within two months of the new FY.

- Disbursement amount:
    - If the workplan and implementation report meet all conditions in the POM, and implementation report shows that the target implementation rate of the planned activities were completed (calculated as per the methodology outlined in the POM, Appendix on the CB Manual):
        - Year 2: US$3 million
        - Year 3-5: US$2 million
    - If implementation rates are below the target rate, the disbursement decreases proportionally:
        - Disbursement = full disbursement amount / target implementation percentage X actual implementation percentage

- Verification procedure:
    - NT submits the wokplan to the performance contracting unit via the KDSP Secretariat. The performance contracting unit verifies that the workplan meets the requirements outlined in the POM, and that the implementation report is accurate. The performance contracting unit submits the verification to the KDSP Technical Committee for final endorsement. The World Bank reviews the verification.

DLI 6

"KSG implements the agreed annual planned activities to address county capacity gaps".

Year 1:

- Definition of achievement of DLI:
    - KSG submits a capacity building workplan that conforms to the formats in the POM. The workplan covers the period January – June 2016.

- Deadline for achievement of DLIs:
    - End of March 2016

- Disbursement amount:
    - US$0.5 million if the workplan meets all conditions in the POM.
    - The allocation will decrease proportionally if the workplan covers a period of less than 6 months.

- Verification procedure:
    - KSG submits the wokplan to the performance contracting via the KDSP Secretariat. The performance contracting verifies that the workplan meets the requirements outlined in the POM, and that the implementation report is accurate. The performance contracting submits the verification to the KDSP Technical Committee for final endorsement. The World Bank reviews the verification.

Year 2-5:

- Definition of achievement of DLI:
    - MoDP submits an annual capacity building workplan that conforms to the formats and scope in the POM.
    - MoDP submits an implementation report for the previous FY (for example, in year 2 of the Program, an implementation report for FY 15 is submitted) following the formats prescribed in the POM. Implementation report shows that the following implementation rates have been achieved:
        - FY15 plan 70 percent implemented
        - FY16 plan 75 percent implemented
        - FY17 plan 80 percent implemented
        - FY18 plan 80 percent implemented

- Deadline for achievement of DLIs:
    - The annual capacity building workplan is submitted prior to the beginning of the Fiscal Year to which it pertains.
    - The implementation report for the previous FY is submitted within two months of the new FY.

- Disbursement amount:
    - If the workplan and implementation report meet all conditions in the POM, and implementation report shows that the target implementation rate of the planned activities

were completed (calculated as per the methodology outlined in the POM, Appendix on the CB Manual):
    - Year 2: US$1.5 million
    - Year 3-5: US$1 million
  - If implementation rates are below the target rate, the disbursement decreases proportionally:
    - Disbursement = full disbursement amount / target implementation percentage X actual implementation percentage

- Verification procedure:
  - KSG submits the wokplan to the performance contracting via the KDSP Secretariat. The performance contracting verifies that the workplan meets the requirements outlined in the POM, and that the implementation report is accurate. The performance contracting submits the verification to the KDSP Technical Committee for final endorsement. The World Bank reviews the verification.

DLI 7

"Counties have undergone the annual capacity and assessment of performance and met minimum access conditions."

Year 1:

- No disbursement

Year 2:

- Definition of achievement of DLI:
  - Counties have complied with the minimum access conditions as defined in the POM, Appendix: Capacity and Performance Assessment Manual (CPAM).
  - County allocations for FY 16 have been included in the CARB and DORB
  - For the second disbursement against this DLI in FY 2016/17, government has disbursed the full amount of the first tranche to county governments as per Program entitlements, unless such disbursements are withheld due to violation of law by one or more counties.

- Deadline for achievement of DLIs:
  - Grant allocations in the CARA and DORA according to budget cycle timelines
  - Counties submit capacity building plans by June 30, 2016.
  - CB plans comply with the investment menu as defined in the POM.
  - The first disbursement to county governments has been made in full.
- Disbursement amount:
  - DLI disbursement amount = USD equivalent of the sum of allocations to qualifying counties as per formula below:
  - Annual allocation for qualifying county i = (KSh.15 million)+ (KSh.15 million X 47) X (equitable share percentage of County i/sum of equitable share percentage of all Counties)
  - The disbursement will be made in two equal tranches during the year

- Verification procedure:

- MoDP will hire an independent consultant to assess county compliance with MACs. The consultant will produce a report that documents the number of counties that complied with the Minimum Access Conditions and the C&P Grant allocation for each county, with a copy of the CARB and DORB and copies of the signed participation agreements attached This assessment will be overseen and verified by the KDSP Technical Committee.
- National Treasury will submit a report to the Technical Committee confirming the disbursement of the first tranche of the C&P Grant to counties.
- KDSP Technical Committee verifies that the planned and actual disbursements to counties is correct, based on the allocations in the CARA and DORA and the report on the counties that met MACs.

Years 3-5:

- Definition of achievement of DLI:
    - The ACPA Minimum Access Conditions have been met by a number of counties.
    - Allocation of capacity and performance grant is included in the Division of Revenue Act and County Allocation of Revenue Act on the basis of the ACPA results.
    - For the first disbursement against this DLI each year, the funds for the previous FY have been disbursed to the counties prior to the end of the FY, as per Program entitlements, unless such disbursements are withheld due to violation of law by one or more counties.
    - For the second and final disbursement against this DLI each year, the funds for the first disbursement have been disbursed to the counties, as per Program entitlements, unless such disbursements are withheld due to violation of law by one or more counties.

- Deadline for achievement of DLIs:
    - Annual capacity and performance assessment Minimum Access Conditions met by the time of the Annual Capacity & Performance Assessment (timeline defined in the POM, Appendix 2: Capacity and Performance Assessment Manual).
    - Grant allocations included in the CARA and DORA according to the timeline requirements in the PFMA.
    - The grant disbursements for the previous tranches were disbursed prior to the end of the relevant fiscal year.

- Disbursement amount:
    - DLI disbursement amount = USD equivalent of (KSh.30 million X number of counties that have met Minimum Access Conditions)
    - This amount is allocated between counties as follows:
      Annual allocation for qualifying county i = (KSh.15 million) + (KSh.15 million X number of Counties that meet Minimum Access Conditions) X (equitable share percentages of County i/sum of equitable share percentage of all Counties that meet Minimum Access Conditions)
    -
    - The disbursement will be made in two equal tranches during the year

- Verification procedure:
    - MoDP hires an independent firm to conduct the ACPA. The firm will follow the procedure provided in the CPAM, which is an appendix to the POM, which includes quality assurance by the KDSP Technical Committee and World Bank.

- The ACPA submits the final report to the KDSP Technical Committee, including the complete results of the ACPA and the resulting C&P Grant allocation. Copies of the CARA and DORA reflecting these allocations will be attached to this report.
- National Treasury will submit reports to the Technical Committee confirming the disbursement of each tranche of the C&P Grant to counties.
- The Technical Committee will review the ACPA report to verify that the correct procedure was followed, and that the allocations included in the CARA and DORA reflect the allocations included in the ACPA report. The Technical Committee will also review the report of the National Treasury of grant disbursements to verify that they have conformed to Program entitlement. World Bank will review the verification and shall receive copy of the ACPA draft and final reports. The Bank may conduct spot checks and QA of the results of the ACPA.

DLI 8

"Counties have undergone the annual capacity and performance assessment and met the minimum access conditions and minimum performance conditions for grant funding and implemented projects according to Program requirements"

Years 1 and 2:

- No disbursement

Years 3-5:

- Definition of achievement of DLI:
  - The ACPA Minimum Access Conditions have been met by a number of counties.
  - Allocation of capacity and performance grant is included in the Division of Revenue Bill and County Allocation of Revenue Bill on the basis of the ACPA results.
  - For the first disbursement against this DLI each year (with the exception of the first tranche in year 3 of the Program), the funds for the previous FY have been disbursed to the counties prior to the end of the FY, as per Program entitlements, unless such disbursements are withheld due to violation of law by one or more counties.
  - For the second and final disbursement against this DLI each year, the funds for the first disbursement have been disbursed to the counties, as per Program entitlements, unless such disbursements are withheld due to violation of law by one or more counties.

- Deadline for achievement of DLIs:
  - Annual capacity and performance assessment Minimum Access Conditions and Minimum Performance Conditions met by the time of the Annual Capacity & Performance Assessment (timeline defined in the POM).
  - Grant allocations included in the CARB and DORB according to the timeline requirements in the PFMA.
  - The grant disbursements for the previous tranches were disbursed prior to the end of the relevant FY.

- Disbursement amount:
  - DLI disbursement amount = US$ equivalent of (KSh.150 million X number of counties that meet the minimum performance conditions)

- This amount is allocated between counties as follows:
  Annual allocation for qualifying county i = (KSh.150 million X number of counties that meet the Minimum Performance Conditions) X ({Performance Factor of county i X equitable share percentage of county i}/ {the sum of [Performance Factor X equitable share percentage] for all counties that meet Minimum Performance Conditions})
- The disbursement will be made in two equal tranches during the year

- Verification procedure:
  - MoDP hires an independent firm to conduct the ACPA. The firm will follow the procedure provided in the CPAM, which is an appendix to the POM, which includes quality assurance by the KDSP Technical Committee and World Bank.
  - The ACPA submits the final report to the KDSP Technical Committee, including the complete results of the ACPA and the resulting C&P Grant allocation. Copies of the CARA and DORA reflecting these allocations will be attached to this report.
  - National Treasury will submit reports to the Technical Committee confirming the disbursement of each tranche of the C&P Grant to counties.
  - The Technical Committee will review the ACPA report to verify that the correct procedure was followed, and that the allocations included in the CARA and DORA reflect the allocations included in the ACPA report. The Technical Committee will also review the report of the National Treasury of grant disbursements to verify that they have conformed to Program entitlement. World Bank will review the verification and shall receive copy of the ACPA draft and final reports. World Bank may conduct spot checks and quality assurance of the results of the ACPA.

Annex 4: (Summary) Technical Assessment

KENYA: DEVOLUTION SUPPORT PROGRAM

Strategic Relevance

1. **The primary strategic goal of the Program is to improve the capacity of county governments to manage resources effectively to deliver improved services and infrastructure investments.** The Program design recognizes that building sub-national capacity cannot be achieved through supply-side capacity building activities alone. The Program therefore combines achievement of improved supply-side inputs with investment in demand-side results. The Program will therefore create incentives for counties to invest in absorbing capacity building support and dedicate resources to achieving capacity objectives. The Program will also help national government and development partners to better design capacity building support by implementing a standardized, rigorous and objective annual assessment of county performance. The combination of annual assessment, greater investment in capacity building support and improved incentives for county performance will deliver faster and broader achievement of NCBF results.

2. **The benefits of this approach combining multi-sectoral grants, with capacity building support and stronger incentives to improve in core areas of county performance such as planning, PFM, governance and transparency have shown tangible and long-lasting results from programs in other countries** such as Uganda (LGPD; USMID), Tanzania (LGSP, ULGSP) and Ethiopia (ULGDP-I and ULGDP – II) as well as other parts of the world e.g. Bangladesh – LGSP I and LGSP II, where the various components of the programs are working in a mutually strengthening manner. The grants will support the local planning and prioritization process, addressing local needs, and the incentives in the objective annual performance assessments will promote stronger focus on participatory and open planning processes, good PFM and governance procedures and capacity enhancement in core areas such as procurement and transparency. The provision in the grants to allow spending of part of the funding for targeted capacity building interventions identified by the counties through the ACPA will provide counties with sufficient funding for addressing performance gaps. Alternative approaches with earmarked funding to specific projects or types of investments would not have provided the same comprehensive and targeted focus on local needs and institutional improvements. Second, the institutional improvements are expected to be long lasting and will be followed-up in subsequent assessments, rather than focusing on short-term outputs in specific areas. Rather than focusing on specific outputs, the program will also support general assessments of the value-for-money in broad operations of the counties, starting from the 3rd year/ACPA, and these results will fit into the ACPA results and impact on future grant allocations to counties.

3. **The scope of the Program covers all counties in Kenya.** This is a departure from similar recent regional Programs, which have focused on urban governments. This difference in scope is well justified on a number of grounds:

- County governments are young, and all **are** in need of support to build basic capacities.

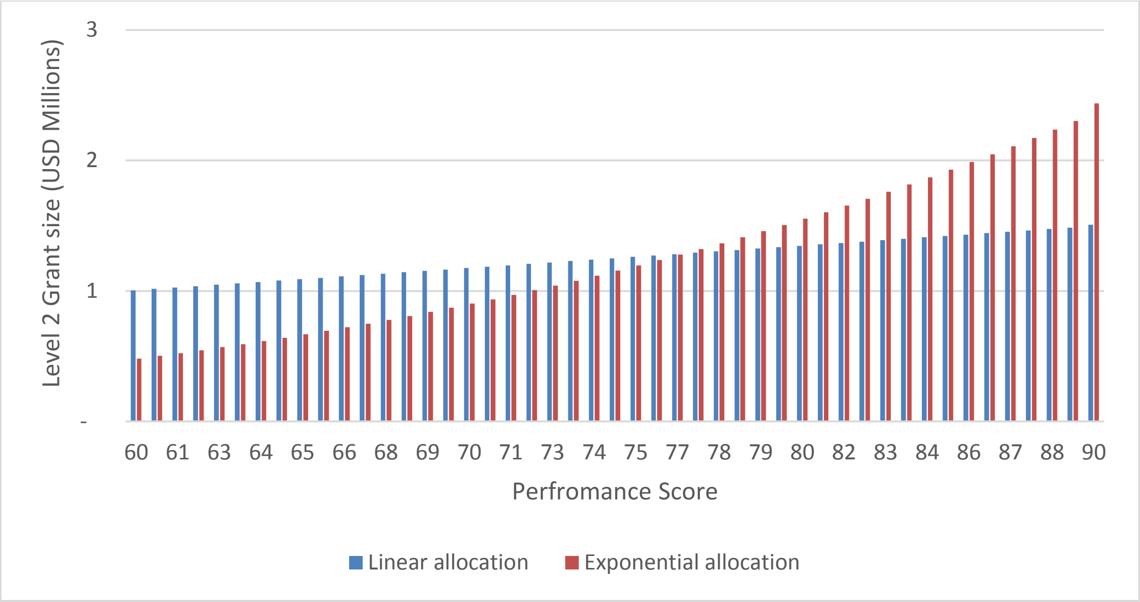
- Devolved mandates include many **rural** functions. Healthcare, agriculture, rural roads and early childhood development, among others, are important county government mandates. These functions are not necessarily concentrated on urban areas. Therefore the Program seeks to support all counties in achieving the capacities necessary to better deliver these services.
- Local Governments (LGs) are not clearly differentiated between urban and rural. Kenya has only two levels of government, national and county governments. Although the Cities Act provides for councils / boards for cities and large towns, these are not independent levels of government.
- The devolution agenda seeks to redress a perceived historical imbalance in allocation of resources in favor of urban and densely populated regions. Therefore introducing a grant that allocated resources to urban areas and not rural areas would not be politically feasible.

4. **The Program introduces a very unique allocation approach for Performance Based Grants. Many countries have introduced grants that are allocated on the basis of relative performance of LGs.** Typically the size of the grant varies linearly with the performance score achieved by each LG (and is weighted by population or similar measures). The performance based grant to be introduced in Kenya will use a different approach. The size of the Grant will vary exponentially with the performance score. The main reason for this is to increase the incentive effect for counties to achieve improvements in their performance score. Using hypothetical performance results the difference in grant size for a given county achieving a score of 90 compared to a score of 60 is estimated at about 50%. Using the same hypothetical distribution of performance scores, but adjusting grant sizes based on performance score raised to the power 4, gives a fourfold variation in grant size (an increase of over 300%). These simulations are shown in the graph below:

5. **The simulation shown in the next page demonstrates the size of grant that the example county would receive for a range of possible Performance Scores based on a hypothetical distribution of performance scores across the counties.** In this simulation, the variation in grant size under the ‘exponential’ model can be seen to be far greater than under the ‘linear’ model. This is expected to increase the incentive effect of the grant. The allocation principles are further discussed in the section below on technical soundness.

6. **In addition to the primary strategic goal of strengthening county capacity, the Program also aims to improve county infrastructure investment through grants to county governments.** These grants will be used by counties to fund priority infrastructure investments drawn from the Integrated Development Plans and Annual Development Plans. The Program will ensure that these funds deliver high returns because the size of grant allocations to each county will be based on the quality of financial management, planning and M&E and public participation throughout the Program and, from year 3 of the Program (3^{rd} ACPA in September 2017), on the utilization and value for money achieved with previous grant disbursements.

Annex Figure 4.1: Grant simulation for an average sized county: comparing the effect of varying the grant size linearly and exponentially with performance score



7. **The capacity and performance grants will be a small share of overall county revenue, but will nevertheless deliver strong performance incentives.** County government's share of national revenue, at more than US$2.6 billion, is very large compared to the size of the conditional transfer to be introduced under KDSP, which is not expected to exceed US$63 million during the Program. County own source revenues are expected to total approx. US$30 million per year. Overall, capacity and performance grants funds are expected to amount to **approximately** 2.5% of total county revenues annually. However, there are several reasons to believe that the grants will still create a strong incentive effect:

- Compared to local revenues (excluding transfers from national government), capacity and performance grants funds will be significant. For most counties, capacity and performance grants funds are expected to exceed local revenues. Counties have been observed to invest significantly in increasing own source revenues. It is expected, therefore, that they will also be willing to invest in securing the relatively larger capacity and performance grants funds.
- For a large number of counties, the capacity and performance grants could represent a significant increase in revenue for development spending (within the investment menu). For many counties, particularly larger urban counties that inherited many former provincial staff, inherited wage bills constitute a very large proportion of available revenue. Funding for discretionary projects is therefore limited in many counties. Capacity and performance grants funds are expected to amount to between 10 to 30% of 2014/15 development spending for top performing counties.
- The size of the Grant will be sufficient to fund meaningful projects. The average Grant size for counties meeting minimum performance conditions is expected to be around US$1.8 million. This exceeds the average size of investment projects in the majority of counties, as counties tend to focus on smaller investment projects and spread investments

between wards. The Grant will therefore result in tangible benefits in terms of number of investment projects that can be undertaken.

- The capacity and performance grants will create a strong non-financial incentive effect. Kenya has a vibrant media and civil society that regularly reports and demonstrates an interest in measures of government performance. However, the media is also well documented for its inaccuracy in reporting on complex areas such as public financial management. The Annual Performance Assessment will result in a very simple, objective measure of core county government capacities that the media and civil society groups are expected to report on widely. Experiences from other countries with performance-based grants such as Ghana (DDF), Uganda (LGDP and later USMID), Tanzania (LGSP and later ULGSP), Ethiopia ULGDP I and II have proved the importance of publication of results, awareness raising, etc. and provided evidence for the increased pressure on officials for improved performance when these results are widely shared. The linking of additional development funding to the ACPA is expected to attract additional interest in the results from media and civil society groups and citizens more broadly. This was also confirmed during the field-testing of the ACPA tool, where the county officials stressed the importance of being in the well performing group of counties, and the wish to be involved in competitions like this.
- To maximize the incentive for counties to strive for improvements in ACPA results, the size of each county's allocation will vary exponentially with the performance score, rather than employing a linear relationship. This results in large marginal increases in capacity and performance grants funds with improvements in performance. This is expected to leverage greater incentives to invest in institutional performance.

8. The design of the capacity building support under the Program (DLIs 3, 4, 5 and 6) will create a significant step-change in NCBF implementation. The following features of the Program design will deliver particular strategic value:

- The emphasis on planning and monitoring of capacity building activities. Currently implementation of the NCBF suffers from a lack of coherent planning and monitoring. The Program will provide incentives for development of annual capacity building work plans and implementation reports. This will increase the effectiveness and improve coordination of capacity building activities. This benefit will apply to both government-executed capacity building, but will also help ensure better coordination between GoK and DPs.
- The emphasis on linking capacity building support to county needs. The POM will describe the process for developing annual capacity building work plans, and will focus on the role of capacity building in addressing challenges identified through the ACPA. Additionally, the format for county capacity building work plans will encourage counties to identify needs for supply-side support. These needs will be factored into the planning of Program supported capacity building.
- The emphasis on moving beyond 'classroom training'. The design of the Program will encourage MoDP, MoPSYGA-DPSM, NT and KSG to move beyond classroom based training and to promote on-the-job and peer-to-peer learning. This will be done primarily

through the process of developing, and the structure of the annual capacity building work plans, which will challenge GoK institutions to provide these types of support.

9. **A key feature of the Program design is to provide flexibility, while promoting effectiveness.** Through the NCBF, the GoK is undergoing a process of improving and innovating in the way it delivers capacity building support. In particular the KSG, with support from the World Bank Leadership, Learning and Innovation (LLI) practice, is exploring options for improving the range and effectiveness of its learning approaches. The design of the Program enables GoK to continue to innovate in how capacity building is developed, rather than assuming that all of the answers are already known. Therefore the Program provides a framework for an annual process of strategic planning on how to best deliver responsive capacity building within certain parameters:

- The Program expenditure framework, supported by DLI allocations, anticipates the division of resources between the Kenya School of Government and government departments in implementing capacity building support.

- The POM outlines the categories of capacity building support that will be provided under the Program, and ensures that KSG, MoDP, DPSM and NT plan for using a range of methods for meeting county capacity building needs.

- The POM describes the approach for coordination in supply of capacity building between KSG, MoDP, DPSM and NT. The workplans developed under the Program will also provide a basis for broader coordination through the Devolution Sector Working Group.

10. Within this framework, KSG, MoDP, DPSM and NT will plan on an annual basis what mix of activities will best meet county needs.

Program Technical Soundness

11. **Improvement in timing of audit submissions.** The capacity of the Office of the Auditor General to conduct audits of county financial statements within the required timeline is a substantial risk to the Program. The Program design addresses this risk through DLI 1. This DLI creates a significant incentive to ensure that the Office of the Auditor General is sufficiently resourced to meet required audit timelines. The Office of the Auditor General has developed a roadmap for improved capacity that proposes an improvement in timeliness of audits over the first two years of the Program. The audit of FY 2013-14 county financial statements, due by December 31, 2014, were in fact published in August 2015. The Program design recognizes that it is not realistic to expect the Office of the Auditor General to improve performance by 7 months within one year, and so the first trigger for DLI 1 is the submission of county FY 2014/15 financial audits by May 31, 2016, rather than December 31, 2015. Thereafter annual disbursements will be dependent on submission by January 31 each year.

12. **Introduction and delivery of the ACPA, management of the Grant system, and coordination of KDSP capacity building activities.** These functions are critical to successful **delivery** of Program objectives, and will be managed by a dedicated Secretariat within MoDP.

This secretariat will benefit from experience in managing the former LATF, but will also be complemented by hiring 6 dedicated experts. ToRs for these experts are included in the POM. During the early years of the Program, these experts are expected to be hired as consultants. Over the course of the Program, MoDP will seek to staff these functions with civil servants, as appropriate. The DLI result focuses on the completion of the ACPA. The Assessment will be conducted by an independent firm contracted by MoDP, but the Technical Committee will play an important role in the procurement process to ensure confidence in the process from a broad range of stakeholders represented in the TC (including the Council of Governors Secretariat). Specifically, the TC will review ToRs prior to procurement, and will review procurement and evaluation reports. Ensuring adequate resources to manage the assessment and Grant systems will be essential to the success of the Program. The KDSP Secretariat will produce detailed annual budgets and workplans to support budget negotiations, and NT will ensure that adequate funds are provided through the budget process. Sufficient resources have been allocated to this DLI to ensure that the Secretariat can be supported to function effectively.

13. **Provision of capacity building support to counties by national agencies.** The Program introduces a significantly strengthened approach to planning and managing the implementation of capacity building support. The Capacity Building Manual introduced through the Program will provide for a much more rigorous planning process, and ensure that capacity building is not limited to classroom training. The M&E processes introduced in the manual will ensure improved implementation of planned activities. The establishment of a KDSP secretariat, with a dedicated Capacity Building focal point, will help national departments to implement the strengthened processes outlined in the Capacity building Manual.

14. The following MoDP departments will provide support to counties on Planning and M&E, Devolution and Inter-Governmental Relations, and Civic Education and Public Participation:

- ***Monitoring and Evaluation Department*** **(MED):** has a core complement of staff that are well versed in national M&E practices. The department has developed guidelines for county M&E practices. Counties have signaled demand for support from MED staff, however the department has lacked resources to meet these demands. In 2014/15 the department was able to provide support to only 5 counties. In implementing the Program, MED will seek to ensure that all relevant staff have undergone relevant training as trainers at KSG. Through the Program, the Department will have additional resources to hire additional expertise, and to meet operational costs of providing on-site support to counties. The Department will increase the value of support provided by linking support to key points in the county planning and evaluation annual cycle. MED will also explore opportunities for peer learning, for example by facilitating peer review of draft Annual Progress Reports. The department will finalize and disseminate CIMES guidelines, provide training through KSG and backstop county M&E teams.
- ***Planning Department:*** faces similar constraints to MED. Under the Program, staff will be enabled to provide support that is being requested by counties. In addition, the Program will provide additional resources for finalization of county planning guidelines. The department will update CIDP guidelines, train and backstop county planning teams and distill and disseminate good practice.

- ***Capacity Building and Technical Assistance:*** is responsible for support under the citizen education & public participation KRA. The department has developed a comprehensive set of guidelines to enable effective county performance in this area. However, the department lacks capacity and resources to provide sufficient support to counties on internalizing and utilizing these guidelines. The Program will provide resources for the department to contract expertise to complement staff, and operating resources to enable outreach to counties. The department will finalize training modules, roll out a civic education program, approve and disseminate public participation guidelines and provide training and backstopping to counties. This department will also be responsible for management of the ACPA and grant system, including providing support to counties in managing the ACPA process and implementing grant investments. The capacity of the department to provide such support is currently very weak, and so the Program will provide resources for the department to hire sufficient experts to perform this function (under DLI 2).

15. The Ministry of Public Service, Youth and Gender Affairs' Directorate of Public Service Management will provide support in areas of Human Resource Management:

- **Ministry of Public Service, Youth and Gender Affairs-Directorate of Public Service Management:** is responsible for capacity building under the HRM result area. The department has facilitated the development of a number of guidelines, but is yet to complete guidelines for job descriptions and competency frameworks. Under KDSP, the Directorate will finalize remaining guidelines. rollout training on HRM, support counties to develop staffing plans, provide counties with competency frameworks for staff families in counties, provide TA on performance contracting, develop norms and standards and operationalize the intergovernmental forum on public service. The directorate has a core of expertise; under the Program they will be able to better leverage their expertise to provide support to counties.

16. The **National Treasury departments** will provide support in areas of PFM:

- ***Public Financial Management Reform (PFMR) Secretariat***: the PFMR secretariat is a high capacity unit within NT with a remit to drive PFM reform across both levels of government. The PFMR Secretariat (PFMRS) will play an important role in coordinating supply of capacity building across NT. The Secretariat will not play a lead role in delivery of thematic support to counties, but will work alongside departments to ensure effective coordination and implementation of support.
- ***Inter-Governmental Fiscal Relations (IGFR) Department***: the IGFR department will play an important role in supporting counties across the PFM result area, and in managing conditional transfers. The department will also be the lead department in supporting on revenue enhancement. The department has begun developing a framework and guidelines for counties, including holding an important consultative workshop. Todate, the department has been largely supported by DP resources. The Program will provide resources through government for more sustained support in this area. The department will develop framework legislation on county revenues, roll out revenue

training modules, and provide TA on revenue collection systems, adherence to guidelines and revenue reporting.

- ***IFMIS Department***: the IFMIS department within the National Treasury manages the large-scale support already provided to national and county government on implementation and rollout of IFMIS to the central government and the counties. The department has the support of a large World Bank ICT project, the Transparency and Communications Infrastructure Project (KTCIP). While KTCIP does not fund the software licenses, it does support the integration of IFMIS with other government software such as for revenue collection and payments. The Program will facilitate better coordination of IFMIS reform activities with broader capacity building support at all levels of government. The ACPA will also provide valuable inputs to the design of more targeted IFMIS support through better information on utilization of various IFMIS modules.

- ***Accounting Services Department:*** is a high capacity department that is already providing substantial support to counties. The department has assigned officers to support clusters of counties. However, the department estimates that it currently only has about 50% of the resources required to meet county needs. The Program will therefore enable the department to scale up the already effective support being provided. The ACPA will also better inform the targeting of this support. Through the support provided, the Department is knowledgeable about best practice approaches taken by high performing counties. The Program will seek to increase the degree to which such best practice is disseminated between counties. support counties to participate in seminars and short courses, and support the purchase of relevant IT equipment.

- ***Procurement Department:*** has been very active in improving the legislative and regulatory framework for counties, and rolling out reforms at the county level. The department provides substantial support to county governments, but is currently unable to meet the high demand for additional assistance. The Program will enable the department to increase the level of support provided, to finalize procurement regulations, complete roll-out of eProcurement modules and up-scale training of trainers.

- ***Internal Audit Department:*** has developed internal audit manuals and systems. However, implementation of these at the county level remains weak. The department is in need of additional resources to provide outreach and support to counties to increase the implementation of internal audit requirements. The department will provide training on IDEAS and Teammate audit software, support establishment of institutional risk registers and finalize gazettement, printing, dissemination and sensitization of guidelines for internal audit departments and audit committees

17. **The Kenya School of Government will support capacity building across all key results areas.** The governance of KSG is still at an early stage with many members from senior management only instituted in the past year, in the case of campus Directors, only in the past 3 months.

- KSG can draw on a strong staff body with about 100 faculty operating in 4 campuses and a wide network of alumni and subject matter experts across Kenya. The latter are hired on an as-needed basis as adjunct faculty and consultants. A systematic process of onboarding, training of trainers, certification and continuous performance assessment was recently put in place with support from the EU. Accreditation of institutional partners is planned but has not yet started. While the 4 campuses offer relatively good access to counties, senior management sees a potential need to develop a presence in the North-Eastern region to increase geographic proximity to its learning offerings.

- **Structured learning offerings** are currently designed in collaboration with departments and the Kenya Institute of Curriculum Development which provides pedagogy and learning design. The average course development takes 3 - 6 months. KSG does currently not have any capacities for learning design in-house. The vast majority of learning offerings (about 90%) are delivered in-classroom. KSG offers distance learning in its Nairobi and Mombasa campuses which have video conferencing facilities developed under GDLN. A few e-learning offerings have been developed and operate on a Moodle platform. Duration of learning offerings varies from 3 days to 6 months (master program not included), with an average duration of 4 weeks. A yearly learning catalogue is published which outlines the offerings for the given year. The catalogue is complemented by ongoing short-term offerings based on client demand.
- **Peer learning and action learning** are currently only offered as part of structured learning offerings. KSG has very limited capacity to design and deliver stand-alone knowledge exchange activities. A platform for brokering of supply and demand for learning does not exist.
- **Documentation and capturing of local experiences for learning and replication:** KSG has very limited capacity to capture local knowledge and senior management sees this as an area in which the institution needs to invest. The systematic development of case stories, case studies and bite-sized knowledge assets has been recognized as a source of learning but capacities are needed to develop this line of work.
- The assessment concluded that **KSG has a strong basis for support to counties,** but with significant opportunities for expanding support. The Program will provide additional resources and a stronger framework for designing capacity building support. This will enable KSG to create a step change in the level and effectiveness of support provided, building on the current strong governance and operational capacity.

18. **The design of the Capacity and Performance Grant system draws from the experience within Kenya and from other counties.** This includes Kenya's LATF, one of Africa's first performance based Local Development Grants. It also draws heavily from recently established Performance Grant systems in the region, particularly Ethiopia (UPLG I and II), Uganda and Tanzania. These latter Grant systems have benefitted from similar World Bank engagement through PforR **operations**. The design has also benefited from the extensive experience of the World Bank Leadership, Learning and Innovation practice. The following table identifies the main lessons learned.

19. **Choice of performance measures.** The process leading to selection of appropriate performance measures has been very thorough. The performance measures in the four KRAs of PFM, HRM, Planning and M&E, and Civic Education are all derived from the NCBF-MTI. No performance measures have been included for KRA 4 on Devolution and Inter-Governmental Relations because the results in this KRA are not to be achieved specifically at the county level.

The MTI was developed through an intensive consultative process, primarily at national government level, including DPs. The performance measures to be used to measure progress against these results were developed jointly by the Bank Team and government, factoring in experience from similar assessment systems in numerous countries. These were then tested in four counties to assess their suitability and to receive feedback from county officials. The performance measures were then refined to incorporate this feedback. The selection of performance measures is designed to minimize the complexity and burden of the assessment, while ensuring that the assessment is comprehensive. The comprehensiveness of the Assessment is essential to ensure broad ownership of the results among stakeholders with different priorities, and to avoid the need for duplicating assessments to cover areas not sufficiently addressed by the ACPA. The performance measures are also balanced between the desire to measure outcomes associated with improved service delivery, against the need to ensure attribution between improved capacity and inputs and the output being measured. Therefore the Measures focus on system and process outputs, rather than service delivery metrics. There is however substantial evidence from around the world that these output level indicators are closely associated with improved infrastructure investment and service delivery outcomes.

20. **Inclusion of VfM in Performance Measures, not as separate DLI.** The Program will create **value** both through the infrastructure funded under the capacity and performance grants, and through improved effectiveness in the use of all county government resources as a result of better institutional performance. Measuring the VfM achieved in a sample of county infrastructure investments can be an extremely useful indicator in the success of the Program in both funding high value infrastructure investments, and in leveraging value for money across all county level infrastructure investments. In some similar Programs, this indicator is directly linked to Program funding through a DLI. However, in the KDSP it has been considered more appropriate to include this indicator as part of the overall disbursement for improved institutional performance. This does not decrease the incentive effect of improving the end result of VfM in infrastructure investments, as the allocation of the capacity and performance grants will still vary with the results of the VfM assessments. However, by combining the allocations for VfM and institutional performance indicators this design strengthens the link between these two levels of outputs.

21. **Design of investment menu for the capacity and performance grants.** The design of the capacity and performance grants emphasizes strengthening institutional performance in all counties, across the whole county mandate. The investment menu for the grant is designed to reflect this objective. The investment menu is as broad as possible, within certain constraints. These constraints primarily relate to environmental and social impact. Investment types that carry a high risk of substantial negative social or environmental risk will be excluded from capacity and performance grants financing. The capacity building investment menu is also subject to constraints to exclude certain types of activities, such as foreign study tours or funding for graduate or post-graduate education (see full investment menu in annex 10).

22. Based on the above, **the technical design of the Program will contribute to the overall goal of efficiently producing results and reaching the Program's objectives.** The Program technical design reflects international good in technical standards and typology of Program activities. Furthermore, the design ensures, to the extent possible, that the incentives are in place

for Program stakeholders to effectively contribute to the Program’s success. Therefore, the Program is assessed to be technically sound.

Annex Table 4.1: How KDSP incorporates lessons learnt from LATF and ULGDP (Ethiopia) in its design

Area	Lessons learned	Action taken
Annual Performance Assessment cycle synchronized with county government planning and budgeting cycle.	Important to ensure that results fit with the local government planning and budgeting process in order to have a predictable and well-organised transfer system, based on well-known figures and hard budget constraints. Delays in results lead to add-on planning in ad-hoc manner and dilutes the counties' options to achieve planned targets (which is part of the performance assessment). Late ACPAs have also led to late disbursement of funds in several countries.	This will be ensured with a clear time-plan and linked with the DLI on timeliness of the ACPA and value for money audits. This will be monitored and disbursed against a DLI. Results will be ready to be included in the GoK mainstreamed planning and budgeting process, which is the first condition for timely allocations.
Integration of results in the budget framework	There are often challenges in getting the results and allocations mainstreamed with Government planning and budgeting procedures.	The DLIs will ensure that results will be available in due time to ensure that they are incorporated in the Division of Revenue Act-DORA- and the County Allocation Revenue Act-CARA. The system will also be included in the Budget Policy Statements, as well as integrated in the budget system of GoK.
Grant application	Performance-based grant systems are easier to implement if they are financing areas where activity levels can be adjusted across years.	The capacity and performance grants will function as additional funding (top-up) for areas which can be adjusted across years, e.g. capacity building support, investments, service boosting activities etc., and not for core salaries or funding, which will be sourced from other means e.g. the equitable share.
Indicators sharpened and targeted	Some performance assessment tools, e.g. the ULGDP-I (Ethiopia) had more than 70 data collection points. This was found to be excessive, time-consuming and less focused on major core performance issues. There needs to be a proper balance between comprehensively reflecting the performance and ensuring balancing of priorities, ensuring usefulness of the tool for capacity building needs assessment and learning and the aim to keep it simple and focused.	The KDSP annual capacity and performance assessment will focus on a small number of performance measures, despite spanning 5 areas of results (4 KRAs from the NBCF and the indicators focusing on service delivery and implementation capacity). Indicators will be clearly formulated to ensure that there is no ambiguity in the understanding and application. The draft set of indicators have been field-tested to ensure fine-tuning of the specifications, and been up-dated accordingly. The testing has shown a strong buy in in the draft indicators proposed.
Links between performance assessment and capacity building	International experiences have shown the importance of having a strong link between the performance assessment and capacity building support.	Most of the minimum conditions and performance measures, see the linkages note, are drawn from the NCBF, and this ensure strong links between identified needs from the ACPA and the actual capacity building support rendered from the central agencies. Counties will also be able to spent part of the grants on supporting areas where they have relatively poorer performance.
System of performance	Performance-based grant allocations provide incentives to	ULGDP II built on further development of the 'static' system of

Area	Lessons learned	Action taken
incentives strengthened	perform, but can be strengthened through a system where every incremental improvement is rewarded. Some countries are working with brackets of performance allocations (leaving less incentives in some scoring ranges) and non-weighted scores, leaving very limited incentives for larger LGs.	ULGDP I with the introduction of allocation formula on a continuous scale where incentives are kept on all levels of performance, on a scale between 0–100. The capacity and performance grants will go further still, increasing the allocation exponentially with the performance score, rather than linearly. This will result in an increasing return to marginal performance score improvements. The weighted score will ensure strong incentives for all types of counties (larger as well as smaller). Every point will be of importance for the counties in the intension to reach the top level in a more competitive system. The incentive system is based on review of experiences from performance allocations in 15+ countries and has further elaborated a more competitive system of allocation.
Performance assessments	Performance assessments have to be neutral, objective and with a high level of credibility. This may be a challenge to ensure over time, and systems and procedures to avoid "gaming" will have to be in place and currently monitored.	The procedures designed in the new ACPA ensures contracting out of the ACPA to neutral highly professional contracted firms, and procedures for review, monitoring, QA and follow-up are established as part and parcel of the design. The results will be verified by an advisory intergovernmental committee as well as during the due diligence review of the World Bank.
Capacity building support strengthened	Supply-driven capacity building must be complemented by demand-side elements. Experiences from performance-based systems document the importance of having a strong system of capacity building in place to enable LGs to respond to the incentives and address gaps.	The capacity and performance grants investment menu will provide for investments in capacity building and system strengthening. The ACPA and requirement for county capacity building plans is also expected to leverage greater use of other county revenues to promote capacity building. The support will be phased in a manner where the first year will focus on funding of capacity building support, and then in the subsequent years with a broad joint performance based grant (capacity and performance grants), which can be used partly for capacity building and partly (major part) for investment in infrastructure and service delivery. This system enables counties to build the basic capacity prior to the larger allocations from the system.

Assessment of Program Expenditure Framework

23. **Program expenditure is expected to total approximately US$287 million,** of which US$200 million will be IDA financing. The breakdown of expected expenditure is shown in the table below.

Annex Figure 4.2: Program Expenditure Framework

	FY15/16 US$m	FY16/17 US$m	FY17/18 US$m	FY18/19 US$m	FY19/20 US$m	FY20/21 US$m	**Total US$m**
Auditor General (county audit cap)	4.6	4.1	4.2	4.5	4.6	0.0	**22.0**
MoDP & MoPSYGA-DPSM	1.1	1.8	1.8	2.3	2.3	1.2	**10.5**
MoDP (County cap. bldg.)	2.7	4.2	5.1	5.4	5.5	0.0	**22.9**
MoPSYGA (County cap. bldg.)	0.6	0.9	1.7	1.9	1.9	0.0	**7.0**
NT (County cap. bldg. building)	5.3	9.5	9.4	17.8	18.0	0.0	**60.0**
KSG (County cap. bldg.)	0.5	1.1	1.1	1.1	1.1	0.0	**4.9**
Grants	0.0	4.5	37.5	55.5	62.5	0.0	**160.0**
Total	**14.8**	**26.1**	**60.8**	**88.5**	**95.9**	**1.2**	**287.3**

24. **All Program expenditures will be provided for in the national and county budgets**. Funding appropriated but not spent will need to be re-appropriated the following year. Grants disbursed from national to county governments but not utilized during the year will be carried forward into the **new** fiscal year by counties, and re-appropriated through the budget process.

25. **The 2015/16 MTEF includes US$11 million in financing for KDSP for 2015/16, raising to 14 million by 2017/18**. This expenditure is expected to continue in subsequent years, with further increases in **expenditures** under PFM. This will be supplemented by USD 205 million in additional new financing as shown below:

Annex Figure 5.3: Program Expenditure Framework

	FY15/16 US$M	FY16/17 US$M	FY17/18 US$M	FY18/19 US$M	FY19/20 US$M	FY20/21 US$M	Total US$M
Existing budget for KDSP activities:							
Public Financial Management	4.8	5.5	6.4	14.8	15.0		46.5
Planning and M&E	0.4	0.3	0.4	0.4	0.4		1.9
Civic education, public participation	0.6	0.7	0.8	0.8	0.8		3.7
Human Resource Management	0.2	0.3	0.9	0.9	0.9		3.2
Office of the Auditor General	3.6	3.1	3.2	3.5	3.6		17.0
Devolution & Intergovernment	1.0	2.0	2.2	2.2	2.3		9.7
Kenya School of Government	-	0.1	0.1	0.1	0.1		0.4
Total	***10.6***	***12.0***	***14.0***	***22.7***	***23.1***	***0.0***	***82.4***
Planned increase for capacity building activities:							
Public Financial Management	0.5	4.0	3.0	3.0	3.0		13.5
Planning and M&E	0.5	0.7	1.0	1.0	1.0		4.2

	FY15/16 US$M	FY16/17 US$M	FY17/18 US$M	FY18/19 US$M	FY19/20 US$M	FY20/21 US$M	Total US$M
Civic Educ & Public Participation	0.2	0.5	0.7	1.0	1.0		3.4
Human Resource Management	0.4	0.6	0.8	1.0	1.0		3.8
Office of the Auditor General	1.0	1.0	1.0	1.0	1.0		5.0
Kenya School of Government	0.5	1.0	1.0	1.0	1.0		4.5
Total	***3.1***	***7.8***	***7.5***	***8.0***	***8.0***	***0.0***	***34.4***
Planned increase for Program Management:							
Ministry of Devolution and Planning	1.0	1.7	1.7	2.2	2.2	1.2	10.0
Ministry of Public Service, Youth & Gender Affairs (Performance Contracting Unit):	0.1	0.1	0.1	0.1	0.1		0.5
Total	***1.1***	***1.8***	***1.8***	***2.3***	***2.3***	***1.2***	***10.5***
Planned increase for Capacity and Performance Grant:							
Level 1 grant		4.5	7.5	10.5	10.5		33.0
Level 2 grant			30.0	45.0	52.0		127.0
Total	***0.0***	***4.5***	***37.5***	***55.5***	***62.5***	***0.0***	***160.0***
Grand Total	**14.8**	**26.1**	**60.8**	**88.5**	**95.9**	**1.2**	**287.3**

26. **Around 56% of Program expenditures will comprise of grants to county governments.** The Grants will be allocated in the National Government budget framework, including the annual Division of Revenue-DORA- and County Allocation of Revenue Act -CARA-, and the National Budget. The CARA will provide the legal basis for the implementation of the Grants as per the procedures stipulated in the capacity and performance grants Manual. The grants will be disbursed bi-annually from the National Treasury to CRFs. They will be expended at the county level on goods, services and capital works in compliance with national laws and regulations and grant guidelines. The types of expenditures that can be financed at the county level are described in the investment menu (Annex 4). Grants will not be used to pay salaries of civil servants or other permanent positions, and will exclude routine recurrent operating costs. The menu for capacity building expenditures includes a positive list of capacity building activities that will be eligible, and a short negative list of limitations on expenditures that can be financed from the grant. Counties will report on grant-financed expenditures through country reporting systems, as described in the capacity and performance grants Manual. The maximum annual grant possible for any county will be approximately US$8 million, though the average grant size for a qualifying county will be around US$1.8 million. Therefore the type of infrastructure projects financed by the grant will be predominantly small in nature. Even if the grant is used to co-finance projects funded from other revenue sources, these projects will be limited in size by counties total development spending; only four counties exceeded US$30 million in total development spending in 2014/15.

27. **Expenditures under the Office of the Auditor General will fund capital and operational requirements and training** to modernize audit processes. The Office of the

Auditor General has an annual budget of around US$3.3 million for county audits in the 2015/16 budget. A similar amount is forecast in future years in the Medium-Term Expenditure Framework (MTEF). This allocation will be increased by US$1 million each year to meet operational and training gaps. This will enable the Office of the Auditor General to meet Program objectives.

28. **National Treasury's 2015/16 MTEF includes an estimated US$4 to 6 million per year for capacity building activities that will fall within the Program scope.** This allocation will be increased by around US$3 million per year to provide the total Program expenditures as shown in the expenditure framework table above. Annual allocations will be on the basis of a detailed workplan, which will inform the budget process. National Treasury Program activities will be budgeted using the codes provided through the SCoA and reported using IFMIS.

29. **MoDP's 2015/16 MTEF includes an estimated US$1 to 1.2 million per year for activities that will fall within the Program scope.** The MoPSYGA has an allocation of US$ 160k in 2015/16, though additional allocations are already included in subsequent years in the MTEF. MoDP's budget will be supplemented by an around US$1 to 2 million per year for capacity building, and around USD 2 million for Program management and conduct of the ACPA, from 2016/17 onwards. The MoPSYGA will increase to provide funding of around US$1 million per year for capacity building activities, US$ 1 million per year to finance KSG for achievement of DLI 6 results, and around US$ 100k to finance DLI verification activities. Activities undertaken by KSG to achieve DLI 6 results will be financed on a 'fee for service' basis. MoDP and other national departments have been using a fee for service arrangement for financing activities implemented by KSG under existing capacity building modalities. The Program will introduce additional quality assurance to this arrangement, including development of an annual workplan and payment against implementation of this plan.

30. **Although the additional US$44 million of national government-executed Program funds have not yet been included in the MTEF,** agreement has been reached between MoDP, MoPSYGA, Office of the Auditor General and NT on inclusion of Program funds, as described above. The Program expenditure framework has been developed collaboratively between implementing institutions and the National Treasury, with regular consultation with the Budget Supply Department, Resource Mobilization Department, and Director-General of Accounting Services. The PS Treasury is also a member of the proposed Technical Committee, with the CS Treasury represented in the KDSP Joint Steering Committee. The GoK, including the National Treausry, is also familiar with the functioning of PforR operations, and the role of national budgets in Program implementation.

31. **The Program will strengthen national implementing agencies capacity to manage capacity building resources effectively.** All of the National Treasury departments undertaking activities in **support** of Program results have demonstrated a track record in managing capacity building funds. MoDP departments have to date been managing less funding for capacity building. The Program will strengthen NT, DPSM and MoDP management of capacity building resources in two ways. **Firstly,** the Capacity Building Manual under the POM will provide a robust **methodology** for planning and managing the implementation of effective capacity building activities. **Secondly,** the KDSP Secretariat, which will include a dedicated capacity

building expert, will provide rigorous support to MoDP, DPSM and NT departments in planning and managing the implementation of their activities.

32. **IDA financing will comprise approximately 70% of Program Expenditures, since government has chosen to fully finance the introduction of the capacity and performance grants from this source.** Although previous financing arrangements for Local Authorities included some performance-based allocations, the design of the new capacity and performance grants is a big innovation in the new fiscal architecture under the new Constitution. The government has decided that 100% IDA financing is the optimal funding arrangement during the introduction of such an innovative Grant. However, the government is fully committed to ensuring the fiscal sustainability of the Grant beyond the timeframe of the Program. The grant is a small share of the overall fiscal allocation to county governments from national revenue. This provides confidence that national government will be able to increase the performance-based allocation of county financing following successful introduction of the Grant. To ensure that adequate consideration is given to future financing arrangements, the PAP and POM provide for a formal stock-take and process of discussion on financing of the Grant, beginning in year 3 of the Program when the full capacity and performance grants begins disbursing.

Annex 5: (Summary) Fiduciary Systems Assessment

KENYA: DEVOLUTION SUPPORT PROGRAM

1. The World Bank and the Government of Kenya are preparing a Devolution Support Program-for-Results (PforR) Operation, which will be implemented by the National Treasury, the Ministry of Devolution and Planning, the Ministry of Public Service, Youth and Gender Affairs-Directorate of Public Service Management (DPSM)-, the Kenya School of Government, and participating counties. An integrated fiduciary assessment was conducted of the two Ministries, (MoDP (DPSM was under MoDP at the time of the assessment) & the National Treasury), Kenya School of Government (KSG), and a sample of 13 counties. This assessment was conducted on the basis of the DRAFT Guidance Notes on Program-for-Results Operations prepared by the Operations Policy and Country Services (OPCS) department of the World Bank. The assessment reviewed the fiduciary aspects at the national and county levels in a manner consistent with the Bank Policy and Bank Directive, Program-for-Results Financing. Various risk mitigation measures are proposed that aligned with DLIs. For Program-specific fiduciary arrangements, the National Treasury, and MoDP will be responsible for the fiduciary activities of the Program at the national Level while the participating counties will be responsible for fiduciary activities for county level results. The assessment is detailed below.

FINANCIAL MANAGEMENT ARRANGEMENTS

Planning and Budgeting Arrangements

General FM Arrangements

Overall FM objective - the Program budget is realistic, is prepared with due regard to government policy, and is implemented in an orderly and predictable manner.

2. **The Program budgeting will be done in accordance with existing GoK procedures for national and county governments.** The budgeting arrangements for the National Treasury and MoDP are assessed as being adequate for the Program. However, there are challenges of limited GoK funds and inadequate budget allocation for Program activities as has been experienced in other PforR Programs in Kenya. There is also the challenge of alignment of the work-plan and procurement plans with the budget with respect to timing of the cash flows.

3. The assessment revealed that the county budget estimates for revenue collection are overstated and unrealistic. There is inadequate capacity to **prepare** performance-based budgets (PBB) leading to inadequate alignment between development agenda, policy intent and actual budget. The in-year budget performance reports are not accurate and budget execution is weak with material unexplained variances between budgeted figures and actual revenues and expenditure. There is limited citizen engagement in planning and budget preparation and the process is more of information sharing.

Program - specific arrangements

4. The main risks under the Program include lack of a proper budgetary system for program activities which have not been uniquely defined in IFMIS, inadequate budgetary allocation for program activities by the government and the risk that implementing ministries and counties would spend funds allocated for the Program on non-program activities. As a result, the implementing ministries and the counties could fail to achieve the results **and** qualify for funding under the Program.

5. **To mitigate the fiduciary risk, program activities will be budgeted for using the codes provided through the Kenya's SCoA and reported through IFMIS.** Under planning and budgeting, the National Treasury, MoDP and counties will prepare the procurement and workplans for their respective activities and budget for these as part of the annual budget process. For conditional grants, this will be done. The allocation of funds and the budgeting will be subject to oversight by on the basis of codes within the SCoA the CRA and the CoB in line with normal GoK public financial management procedures. With regard to inadequate budgetary allocations and the risk of Program funds being spent on non-program activities, the design of the PforR will act as an incentive for GoK to allocate enough budget and ensure that resources are spent on achieving DLIs which will trigger subsequent funding.

6. **Conclusion:** The planning and budgeting risk is assessed as **SUBSTANTIAL.** This will be addressed through capacity building training of county staff all levels on budget preparation, execution and monitoring. Risks will also be reduced by the introduction of minimum conditions and performance measures as well as incentives in the annual capacity and performance assessment.

Treasury management and Funds Flow arrangements

General FM arrangements

Overall FM objective - adequate and timely funds are available to finance program implementation

7. **The Bank conducted a joint FM/Procurement Kenya County Fiduciary Assessment in April/May 2014.** The objective of the review was to conduct fiduciary capacity assessment and assess the readiness of counties to implement Bank projects. It was also to assess areas of weakness that would require capacity building support. The review was conducted in a sample of 13 out of the 47 counties (28%). There was mix of both high and low revenue base, as well marginalized/remote and affluent/accessible counties. The selected counties were Nairobi, Narok, Kiambu, Busia, Mombasa, Turkana, Kajiado, Kisumu, Tharaka Nithi, Garissa, Muranga, Elgeyo Marakwet and Baringo. This report was used as a basis for the preparation of the IFAR. The review was conducted on the basis of on-site visits to all the 13 counties, verification of records, assessments of systems and procedures and interview of county management and fiduciary staff. A follow up visit was done covering conducted in June 2015 covering the counties of Elgeyo Marakwet, Kakamega and Bungoma to assess the progress made since the earlier review.

8. **The key challenges in funds flow process include delays in release of funds by NT to line Ministries and Counties.** For counties, these delays can be upstream at the point of NT transferring money to the CRF or a county level in the transfer of money by the County Treasury from the CRF to the County operating accounts. Delays can also be budget-related for instance, where the county fails to meet the CRA budget ceilings. There is also lack of predictability in the availability of funds for commitment of expenditures for service delivery. There is also a challenge in getting sufficient GoK budget allocation and GoK funds to achieve agreed results and on a timely basis. As part of implementation, this Program will provide support strengthening of the in-country funds flow process through the capacity building component.

Program-specific arrangements

9. Generally, the PforR has two levels of funds flows: (i) country-level funds flow from NT to the government agencies for financing achievement of results; and (ii) up-stream funds flows from WB to the National Treasury on achievement of DLIs. The country level flow of funds for the Program from the National Treasury to the MoDP, MoPSYGA-DPSM, KSG, Office of the Auditor General and the counties will be in line with existing GoK procedures. The National Treasury shall open a special US$ bank account to receive disbursement proceeds, however, no Program-specific operational bank accounts will be opened. *Program activities and expenditures will be tracked using existing budget codes.* At the National Treasury, MoPSYGA-DPSM, KENAO and MoDP, the funds will flow through the exchequer using the existing Ministry bank accounts at the Central Bank of Kenya (CBK) to the various department implementing respective Program activities. For counties, the funds will flow through the CRF and the County Operating Account in the County Treasury and will be spent by the county department responsible for implementation of various Program activities in accordance with their plans and budgets.

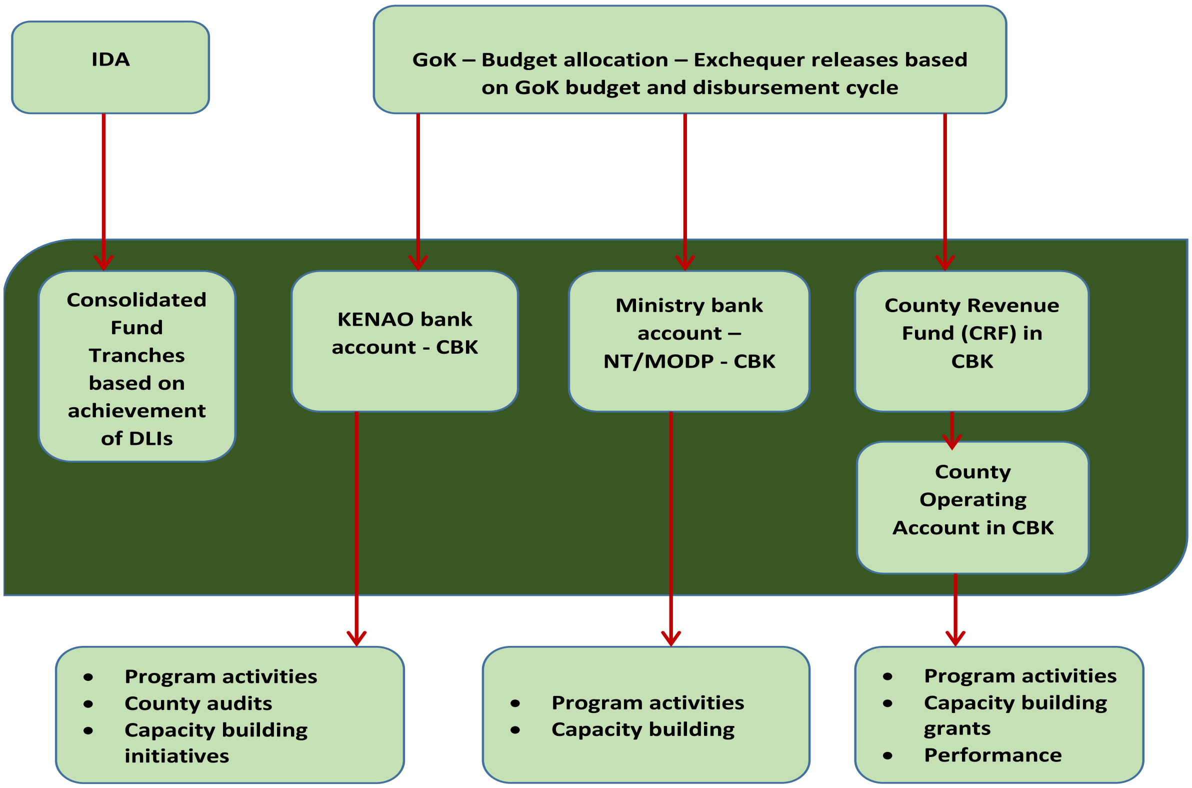
10. **Under the Program, the key FM risks include country-level project funds flow delays between the National Treasury and the government agencies (affecting both IDA funds and GoK funds)** which could lead to their inability to finance Program-activities, achieve the results and qualify for further disbursements. The other Program-specific challenge is the risk that National Treasury would fail to remit the full amount of funding due to each implementing county thereby impairing their ability to achieve the Program results. Similarly, there is a risk that the funds disbursed to the implementing Ministries, government agencies and counties might be utilized to finance other government activities that do not support the achievement of the DLIs. Both the National Treasury and MoDP, KENAO, and the counties should ensure that adequate budget allocation of funds are available on a timely basis to implement the agreed Program activities and achieve the agreed results and that these funds are spent exclusively on the eligible activities.

11. **The mitigating measures for these risks are embedded in the Program design. For instance, performance grants will only be disbursed to counties that have achieved the performance measures as defined in the performance grants Manual.** In addition, it will be possible to harmonize the GoK release of funds to counties for capacity/performance grants, with the disbursement by the World Bank to the consolidated funds of the related DLI tranche. The timing of these two funds flows is related as the meeting of the DLI would trigger the disbursement of GoK funds to eligible counties in subsequent fiscal year, and the timing of the

ACPA is made to fit with this framework. In this way, the funds flow system under the Program has an internal check mechanism whereby timely and sufficient release of funds by NT to implementing Ministries, agencies and counties results in timely implementation and achievement of results and forms the basis for subsequent disbursements from the World Bank. For the counties, achievement of the DLIs will act as an incentive for additional performance grants from the national government. The Program will also require commitment from the National Treasury and the counties to ensure adequate funds flow exists for implementing Program activities. Finally, full disbursement of grant flows by March each year is a condition of disbursement-linked result achievement for subsequent years, to ensure that grant funds are not diverted for any other purpose.

12. **The up-stream funds flow process from the Bank to the National Treasury is linked exclusively to achievement of agreed results or DLIs.** Bank policy allows for advance disbursement against achievement of future results or for agreed results achieved prior to the effectiveness of the Program. The disbursement of funds from WB will be deposited into the government exchequer and the money forms part of the overall government consolidated fund. There will be no ring-fencing of the money provided by the Bank. In addition, IDA funds cannot be tracked directly to any of the Program payments as is the case for normal Investment Project Financing-IPF. Nevertheless, under this Program, it would be possible to harmonize the GoK release of funds to counties for county capacity grants, with the disbursement by WB to the consolidated funds of the related DLI tranche. The timing of these 2 funds flows is related as the meeting of the DLI would trigger the disbursement of GoK funds to eligible counties in subsequent fiscal year, and the timing of the ACPA is made to fit with this framework.

Annex Figure 5.1: Program Funds Flow Arrangement



Accounting and Financial Reporting Arrangements

Overall FM objective - adequate program records are maintained, and financial reports produced and disseminated for decision-making, management, and Program reporting.

General FM arrangements

13. **On the basis of the fiduciary assessment, the National Treasury and MoDP have established accounting and finance systems with adequate staffing.** The county systems are relatively new. The Program will use existing GoK accounting and financial reporting systems using IFMIS which has been rolled out to the national ministries and county levels. County Treasury staff have been trained on its operation. All counties are accessing their funds from the National Treasury on IFMIS. However, the accounting system at many counties is still fragmented; information is still collated in spreadsheets from manual vote books, G-pay, IFMIS and in some cases LAIFOMS. Moreover, the revenue collection module in IFMIS has not been activated making it difficult for counties to account for revenues collected at source on IFMIS. On staffing, many of the National Treasury-seconded staff have opted to leave counties which has resulted in staffing gaps in many counties. As a result, counties have recruited their own staff for the County Treasuries. Nevertheless, it was noted that while the higher level cadres are properly qualified (CEC and Chief Officer Levels) the lower cadres do not have sufficiently qualified staff.

Program - specific arrangements

14. **Program accounting will be done by the Ministry Accounting Units and the County Treasuries.** At the national level, this will be done by the respective Ministry Heads of Accounting Units (HoAU). The County Treasuries will be responsible for the Program fiduciary activities for county level results. The assessment indicates that weak accounting capacity exists especially at the county level which may affect the achievement of the DLIs under the Program. *Under the Program, addiitional capacity building training will be provided to the Ministry accounting units and the County Treasuries so as to ensure that the budgeting for the Program activities is done properly using the existing budget codes.* The Ministry accounting units and the County Treasuries will also be responsible for following up on fiduciary-related audit queries. *The weak accounting capacity under the Program will also be addressed within the framework of Capacity and Performance Grants to counties as well as through national government executed capacity building supported under the PforR interventions.*

15. **The PFM Regulations and Guidelines have been adopted but do not have adequate provisions for performance/capacity grants and conditional grants.** For instance, these do not cover performance and conditional grants sourced from donor partners. *Hence the National Treasury will develop comprehensive guidelines for capacity/performance grants* which *will be included in the CARA 2016 and DORA 2016.* The development and implementation of these guidelines would further enhance fiduciary controls for Program activities for results areas no.2.

16. **The Program financial reporting arrangements will be aligned to existing GoK arrangements.** The main challenge in financial reporting under the Program is the risk of late, inaccurate and incomplete financial statements, primarily due to weak accounting capacity and inadequate Program accounting system. *Copies of the annual audited financial statements for NT and MODP will be submitted to the World Bank by the HoAU for NT on the same timelines as stipulated in the PFM law.* The PFM law sets the timelines for submission to Office of the Auditor General of annual financial statements by the National Treasury and MoDP as September 30, while Office of the Auditor General audit report is to be finalized by December 31. *The format of the annual financial statements has been prescribed by the PSASB to be the IPSAS cash basis of accounting which is acceptable to the World Bank. The Program-related transactions will be properly disclosed in the institutional financial statements which shall include appropriate notes to the accounts.*

17. **Conclusion:** The accounting and financial reporting risk is assessed as SUBSTANTIAL. This is on account of weak fragmented accounting systems and weak capacity which could compromise the quality of accounting records and financial reports for management decision making.

Internal Controls and Internal Audit Arrangements

General FM arrangements

Overall FM element objective - There are satisfactory arrangements to monitor, evaluate, and validate program results and to exercise control over and stewardship of program funds.

18. **The legal framework for internal controls for both the national and county governments is defined in the PFM law.** The two Ministries have adequate internal audit capacity in terms of staff numbers and skills. At the National level, the internal audit function falls under the direction of the Internal Auditor-General. Under the proposed structure for the National Treasury to have a maximum of six directorates, the internal audit function shall be placed under the Directorate of Accounting Service and Oversight Service together with the Accountant General. This may affect the functional independence of this unit. Internal Audit Department (IAD) staff are located in ministries and county commissioners' offices and have dual reporting responsibilities – they report both to the Internal Auditor-General (IAG) and to the senior management/accounting officer in the ministries, departments, and agencies (MDAs) where they are located. At the county level, the National IAD has a policy setting and capacity building role rather than direct functional responsibility. The actual internal audit function at the county level is the responsibility of the county-specific internal audit department set up under the County Treasury. The department reports administratively to the Chief Officer Finance and functionally to the County Audit Committee. The assessment revealed that there is inadequate internal audit capacity at the county level in terms of staff numbers and skills. At the National level, the effectiveness of the Ministerial Audit Committees is still weak despite the fact that the financial management regulations were finalised and operational. At the county level, internal control guidelines have just been issued, and counties expected to establish functional audit committees in accordance with these guidelines.

19. **The Program will rely on existing GoK internal control policies and procedures. The assessment revealed a number of Governance and Anti-Corruption (GAC) risks in GoK systems at national as well as county levels which are likely to affect the PforR.** These include irregularities in payment of allowances, falsification of records, payment for work not done and VfM concerns. In addition, the FY14 external audit of counties revealed weaknesses in revenue management including the risk of misappropriation. *Adequate mitigation measures will be included in the relevant manuals for capacity and performance grants. In addition, the IAD* **will** *conduct annual risk-based fiduciary review on the basis of internal audit ToR agreed with the Bank. The risk-based fiduciary review would be conducted for the period ended December every year so as not to overlap with the annual audit by KENAO. The fiduciary review reports will be submitted to the Bank by April 30 together with a time-bound action plan for implementation of the audit recommendations.*

20. **Conclusion:** *Internal controls risks are assessed as HIGH.* This is as a result of lack of financial regulations and guidelines and internal audit guidelines, and weak internal audit capacity at the county level. Strengthening of the country IAD functions at both national and county level will be targeted through the APA and the capacity building support.

PROCUREMENT ARRANGEMENTS

Legislative and Regulatory Framework

General Procurement Management (PM) arrangements

Legal Framework Set-up

Overall PM objective – achieve value for money through transparency and effective procurement practices

21. **Public Procurement in Kenya is governed by the Public Procurement and Asset Disposal Act , 2015-PPADA- and the associated Regulations that came into force on January 7, 2016.** The Act established the Public Procurement Regulatory Authority -PPRA-as an oversight body regulating public procurement in the country and the Public Procurement Administrative Review Board (The Review **Board**) as an independent body responsible for handling procurement complaints. The PPADA of 2015 and the Regulations provide for the establishment of the relevant administrative organs within procuring entities, the procedures for undertaking procurement and the mechanisms for handling complaints from aggrieved bidders and service providers in the procurement process.

22. Due to the structural weaknesses in the existing legal framework and the need for other legislative changes after enactment of the new Constitution in 2010, **GoK enacted the PPADA of 2015** to: (i) align it with the new constitution enacted in August 2010; (ii) eliminate inherent weaknesses to conform to international good practices; and (iii) accommodate emerging contemporary needs in the public sector The county Regulations will be approved by the National Assembly and Senate. The new public procurement manual and Standard Bidding Documents will be prepared and aligned to the new act once. To separate policy formulation from oversight, the new Act establishes the National Public Procurement Directorate under NT whose primary role is that of public procurement and asset disposal policy formulation, evaluation and promotion. . Each of the key players (Transition Authority, PPRA, the Review Board and KISM) has its own strategy to be present in the counties by opening regional offices.

Program specific Arrangements

Institutional Framework and Management Capacity

General PM Accountability Arrangements

Overall PM objective – provide organizational structure to ensure effective and accountable approvals and quality assurance during procurement processes

23. **Under the new procurement law, the PPRA is responsible for procurement oversight function of the public procurement both at the national and county level of government**. PPRA's role include inter alia to: (a) ensure that procurement procedures established by the PPADA are complied with; (b) monitor the functioning of the public procurement system; (c) assist in the implementation and operation of the public procurement system by providing advice and assistance to Procurement Entities (PEs); and (d) promote and support the professional development of persons involved in procurement. The Public Procurement Administrative Review Board (The Review Board) that was established in 2001 by an earlier Act continued to operate under the PPDA Act of 2005 under a new name, The Public Procurement Administrative Review Board (The Review Board). The Act provides for administrative reviews of procurement proceedings whereby any aggrieved participant in a procurement proceeding claiming to have suffered or risks suffering loss or damage may submit

a request for review to the The Review Board through its secretariat. The law also provides the internal organization of public entities relating to procurement.

24. **At the county level the assessments revealed that all counties assessed have procurement units in place.** However, these units are not adequately equipped with the required human and physical recourses to enable counties to undertake procurement in a proficient manner. Procurement is mainly centralized, but in some counties is operated in a decentralized environment with each ministerial department undertaking its own procurements. This has been necessitated by the fact that each department conducts procurement based on its own budget under the accountability of the respective Chief Officer who is recognized by the Law as an Accounting Officer. In some cases, a procurement officer is assigned in each department.

Program Specific Arrangements

25. **Procurement activities under this PforR Program will be undertaken at both national and county levels**. At the national level, the entities that will be responsible for procurement are: (i) Ministry of Devolution and Planning; and (ii) Kenya School of Government. The Performance Contracting Unit in the **Ministry** of Public Service will verify achievement of DLIs for these agencies. **This procurement activity would be relatively complex, but below the World Bank Operational Procurement Review Committee (OPRC) threshold.** Since the independent consultant will also be responsible for verifying DLIs executed by MODP, the conflict of interest perception is evident. Therefore, it is important that MODP puts in place the mitigation measures in the selection process and contract management of the consultant's contract. The assessment revealed that MoDP has the experience of hiring consulting firms using the Least Cost Selection method. The two main methods used for hiring Consultant Services as prescribed in the Public Procurement Law are: (i) National Open Tendering when the amount involved is above KSh.2 million (US$20,000) and (ii) Restricted Tendering (minimum threshold is 1 million (US$10,000)).

26. **The Kenya School of Government will select various consultants mostly individuals to supplement their capacity in delivering capacity building program.** These will be of small value contracts below the OPRC review thresholds. The procurement process at KSG is done at two levels (HQ and 4 Campuses). The Campuses have limited procurement delegation of less than KSh.500,000.00 (equivalent to US$5,000) per contract. Any contracts equal or above this value should be handled at HQ. The Procurement Unit at HQ is staffed by eight professionals including the head of the unit. The unit reports directly to the Director General. The Tender Board, **Procurement** Committee, Inspection Committee and Disposal Committee are all in place. In addition, they have an ad hoc Tender Processing Committee that was constituted in accordance with 2013 PPDA (2005) Amendment. This Committee has responsibility of undertaking the evaluation, negotiations, receiving and acceptance.

27. **At the county level procurement will be done by the procurement units, which are in place.** However, these units are not adequately equipped with the required human and physical recourses to enable counties to undertake procurement in a proficient manner. Procurement is mainly centralized, but in some counties is operated in a decentralized environment with each ministerial department undertaking its own procurements. This has been necessitated by the fact that each department conducts procurement based on its own budget under the accountability of

the respective Chief Officer who is recognized by the Law as an Accounting Officer. In some cases, a procurement officer is assigned in each department. This was the case in Laikipia, Kisii and Kwale counties.

Procurement Operations and Market Practices

General PM Operational Arrangements and Capacity

Overall PM objective – ensure adequate capacity in procurement and contact management

28. **The Procurement Act provides for different procurement methods and open competition is the preferred approach** in line with the procurement law and the ministerial orders. National Competitive Bidding (NCB), International Competitive Bidding (ICB), Shopping, Direct Contracting (DC) and Restricted Tendering (RT) are the common methods practiced based on the thresholds. The predominant procurement methods used by the assessed counties are NCB and Shopping. The PPRA has prepared various standard tender documents that are available in printed form as well as for down-loading from its website. These are standard tender documents (STD) for goods, works, non-consulting, standard request for quotations and standard request for proposals for the selection and employment of consultants. Manuals available include; procurement policy, records management, procurement planning, procurement of works, procurement of non-intellectual services, etc. and prequalification documents. The STDs used for open tendering procedures are adequate and contain all the relevant information, which would enable bidders to prepare responsive bids. The evaluation criteria are generally non-discriminatory and encourage competition. The current documents will need to be revised to be aligned with the requirement of the new law once enacted.

29. **The procurement method used at national and county level is dependent on the value of procurement to be undertaken.** The thresholds practiced by counties, which were found to be in conformity with the thresholds are indicated in the Procurement Law for the various procurements methods. Majority of the counties use competitive methods, i.e., open tender, Request for Quotations or Request for Proposals for their procurements.

30. **While MoDP and KSG have acceptable manual procurement filing and record keeping systems**, all counties **assessed** have poor records and filling system. The way files are managed makes it difficult to follow the procurement of a specific requirement through the various stages of the procurement cycle and the situation has the potential to undermine any audit exercise that may be conducted in future.

31. **E-procurement implementation is therefore in the initial stages and although its use is not entirely satisfactory, the complete end-to-end e-procurement to the extent where suppliers submit their quotes online is yet to be undertaken.** The supplier portal is yet to be implemented. This means that suppliers could not access the system for online submission of bids, etc. In each of the counties assessed, the National Treasury had seconded an IFMIS staff to train personnel on the job with implementation. Procure-to-Pay (P2P) plays a significant role in the procurement process covering both upstream and downstream activities and without full implementation counties remain exposed to risk including fraud and supply chain disruptions. Through P2P there is also clarity on the responsibility and authorization of procurements. P2P

also enhances integration of procurement and finance since procurements have to match the budgetary allocations before they are committed.

Program specific Arrangements

32. At the national level the roll out of Procure to Pay module in IFMIS and the enactment of the new procurement law will mitigate the highlighted risks.

33. At the county level the highest amount a county may receive could be US$8 million. All in all, contracts emanated from this grant will be of small value less than US$8 million that is much below the OPRC review threshold.

Integrity and Transparency of the Public Procurement System

Overall PM objective – adequate mechanism of handling procurement complaints and strengthen the effectiveness of public procurement anti-corruption measures

34. **The counties assessed did not have a policy on ethics and integrity including declaration forms covering aspects such as disclaimers on conflict of interests and whistle blowing.** The role played by the Ethics and Anti-Corruption Commission is critical for maintaining the integrity of procurement processes. According to recently conducted UNOPS assessment it was revealed that awareness creation on negative impacts of corruption in public procurement at the county level was not adequate and only 15 counties (32 percent) had implemented awareness – creation activities.

35. **Procurement audits serve as an effective tool for enforcing compliance.** Currently, the PPRA is not able to conduct adequate number of audits within a year due to lack of funds. Consequently, there continues to be very limited procurement audit training as well as open workshops conducted by PPRA and KISM. It was found that the county auditors have not been sufficiently trained on procurement audit principles to inform them about procurement requirements.

36. On dissemination of procurement information, a county does not publicize on websites and notice **boards** procurement results regarding contract awards, procurement plan, contracts being implemented and firms that have been debarred.

37. ***Conclusion:*** Due to the nature of the challenges and inadequate capacity at the county level, the procurement risk for the Program has been assessed as HIGH.

External Audit and Oversight

General FM arrangements

Overall FM objective - adequate independent audit and verification arrangements are in place and take account of the country context and the nature and overall risk assessment of the program.

38. **The Office of the Auditor General which is the supreme audit institution (SAI) has the constitutional mandate to audit all public funds and entities.** The Constitution requires audit reports to be submitted to Parliament within six months of the end of the financial year but this deadline has not been met by KENAO in recent years. Since the audit report for this operation is expected to be part of the government's normal system, there is a risk that the Program's financial statement may not be submitted on time. The ministry audits for the last financial year FY13/14 for NT and MODP are yet to be finalized. The latest KENAO audit report for the year FY12/13 revealed material outstanding audit report qualifications. MODP was not in existence in FY12/13 but departments that have been brought under the Ministry have pending audit issues. The National Treasury received disclaimer audit opinion. This was as a result of amounts of Kshs.21.9 billion (USD 240 million equivalent) and KSh..34.1 billion (US$380 million equivalent) in the appropriation and development accounts respectively could not be verified. There was also overdue un-surrendered imprest/staff advances of KSh.20.3 million. MODP (under the former Ministry of Planning, National Development and Vision 2030) got qualified audit opinion. This was on account of unsupported expenditures of KSh.286 million, pending bills of KSh.19 million. In addition, there were unverified amounts of Kshs.17.6 billion and 2.4 billion in the development and appropriation accounts respectively.

39. For the counties, the Auditor General conducted special audit during the year FY14/15 which revealed material weaknesses in the PFM systems. These included noncompliance with procurement procedures, payroll irregularities (including irregular recruitment of staff and casuals, unsupported payment of salary arrears, overpayment of per diem), unsupported and unauthorized expenditures, short-banking of revenue collections, lack of segregation of duties, weak connectivity of IFMIS, irregularities in payment of allowances (including sitting, medical, travel and subsistence allowances), weak fixed assets controls (including lack of fixed assets registers, poor controls over vehicle usage, fuels, repairs, purchases and disposal), poor bank/cash controls (including unrecorded cash withdrawals, incomplete accounting records (including falsification of records) and payment for work not done and value for money concerns. These challenges are mainly teething problems which are being addressed by individual counties with capacity building support from the National Government and various donor partners.

40. **There were delays of seven months by the Office of the Auditor General in completing the county FY14 audit.** The audit reports, which were due by December 31 2014, were finalized in July 2015. The audit reports reveal major fiduciary weaknesses in most counties and the audit **report** opinion issued by the Auditor General consist mainly of adverse and disclaimer opinion. Some of the areas of weaknesses include: inaccurate/unreliable financial statements; poor assets controls including lack of assets registers even in some places for the current (new assets); lack of supporting documentation for expenditures and revenues; (un-accounted expenditures); poor controls over staff allowances, advances and imprest; lack of supporting documents for training; issues related with the payment to county assembly members; poor records management including anomalies in the general ledgers, lack of updated cashbooks, bank reconciliations not done or not reconciling; material procurement irregularities; poor payroll controls and discrepancies in staff payments; and challenges with revenue management include risk of misappropriation.

Program - specific arrangements

41. For the Program, the main risks include delay in submission of audit reports for NT and MODP by KENAO, poor quality financial statements and audit reports with qualified opinion as a result of inadequate capacity of the SAI Office of the Auditor General, ministries and the counties. This would affect disbursements especially under DLI 1 and hence the entire Program as the results will not have been achieved. *Funds for capacity strengthening of KENAO would be provided under the Program. The PforR Program will also provide support in further strengthening of the PFM systems in order to address weaknesses identified in NT, MODP and the counties.*

42. **The Program accounts shall be included as part of the ministry audit of NT and MODP conducted by the Office of the Auditor General.** The audit will be conducted in accordance with the PFM and Public Audit laws and International Standards of Auditing (ISA) to which Office of the Auditor General subscribes. The Program accounts will be properly disclosed in the entity audited financial statements with appropriate noted to the accounts. While the in-year and annual financial statements can be received within the statutory deadlines, there are delays in finalization of the annual audited financial statements. It was noted that the FY14 ministry audit reports had been signed by the Office of the Auditor General on June 29 2015 resulting in a 6-months delay from the deadline of December 31, 2014. In order to address this challenge of late submission of audit reports, the Program will provide support to Office of the Auditor General to progressively reduce the audit reporting delays and bring the due date towards December 31. In this regard, the World Bank will grant audit exception so as to allow submission of the National Treasury and MODP audited financial statements for a period longer than the standard 6 months (up to a maximum of 12 months after the year-end), while capacity building measures are taken by Office of the Auditor General to reduce the audit submission period progressively to December 31.

43. The submission of county audited financial statements to the World Bank will not be required for the following reasons: (i) the funds disbursed to counties will be reflected as conditional grants transfers in MODP and NT audited financial statements; and (ii) the counties audit reports are captured as DLI under Office of the Auditor General as well as under the minimum conditions and performance measures for eligibility of counties for performance grants. As a result, funds will be availed to strengthen the capacity of Office of the Auditor General to audit counties including through the sub-contracting of **private** audit firms and other capacity development activities including training of Office of the Auditor General auditors and acquisition of audit equipment such as computer hardware and software. Timely county audit is pertinent for the operations of the ACPA and the safeguards it provides.

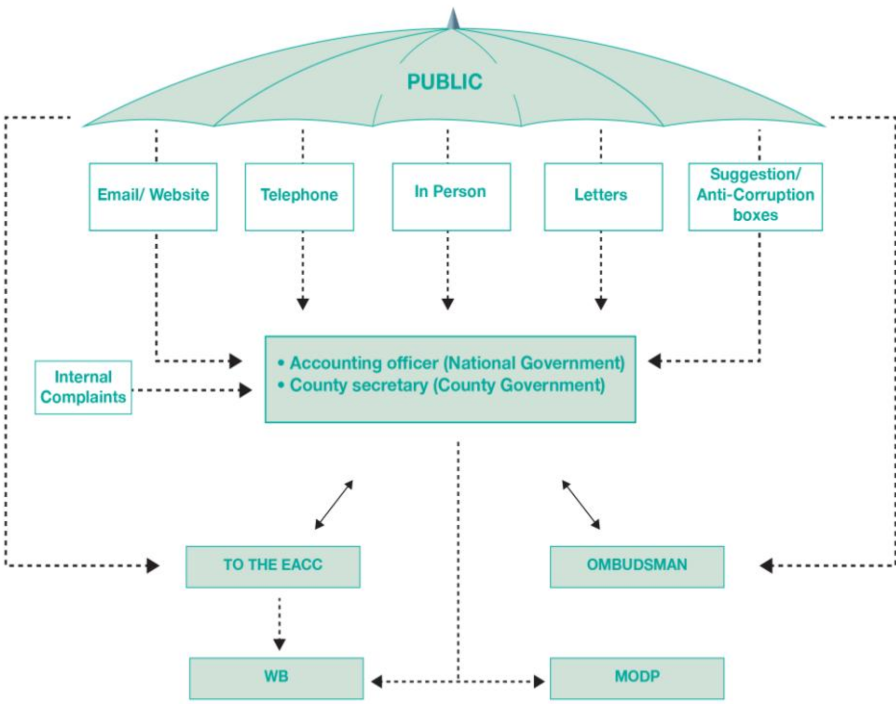
44. *Conclusion: Program audit risk is assessed as HIGH.* The audit **capacity** will be enhanced as part of the implementation of the Program and will be addressed through specific DLI to support KENAO's capacity.

GRIEVANCE AND COMPLAINTS HANDLING MECHANISMS

Overall objective - adequate complaint handling mechanisms to receive, channel, take action and report on complaints received with regard to the program

Public complaints

45. **Various channels for reporting public complaints include email/website, telephone, in person, letters and suggestion/anti-corruption boxes.** These complaints can be made to the respective national government institution through the accounting officer, and in the case of counties centrally to the county secretary. The public can also channel their complaints directly to the Ombudsman, EACC, Public Procurement Complaints Review and Appeals Board (PPCRAB), NEMA, NLC, in terms of complaints on maladministration, fraud and corruption, procurement, Environment and Land[14] complaints. Complaints can also be channeled internally within national and county government institutions by way of internal memos.



National Governemnt Implementing Agencies

46. **The Public Service Act Cap 185 and regulations provide for how internal and external complaints are handled.** Internal complaints are received and addressed through memos from one department to another. National Treasury and KSG are ISO-certified. Most internal complaints will copy the office of the Permanent Secretary/Accounting Officer (particularly in memorandums), but in effect these complaints are usually handled by the respective heads of department, and the office of the Permanent Secretary/Accounting Officer only becomes involved when what **are** thought to be critical issues come up. Majority of internal complaints received relate to delays in procurement of goods, and HR matters (allowances, leave etc.).

[14] Environment and lands complaints management system more elaborately described in ESSA

47. **The law provides for a number of internal institutional structures that exist in relation to handling of complaints**. This includes: (a) Complaints handling committee that meets quarterly to review status of complaints received and refers any matters to the Ombudsman (b) Corruption prevention committee (CPC) chaired by the Cabinet Secretary with membership from all Heads of Department that meets quarterly and gives policy direction on handling matters relating to corruption; (c) Integrity Assurance Officers who support and report to the CPC and (c) the Ministerial Human Resource Advisory Committee (MHRAC) that advises the Principal Secretary/ Authorized officer on matter dealing with disciplinary issues e.g. where officers at District level have been involved in mismanagement of funds, embezzlement, etc. The MHRAC mainly uses the civil service code of regulations to determine its actions and meets on a monthly basis.

48. The internal audit function forms an important element of complaints handling process as part of providing risk assessment, risk management reviews, investigative and assurance services to the Accounting Officer. The PFM regulations provide for the roles of the internal auditors (including internal audit committees) to inter-alia review and evaluate financial management, transparency and accountability of organizations; give reasonable assurance through the audit committee on the state of risk management control and governance in an organization; and review the financial and non-financial performance management systems of the organization. Strengthening of the internal audit function in this regard will form part of program implementation as part of capacity building under DLIs 7/8.

49. **The assessment found there to be a good working relationship between national government implementing agencies, the EACC, Ombudsman and CID on taking action/investigating complaints referred to them.** These institutions report on a quarterly basis to both the Ombudsman and the EACC. Both the Ombudsman and EACC then issue certificates of compliance. Challenges do exist relating to guidance on CPC mandates and training/capacity building on this has been prioritized jointly by both the EACC and MDAs .

County Governments

50. **The assessment found that the County Secretary's Office acts as the focal point for the receipt and channeled of both internal and external complaints with just two counties assessed having established a Public Complaints Office and Directorate of Ethics as focal point.** The establishment of the office of the County Secretary is provided for under Section 44 of the County Governments Act. The County Secretary serves as the secretary to the County Executive Committee and the head of public service, providing the linkage between the collective decision making of the County Executive Committee to the appropriate persons or authorities. Coordinating complaints through this senior office makes complaints handling a priority for all county government officers and agencies. However the manner in which complaints are handled by the County Secretary's office differs significantly from county to county.

51. **Counties largely use the Committees system to handle internal and external complaints,** these however lack uniformity or prescribed structure for how and when complaints should be referred to the EACC. Nevertheless, generally, once these complaints are received,

they are registered (external complaints), reviewed and referred to relevant committees (e.g. conduct of a public officer will be referred to the disciplinary committee, complaint on procedure to a departmental committee etc.) working under delegated authority or reporting back to the County Secretary. The main committees existing at the county level dealing with different types of complaints are the disciplinary committees, departmental committees, training committees and liaison committees etc. These committees can also exist at sub-county administration level; particularly in counties made up of large municipalities (e.g. Kiambu County amalgamates 8 previous municipalities, 12 sub-counties and 60 wards).

52. **The Commission of Administrative Justice (Ombudsman) has a good and established working relationship with counties.** This is to the extent that large counties e.g. Kiambu has provided office space to the Ombudsman to house one of its regional offices. This has reduced on time taken to respond to complaints as well as develop a proactive and less adversarial relationship as would normally exist between a county and an oversight institution of this kind.

53. **Nature and frequency of complaints received varies with the typography of the counties.** E.g. in Machakos, most common complaints were around provision of water , digging of damns and sinking boreholes; while in Kiambu issues relating to land, farming (planting), roads and hospitals. At the time of assessment, most of the complaints referred to the EACC by counties were as a result of incidences of alleged fraud and corruption within the procurement process.

54. The KDSP specifically addresses the limited capacities and systemic weaknesses of county governments in relation to handling of fraud and corruption complaints. As mentioned above, the manner in which complaints are handled by the County Secretary's office differs significantly from county to county and there however lacks uniformity or prescribed structure for how and when complaints should be referred to the EACC. Through a Minimum Performance Condition counties are required counties to establish an operational complaints handling system including a complaints grievance committee, and a focal officer to implement the complaints framework.

55. In addition to the KDSP interventions, the WB will continue to support building of county government grievance and redress mechanisms. Through the Kenya Governance Improvement Program (P157209 various activities have been prioritized in an effort to support county governments establish and maintain robust complaints handling mechanisms with a clear interface with the EACC. This includes trainings, assessments and advisories

Reports and Reporting Responsibilities

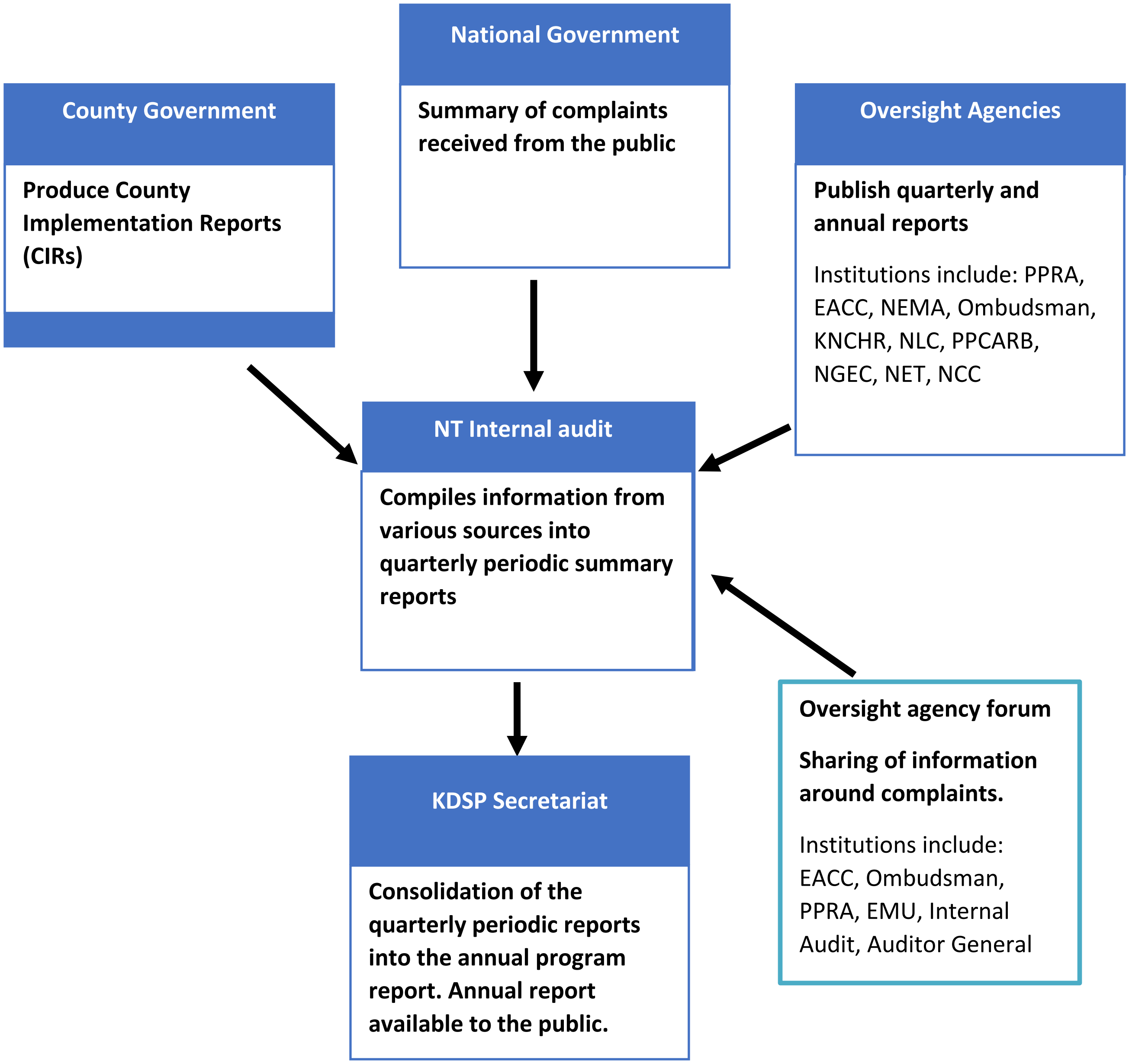
56. For purposes of the program, process of reporting shall be as follows:

- National Government complaints focal points shall receive complaints (Fraud and Corruption, Procurement, Environment and Land) from the public (relating to national executed activities) and on a quarterly basis, provide summary reports of these complaints and actions taken on them to the National Treasury Internal Audit Department. Format of these summary reports will be prescribed in the PoM.

- County Government complaint focal points shall receive complaints (Fraud and Corruption, Procurement, Environment and Land) from the public and thereafter through County Implementation Reports, provide on a quarterly basis, summary reports of these complaints and actions taken on them to the National Treasury Internal Audit Department.
- Oversight agencies (PPRA, EACC, NEMA, Ombudsman, KNCHR, NLC, PPCARB, NGEC, NET, NCC) shall compile and publish periodic reports of their respective institutions (including on complaints received and action taken).
- The National Treasury Internal Audit Report shall, on a quarterly basis, collate and compile information received in (a)-(c) above as well as any other complaints from the oversight agency forum[15] into quarterly reports (of complaints received relating to the program) and submit them to the KDSP Secretariat.
- The KDSP Secretariat shall collate these quarterly reports into an annual report. The report shall be made available to the public.

This is provided for in the Figure below:

[15] Membership of the Oversight Agency Forum includes the Auditor General, Efficiency Monitoring Unit, Ombudsman, EACC, Internal Audit, PPRA etc.



57. The MoDP/KDSP Secretariat shall:

(a) assume overall responsibility for disseminating and informing beneficiary institutions and beneficiary county governments of prescribed complaint handling and reporting arrangements

(b) develop a program specific risk management register that shall be updated periodically and disseminated to the all agencies under the interagency group of oversight institutions (consisting of the Auditor General, Internal Audit). Progress on implementation of risk management mitigation measures shall also form part of the KDSP annual program implementation reports.

FRAUD AND CORRUPTION

Overall objective - adequate policy, legal and institutional framework operational to mitigate against Fraud and Corruption within the program

58. **The Constitution and legal framework have strong provisions on combating fraud, corruption and handling complaints on maladministration and service delivery.** This legal framework gives significant and independent powers to the Office of the Director of Public Prosecutions (ODPP), National Police Service Commission (NPSC), Ethics and Anti-Corruption Commission (EACC) and Ombudsman to exercise their relevant mandates at both national and county government levels. The responsibility for investing Fraud and Corruption is shared between the Criminal Investigations Department (CID) of the NPSC and the EACC, while prosecution is the sole mandate of the ODPP (with provision to delegate these powers).

59. **The legal framework makes clear distinctions regarding institutional responsibilities for investigating and prosecuting corruption, the mandate to investigate fraud is however shared.** The EACC has powers to investigate corruption (bribery, fraud, embezzlement, misappropriation of funds, abuse of office, breach of trust and offences involving dishonesty) while the Criminal Investigations Department on all aspects of criminal conduct (including fraud by public officers (which is an considered as a corruption offence under the Anti-Corruption and Economic Crimes Act). The Director of Public Prosecutions has the sole mandate to institute and undertake criminal proceedings against any person or authority including fraud and corruption.

60. **The EACC has a well-functioning, well known and accessible complaints management system linking key investigative, and transparency agencies.** The Integrated Complaints Reporting Mechanism (IPCRM) establishes unified complaints reporting centers for the EACC, the Commission on Administrative Justice, National Anti-Corruption Steering Committee, National Cohesion and Integration Commission, Kenya National Commission on Human Rights and Transparency International (Kenya). Through this platform, EACC's outreach is extended to places where it does not have physical presence as cases can be reported through these institutions and they in turn lodge the complaints on the platform which is accessed, managed and maintained by dedicated staff in EACC. Complaints are regularly analyzed, categorized and referred to appropriate units or other agencies responsible. The EACC plans to expand the IPCRM to ten more institutions including the CID. Apart from the complaints platform, EACC also receives complaints through a dedicated email address, dedicated telephone, and suggestion boxes.

Fraud and Corruption Complaints Received

61. **FM and Procurement weaknesses could be attributed to over 50 percent of reports currently being investigated by the EACC regarding KDSP implementing agencies.** The nature of these complaints include; abuse of office, conflict of interest, **embezzlement**/ misappropriation of public funds, fraud, maladministration, public procurement irregularities and unethical conduct.

62. Through implementation of the KDSP, some of the systemic and capacity FM and Procurement weaknesses will be addressed and contingent fraud and corruption risks mitigated. Key mitigation measures include: (i) national capacity building DLIs to strengthen PFM and procurement systems and capacity, including improved guidelines, training, systems rollout and technical assistance for counties (DLIs 5 and 6) (ii) minimum conditions (under DLI 7/8) that counties must meet to access larger grants, including satisfactory county audits, consolidated procurement plans, and complaints systems in place; and (iii) performance measures (under DLI 7/8) that will further incentivize counties to address areas of weakness, including measures related to improved county financial accounting and reporting, use of IFMIS, strengthened internal controls, quality of county audits, and improved legislative oversight. The program action includes further actions to mitigate risks. Key risks and mitigation measures are compiled into a summary table in the FSA. These measures are outlined in the FM and Procurement sections above and include:

- The Program will be subjected to annual risk-based fiduciary assessments by IAD and annual audit by the Office of the Auditor General. Incentivizing of addressing key FM and Procurement challenge areas e.g. through Access and Minimum Performance Conditions for Counties including Submission of financial statements on time in an auditable format; Audit opinions (on financial statements) do not have adverse opinions or a disclaimer on substantive issues; including Use of funds in accordance with investment; Consolidated procurement plans in place and coordinated from a central procurement unit and Core county staff in place.
- Establishment of a complaints handling system (including a grievance/complaints committee and designating a focal point officer to coordinate complaints and the establishment of a framework from which to handle these complaints).
- Increased training in IFMIS and inclusion of performance measures in the APA to mitigate against errors in accounting and opportunities for falsification of accounting information.
- Activation of the revenue module in IFMIS to ensure full collection and accounting for revenue.
- Capacity building of accountants to ensure timely and accurate financial reporting
- Issuance of regulations and guidelines on internal audit for the establishment of audit committees (oversight) and capacity building of internal auditors.
- Strengthening of county capacity and internal control systems.

63. The implementation of KDSP Fraud and corruption mitigation measures will be augmented by WB support to ongoing anti-corruption reform initiatives under the Kenya

Accountable Devolution program's support for governance improvements (P157209)[16.] This includes:

- Capacity building of the complaint management system at the county level.
- Corruption risk assessment and systems audit of various public institutions. After the assessments, various recommendations on actions to be taken are made to the institution and the respective institutions report back on addressing risks identified within a set time frame. Corruption Risk Assessments have been carried out in 20 counties and will form the basis of an advisory issued to all counties and which will be monitored by the EACC.
- Establishment of the County Corruption Prevention Advisory Program. In 2013/2014, a total of 14 counties were covered in this program. The focus of the program is to advise county governments on mapping out corruption prone areas in operational systems and procedures; develop strategies and measures to address corruption and unethical practices in operational systems; developing and enforcing codes of conduct, anti-corruption policy and anti-corruption plans. At the end of the program, participating county governments sign action plans for implementation.
- County Anti-Corruption Outreach Programs to educate the public on the dangers of corruption and enlist their support in the fight against corruption and unethical practice (e.g. in 2013/2014, the EACC directly reached 600,000 people).
- Training of Community Based Anti-Corruption Monitors to participate in the fight against corruption and unethical practices at the County levels. In 2013/2014 a total of 425 people were trained from 17 counties.
- Training of Integrity Assurance Officers (IAOs) and Corruption Prevention Committees. In 2013/2014, a total of 90 IAOs and 499 CPCs were trained in both national and county governments.
- Memorandum of Understandings (e.g. in 2013/2014, the EACC entered into an MOU with Nairobi City County).
- Research and surveys. In 2013/2014, the EACC carried out and published an evaluation of corruption in public procurement in Kenya.

Anti-Corruption Guidelines

64. The Program will be implemented in accordance wit the MoU signed between the Integrity Vice Presidence (INT) and the EACC in September 2014. The MOU provides for terms of cooperation, privileges and immunities, confidentiality and communication to third parties.

65. Implementation of the KDSP will be aligned with the Anti-Corruption Guidelines applicable to PforR operations. i.e. "Guidelines on Preventing and Combating Fraud and

[16] The overall objective of the Kenya Governance Improvement Program is to support Kenyan Authorities and Non-Governmental stakeholders at national and sub-national levels to better achieve their development objectives by improving resource management through a programmatic series of activities. The program will seek to strengthen both country systems and World Bank portfolio performance.

Corruption in Program-for-Results Financing", dated February 1, 2012 and revised on July 10, 2015. The ACG consist of three basic elements:

a. *Sharing of information with the World Bank on fraud and corruption allegations:* All program managers and beneficiaries are required by law to report any allegations of fraud and corruption to the EACC. The EACC will share such information with the World Bank in real time (every six months) on all allegations of fraud and corruption received from the public, as well as from the complaints and grievance system. This is necessary to demonstrate commitment to transparency and openness in the program to the ACGs.

b. *Sharing of World Bank's debarment and suspended lists of firms and individuals:* The Public Procurement and Oversight Authority will share with the beneficiary institutions and beneficiary county governments, at least on a quarterly basis, the list of firms and individuals debarred by the Bank which have been debarred or suspended from participating in procurement in Kenya. This is so as to ensure that these individuals or firms are not allowed to bid for contracts or benefit from a contract under the operation during the period of debarment or suspension. The list of debarred firms and individuals counties at http://www.worldbank.org/debarr and www.ppoa.go.ke. The PPRA will access the temporarily suspended firms through client connection and share with the beneficiary institutions and beneficiary county governments, at least on a quarterly basis.

c. *Investigation of fraud and corruption*: The EACC has the legal mandate to investigate any allegations of fraud and corruption and the Directorate for Public Prosecution any prosecutions arising therefrom. As a result, all allegations of fraud and corruption will be investigated by the EACC and those found to be credible will be sent for prosecution by the DPP. The Bank may make administrative inquiries relating to fraud and corruption allegations made against the entire program or part of the program and in such cases, the EACC will collaborate with INT to acquire all records and documentation that INT may reasonably request from the operation regarding the use of the Program financing.

66. **In summary fraud and corruption risks are assessed as high.** This is as a result of existing fraud and corruption complaints against implementing agencies around critical program design and implementation areas, inadequate complaints handling mechanisms (including a clear interface with the EACC), as well as limited fiduciary and oversight controls that lead to cases of fraud and corruption within county governments.

CONCLUSION ON MITIGATION MEASURES

67. Due to the nature of the challenges, the **conclusion of the fiduciary assessment** is that the combined overall fiduciary risk for the Program has been ***assessed as HIGH.*** The Program Action Plan (PAP) contains risk mitigation measures to increase capacity and improve systems and procedures. These specific mitigation measures are reinforced by relevant disbursement-linked indicators (DLIs) that will be monitored during the program's implementation. *The conclusion of the assessment is that the PFM system complemented by the program-specific mitigation measures is adequate to support the operation.*

68. **Mitigation policies were discussed, agreed, and incorporated in the PAD, program action plan, and Financing Agreement.** They include, inter alia, a covenant on system for

tracking Program Funds, a covenant to incentivize the timely disbursement of grant funds from national to county government, minimum conditions to ensure that counties have basic fiduciary and procurement staff and systems in place before the counties can access the larger capacity grants, and multiple performance measures that incentivize counties to strengthen financial management, procurement systems and capacity.

69. **Mitigation measures of country-level policy nature were discussed, agreed, and incorporated in the PAD, program action plan, and Financing Agreement.** The fiduciary team as part our PFM dialogue and program implementation support will work closely with Government counterparts to ensure proper implementation of the action plan. The fiduciary team also on a continuous basis delivers hands-on financial management capacity building at the government's e-development learning institute and Centre for Devolution Studies at the Kenya School of Government.

Annex Table 5.1: Key Fiduciary Actions for Follow up by National Treasury

	Action Required	Due date
1.	Develop expenditure framework for budgeting and financial reporting using existing SCOA budget codes	30 June 2016
2.	Enhancement of the Office of the Auditor General capacity and developing of TOR to ensure that entity audited financial statements for MODP and NT incorporating the Program accounts submitted to the World Bank by 30 June every year	30 June 2016
3.	Agree on TOR for annual risk-based fiduciary review by IAD	30 June 2016

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Annex 6: (Summary) Environmental and Social Systems Assessment

KENYA: DEVOLUTION SUPPORT PROGRAM

1. **The Bank has conducted an environmental and social systems assessment (ESSA) of the proposed Program for potential environmental and social impacts and determined that there is a *moderate risk* that the program will support activities or investments that will lead to major environmental or social impacts.** Based on the Program design, there are no activities likely to have significant adverse impacts that are sensitive, diverse or unprecedented and that may affect an area broader than the sites subject to physical works.

2. **The ESSA team reviewed the program design and assessed the capacity of the relevant national and county government Ministries and agencies as well as NEMA county offices to manage environmental and social risks.** The ESSA identified potential issues related to the capacity of County government and NEMA at the county level; and construction and operational phases of proposed projects including potential resettlement.

3. **For county government-executed capacity activities, the ESSA found that while existing systems and the Program design are adequate to manage environmental and social impacts associated with the planned capacity and performance grant, there are some issues relating to staffing and capacity at the county level.** Based on consultations with county representatives from 12 of the 47 counties, the ESSA found that the county capacity to manage social and environmental risks is nascent and quite variable. In addition, the ESSA found that while both county government staff and NEMA staff at the county level tend to possess adequate or basic qualifications, both NEMA and county governments are currently too short-staffed and under-funded to handle the current volume of projects.

4. **With regard to county government investment projects supported by grants, the Program intends to support the construction and or rehabilitation, maintenance, upgrading of key facilities in various sectors, which are likely to lead to construction and operation impacts on the environment.** Potential adverse impacts during construction and operations include among others, air pollution from dust and exhaust emissions; nuisances such as noise, blocking access paths; water and soil pollution from the accidental spillage of fuels or other materials associated with construction works, as well as solid and liquid wastes from construction sites and worker campsites; traffic interruptions and accidents among others.

5. **These types of impacts, however, are generally site-specific and limited in scope and magnitude. These impacts are and can be for the most part prevented or mitigated with standard operational procedures and good construction management practices.** These procedures will be included in the POM, and be a standard part of environmental management plans included in bidding documents for contractors. The **proposed investments are** also likely to adversely affect the environment during the operational phase as a result of activities and process. Impacts are likely to include waste generation, air emissions among others.

6. **KDSP will not support investments that lead to significant displacement of people causing impacts on property and livelihoods.** It is however possible that proposed investments may lead to limited displacement (economic and physical), which could be temporary or

permanent as well. For all investments that may cause any displacement a resettlement action plan will be required to be prepared and implemented prior to commencement of any investment. For any investment with a likelihood of displacement and investments displacing over 200 people unanimous consensus must be achieved with all people to be affected or displaced by the proposed investment. Furthermore, there should be proof/evidence that there has been a broader public consultation and engagement of all the relevant land acquisition institutions, and also that land take is in accordance with the legal framework on land acquisition in Kenya. Proposed investment on public lands encroached by communities will be excluded from KDSP support. Other mitigation measures to minimize displacements include a requirement that whenever possible, investments be located in public land and within Right of Way for investments that are linear in nature.

7. **Resettlement and environmental degradation tend to disproportionately impact the vulnerable and marginalized groups (VMGs).** While the Program seeks to improve conditions, if impacts are not well managed it is possible that assets and livelihoods of VMGs could be negatively impacted. Guidelines for screening and mitigating social impacts will be included in the POM, and guidelines for resettlement will include considerations for vulnerable groups.

8. **For national government-executed capacity building activities, the ESSA finds a low risk that the program could cause significant environmental or social impacts.** These capacity building activities are expected to include the development and roll-out of policies, regulations, guidelines; development and roll out of training curricula and modules to build county capacity in four KRAs (PFM, planning and monitoring and evaluation, HRM, and civic education and public participation). They may also include the roll-out and expansion of systems for county PFM; and HRM that may entail procurement and installation of computer systems (e.g. IFMIS, HRMIS).

9. Several features built into the PforR design further limit the risk of grant-funded county projects having significant environmental and social impacts.

10. **<u>First,</u> the size of the expected grants will be relatively small,** averaging around US$1.5 million per county per year, up to a maximum amount of around US$5 million in a given year for a large county, and accounting for a maximum of around 20 percent of a county's overall development spending. The grant will be unlikely to fund major infrastructure or other projects with significant impacts.

11. **<u>Second,</u> counties will need to satisfy basic minimum conditions of environmental capacity** before they can qualify for a Level 2 grant (for investments). County governments will identify focal persons to handle environmental and social issues arising from KDSP investments and eventually for county-wide investments including allocation of sufficient budget to achieve desired objectives and actions.

12. **<u>Third,</u>** the investment menu of eligible uses for the grant excludes county projects that require EIA studies, based on NEMA's review of Schedule 2 projects, or that will result in the relocation of more than 200 people. KDSP will undertake investments in undisputed public and private land/areas where maximum **200 people** or less are displaced for as long as the country

systems for land acquisition is followed including preparation of an adequate and acceptable Abbreviated Resettlement Action Plan (RAP). However, exceptional cases where over 200 people may be displaced for a KDSP investment will apply if unanimous consensus has been achieved with all people to be displaced, and there has been a public consultation, and engagement of all the relevant land acquisition institutions and in accordance with the legal framework on land in Kenya. KDSP investments will be implemented in communal land only in circumstances when free, prior and informed consultation and broad consensus is demonstrated to have taken place with affected communities unanimously agreeing to have the land used for that investment without compensation. The consultations would have to be properly documented, including attendee list (also absentees), dates, photos, minutes of meeting, issues raised, agreements reached, mode of consensus building, etc. Agreements of land gift should be endorsed by all and better still thumb printed or signed. All communal land identified and determined to have issues related to historical injustices (e.g. historical claims over land) will not be eligible for locating KDSP investments. The National Land Commission (NLC) and County Land Management Boards (CLMBs) established in all Counties have a register of all land with historical land injustices claims. Hence the county will ensure that this is complied with in such cases before such investments take place. Hence a screening of this will have to take part prior to the finalization of the planning process jointly with NLC and CLMB to determine ownership of all land public, private and communal. All public land encroached by communities will be ineligible for implementing a KDSP investment until and unless the County governments duly compensate the encroachers for losses of assets.

13. EMCA regulations enforced by NEMA require the promotion of environmental and social sustainability in Program designs so as to avoid, minimize, or mitigate adverse impacts, and promote informed decision-making relating to the Program's environmental and social impacts. EMCA, requires that all projects listed in the Schedule 2, be subjected to full EIA studies. In recognition that certain projects may not require full EIA studies, the EIA regulations allow for approval of proposed projects at the report stage and have been effectively used by NEMA to grant EIA licenses to low / medium risk projects without requiring a full EIA study report to be done.

14. **Fourth, compliance with this investment menu is a "minimum condition" for counties to access grants for investments.** The annual capacity and performance assessment will review whether each county has followed the investment menu; if a county has not, it will be excluded from competing for grants in the following year.

15. **Fifth,** as noted above, despite limited county capacity, the government's overall capacity to screen proposed projects and require EIAs of projects with significant risks is quite robust. The ESSA found that excluding projects that require EIAs would effectively limit most of the possible environment and social risks.

16. **Finally,** the PforR is designed to annually assess and gradually strengthen county capacity to manage social and environmental risks. The annual assessment of counties will measure key aspects of county social and environmental capacity. Additional measures based on the ESSA of the capacity of implementing institutions for environmental and social management will be incorporated into the overall PAP. During the Program implementation phase, the borrower will monitor program effectiveness and share monitoring information with the Bank

task team. This will include monitoring against Program capacity-strengthening measures as well as the effectiveness of any agreed impact mitigation measures identified in the PAP.

17. The draft ESSA was disclosed on November 18, 2015. Consultations on the draft were held during appraisal, with relevant stakeholders.

18. Communities and individuals who believe that they are adversely affected as a result of a Bank supported PforR operation, as defined by the applicable policy and procedures, may submit complaints to the existing program grievance redress mechanism or the WB's Grievance Redress Service (GRS). The GRS ensures that complaints received are promptly reviewed in order to address pertinent concerns. Affected communities and individuals may submit their complaint to the WB's independent Inspection Panel which determines whether harm occurred, or could occur, as a result of WB non-compliance with its policies and procedures. Complaints may be submitted at any time after concerns have been brought directly to the World Bank's attention, and Bank Management has been given an opportunity to respond. For information on how to submit complaints to the World Bank's corporate Grievance Redress Service (GRS), please visit http://www.worldbank.org/GRS. For information on how to submit complaints to the World Bank Inspection Panel, please visit www.inspectionpanel.org

Annex 7: Integrated Risk Assessment

KENYA: DEVOLUTION SUPPORT PROGRAM

<table>
<tr><td colspan="5">1. PROGRAM RISKS</td></tr>
<tr><td>1.1 Technical Risk</td><td>Rating:</td><td colspan="3">Substantial</td></tr>
<tr><td rowspan="2">Description :

The main area of technical risk lies in the implementation of the Capacity & Performance Assessment System for the Performance Grant. This system requires the active engagement of county governments. Counties may resist the assessment if they perceive it as intrusive, or if they do not see the value. There could also be backlash if they do not see the assessment as fair or objective.</td><td colspan="4">Risk Management :
The Program design has included significant consultation with counties. Engagement has been conducted at the most senior levels as appropriate. The Program design will combine self-assessment, for increased buy-in, with external assessment for objectivity. The Program is designed to enable counties to ‘opt in’ so that possible reluctance by some counties does not undermine the overall Program implementation.</td></tr>
<tr><td>Resp: Government/WB</td><td>Stage: All</td><td>Due Date : Continuous</td><td>Status: Ongoing</td></tr>
<tr><td rowspan="2">A second area of risk is the capacity of counties to meet Minimum Performance Conditions. If counties cannot meet these conditions, they cannot access ‘level 2’ financing under the capacity and performance grants. This would reduce Program disbursements and progress towards the PDO.</td><td colspan="4">Risk Management :
The minimum performance conditions have been thoroughly tested at the county level. The minimum performance conditions have been adjusted to the minimum level that still ensures adequate financial management and safeguard capacity. Field testing suggests that most counties should be able to meet minimum performance conditions. Nationally executed capacity building supported through the Program will address capacity gaps identified in the ACPA, including in achieving minimum performance conditions. ‘Level 1’ capacity and performance grants funds will be available to counties that do not meet minimum performance conditions, and can be used to build capacity in these areas.</td></tr>
<tr><td>Resp: Government/WB</td><td>Stage: All</td><td>Due Date : Continuous</td><td>Status: Ongoing</td></tr>
<tr><td rowspan="2">A third area of risk is that the Office of Auditor General does not meet timeline for publication of audits of county financial statements. This could result in failure to include capacity and performance grants allocations in national budget legislation which may create delays or failure to transfer grants.</td><td colspan="4">Risk Management :

Program design includes provision for substantial support to the Office of the Auditor General to build capacity to meet audit requirements. Audit progress will be carefully monitored during Program implementation.</td></tr>
<tr><td>Resp: Government/WB</td><td>Stage: All</td><td>Due Date : Continuous</td><td>Status: Ongoing</td></tr>
</table>

1.2 Fiduciary Risk	Rating:	High		
Description : County fiduciary capacity The Bank has conducted an Integrated Fiduciary Assessment that identifies a number of concerns in county public financial management spanning the complete PFM cycle and procurement. A follow-up phase will provide greater insight into the nature of these challenges. Because the majority of Program funds are expected to flow to counties, the challenges identified could impact the quality of the management of Program funds. Funds will not disburse to counties that do not meet basic minimum standards of fiduciary management, and this could mean that fewer counties than intended are able to benefit from Program funds. Poor procurement practices could also lead to poor results on the value for money audit, resulting in lower than expected returns and a lack of disbursement against DLI 8.	**Risk Management :** Improvement in county PFM (including procurement) capacity is one of the four Key Results Areas supported by the Program. The Program will directly target fiduciary weaknesses in counties that have emerged from two WB county fiduciary reviews, follow-up county visits, as well as priorities defined in the NCBF-MTI. The PforR will address these weaknesses through: (1) minimum conditions of fiduciary capacity that counties must meet in order to access grants from national government; (2) incentives for counties to strengthen key fiduciary/PFM systems as part of the performance measures that will determine grant allocations; (3) support to enhance national government-executed capacity building for counties on PFM/fiduciary systems, including development, design and roll out of national regulations, guidelines, systems, training and technical assistance to support county PFM capacity; (4) providing a demand driven capacity building facility to enable counties to secure additional capacity building support to meet county specific needs.			
	Resp: Government/WB	**Stage: All**	**Due Date : Continuous**	**Status: Ongoing**
Description : Flow of funds and budgeting challenges Delays in moving funds from the National Government to the Counties through the County Revenue Fund (CRF). There have to date been large delays in the disbursement of the equitable share and level 5 hospital grant. Challenges in budgeting capacity have also led to delays in release of county funds to county operating accounts by the Controller of Budget. Delays in funds reaching county operating accounts could impact implementation of county activities under the Program.	**Risk Management :** The Program will include strengthening of the capacity of county budgeting through Program activities to decrease delays in releases of funds to county operating accounts. Timely release of grants from national to county governments will also be a part of disbursement linked results for subsequent years			
	Resp: Government	**Stage: All**	**Due Date : Continuous**	**Status: Ongoing**
Description : External audit and oversight High level of audit report qualifications and delays in responding to audit queries. Lack of capacity by the Office of the Auditory General for audit of counties in terms of staff numbers and budget allocation.	**Risk Management :** Strengthen fiduciary oversight through setting up of effective audit committees. National Treasury to provide adequate resources to the Office of the Auditor General to conduct Program audit			
	Resp: Government/WB	**Stage: All**	**Due Date : Continuous**	**Status: Ongoing**
1.3 Environmental and Social Risk	**Rating:**	**Low**		
Description : County governments have quite new, and often weak systems for managing environmental and social risks related to	**Risk Management:** Based on the ESSA, NEMA has put in place significant capacity and systems in			

investments under Level 2 Capacity and Performance Grants	counties that substantially reduce the chance for unmitigated environmental and social impacts. The PforR also incorporates several measures to address these risks: (i) investment menu for the performance grants has been carefully designed to focus on investments with limited environment and social risks; (ii) counties will need to satisfy basic minimum conditions of environmental capacity before they can qualify for a Level 2 grant. (iii) after they have received a Level 2 grant, county compliance with the investment menu as well as with minimum conditions will be assessed through the Annual Capacity and Performance Assessment – non-compliant counties will not be eligible to receive any grants in the following year.			
	Resp:	**Stage:**	**Due Date :**	**Status:**
1.4 Disbursement linked indicator risks	**Rating:**	**Moderate**		
Description : County governments may struggle to achieve minimum conditions, threatening disbursements	**Risk Management :** Careful design of minimum conditions to ensure a balance between achievability and risk. The minimum conditions have been field tested in a range of counties with differing levels of capacity.			
	Resp: Government/WB	**Stage: All**	**Due Date : Continuous**	**Status: Ongoing**
1.5 Other Risks (Optional)	**Rating:**			
Description :	**Risk Management :**			
	Resp: Government/WB	**Stage: All**	**Due Date : Continuous**	**Status: Ongoing**
2. OVERALL RISK RATING				
	High			

Annex 8: Program Action Plan

KENYA: DEVOLUTION SUPPORT PROGRAM

Action Description	DLI?	Covenant?	Due Date	Responsible	Completion Measurement
Interested county governments are sensitized to ACPA and grants and able to meet the program minimum access conditions			End May, 2016 and annually thereafter		All interested counties sensitized
Joint Steering Committee operational, including county governor representative		Yes	Before effectiveness	MoDP	JSC has had first meeting
Technical Committee operational		Yes	Before effectiveness	MoDP	TC has had first meeting
KDSP Secretariat operational: Coordinator and staff are assigned or appointed in the KDSP secretariat as per institutional arrangements and sufficient operating budget allocated		Yes	Before effectiveness	MoDP	Secretariat fully staffed
National Treasury appoints a focal point/team to coordinate with Treasury departments and ensure adequate annual budget for the Program is reflected in annual printed budget estimates			March 2016	National Treasury	Focal point designated and first capacity plan formulated on time
KSG appoints a focal point/team to coordinate KSG action plans, reports, budget submissions			March 2016	KSG	Focal point designated and first capacity plan formulated on time
Ministry of Public Service/DPSM appoints a focal point/team to coordinate HR action plans, reports, budget submissions			March 2016	MoPSYGA -DPSM	Focal point designated and first capacity plan formulated on time
Independent ACPA conducted	Yes		Annually, from 2016/17	MoDP	ACPA report
Results of ACPA widely published to promote transparency and increased incentives for performance			Annually, from 2016/17	MoDP	Published ACPA results
Office of the Auditor General completes audit reports in time for grant allocations	Yes		Annual	NT	Audit reports submitted by DLR deadlines
Grant conditions, including adherence to capacity and performance grants Manual, included in County Allocation Revenue Act-CARA			Annual	NT	Grant conditions stipulated in CARA
GoK will transfer capacity and performance grants to counties as per Program entitlement and CARA allocations in two tranches, with the first tranche disbursed before end August,		Yes	Annual	National Treasury	Grants to counties transferred within 30 days of disbursement

Action Description	DLI?	Covenant?	Due Date	Responsible	Completion Measurement
and the second tranche disbursed before end February each year.					
Program Operating Manual includes system for tracking Program expenditures and outputs (including compliance with investment menus)		Yes	June 30, 2016	National Treasury –	Finalised POM contains tracking and reporting systems
Audit Committee guidelines to be developed and issued			end June 2016		
Chapter with methodology and ToR for value-for-money audits added to C&P Assessment Manual, compliant with PFMA requirements		Yes	December 2017	MoDP/KDSP Secretariat	Chapter submitted to WB
Conduct a review of the implementation of the first year of full grant disbursements, and discuss options for financing of the C&P Grant beyond FY 2019/20 at the KDSP Steering Committee			December 31st 2018	MoDP/NT	Minutes of KDSP Steering Committee Meeting
Eligibility criteria including resettlement and dealing with vulnerable and marginalized groups will be included in the Program Operational Manual (capacity and performance grants Manual) and in training for KDSP.			Effectiveness	MoDP/KDSP Secretariat	
Sensitization of counties includes training of technical staff responsible for environmental and social management.	2		March 2017	KDSP Secretariat	Register of trained county environment & social focal persons; trainings conducted
Sensitization of counties includes training of county focal persons (county secretary's offices, complaints officer) on complaints handling and management (in consultation with the EACC and other institutions)	2		End Jun 2016	NT / MoDP	Register of county focal points for complaints handling. Trainings conducted
Implementing agencies to develop risk management registers. KDSP Secretariat to develop and periodically update risk management registers			June 2016 and throughout program implementation	NT/MoDP/ KDSP Secretariat/ County Governments	Risk Register developed and updated
Sensitization and awareness campaigns on corruption reporting mechanisms			throughout program implementation	NT/MoDP/ County Governments	Trainings and sensitizations conducted.

Annex 9: Implementation Support Plan

KENYA: DEVOLUTION SUPPORT PROGRAM

1. **The Implementation Support Plan (ISP) is based on the implementation support guidelines for Program for Results operations, adopted to the design and risk profile of KDSP.** The Government of Kenya (GoK) is responsible for the Program's overall implementation, including its technical aspects. The World Bank Group's implementation support would be to: (i) review implementation progress and achievement of Program results of core result areas, (as reflected in the Results Framework)and DLIs; (ii) provide support on resolving emerging Program implementation issues and bottlenecks and on building institutional capacity of the key actors at various levels; (iii) provide technical support to the client for implementation of the Program Action Plan (PAP), the achievement of DLIs and other results and for institutional development and capacity building; (iv) monitor system's performance to ensure their continuing adequacy through Program monitoring reports, audit reports and field visits; (v) monitor changes in risks to Program for Results and compliance with legal agreements, and, as needed, the Program's action plan; and (vi) confirming that the KDSP-Secretariat has prepared, and is implementing the plan to enhance the relevant MIS capacity development gaps identified in the Technical Assessment.

2. **In addition to the above, and given the complexity of the Program and based on the recommendations of the preparatory assessments,** The following areas have been identified as most critical to concentrate the Bank's implementation support efforts: (i) performance based grant system: the performance based grant instrument and assessment mechanism of the Program will be a new function for the government agencies. The priority for strengthening within the MoDP – KDSP Secretariat should be to institutionalize the capacity to manage the performance based grant mechanism; and more broadly, the capacity of supporting agencies to assist the counties to carry out self-assessment process and develop capacity building plans. The Bank's support for the implementation of the performance assessment manual (including self-assessment tool) will be key areas for technical assistance; (ii) adoption of new approach to capacity development –the Program will support the GoK to accelerate the roll out of traditional structured capacity building, while also supporting the government to adopt and strengthen modalities that involve counties in the design and implementation of capacity building programs and activities, and that strengthen links and feedback between supply and demand for experience sharing and learning; (iii) developing systematic monitoring and evaluation mechanism and systems for continuous feedback and resolving bottlenecks and working with MoDP and NT and KSG on ensuring that the capacity development of KRAs (PFM, HR, M&E, and citizen participation) as well as implementation capacity at the county level for social and environment assessment is responding to the county needs and priorities.

3. **The KDSP operation will require considerable, well-coordinated, and timely focused technical support from the World Bank team, particularly, during the early stage of implementation.** One challenge will be to coordinate the actions agreed in the Program Action Plan (PAP) with operational activities on the ground, ensuring that information flows effectively, and on a timely basis between the policy makers and implementation agencies (MoDP, NT, KSG, County govts). The key to the effectiveness of the implementation support will be coordination at the national level on critical steps in planning, timeliness in execution of activities. This would require a systematic and continual flow of information to and between implementing entities during the Program regarding program implementation. At the county level, implementation actors will need to provide continuous feedback on the timeliness and quality of technical support to ensure their readiness for performance assessment so that they could receive the performance grants in a timely manner. The WBG team recognizes that the PforR mode of operation, while it transfers performance risk to the implementing agents, requires adoption of new operational practices and norms, at both levels of government.

4. **The World Bank Group is well positioned to support the GoK to accelerate implementation and capacity support at scale, in collaboration with the government, other stakeholders and development partners.** The operation will require intense implementation support especially during the first two years to navigate coordination among various stakeholders, roll out the capacity and performance grant system, accelerate the capacity development of the counties at scale, and monitor results and Program performance and functioning of the KDSP Secretariat. The fact that the WBG's PforR support staff are highly decentralized, with Task Team Leader and Co-Task Team Leader and key team members based in Kenya, will facilitate overall implementation and timely communication with the client, and the various stakeholders involved in the implementation phase.

5. **The main thrust of the Bank's implementation support will, therefore, be concentrated on the overall implementation quality and on making the performance based incentive system work to its fullest potential.** This support is going to come from routine implementation supervision missions and additional technical assistance delivered by the Bank team in collaboration with Leadership, Learning and Innovation (LLI) Vice Presidency (see annex 9B) as well as via the Kenya Accountable Devolution Program, an $11 million multi-donor, WB-executed trust fund that is designed to strengthen capacity and is closely aligned to the NCBF-MTI KRAs. The Bank/LLI technical assistance team will facilitate multi-stakeholder forums to strengthen coordination at various levels, and organize workshops/ trainings/clinics and support during implementation missions on the implementation of the Program as appropriate to build institutional and organizational capacity for knowledge sharing and learning, and monitor progress towards achievement of results, DLIs and key impacts desired for NCBF-MTI.

6. **A critical part of the World Bank's support to the Program will be to undertake an independent Quality Assurance Review (QAR) of the ACPA.** This review will be conducted on a sample of the ACPA assessment results of a sample of the counties, to be determined by the Bank. The QAR will involve both a documentary review and field visits to the sample counties by suitably qualified Bank staff and consultants, together with any GoK officials as may be agreed. The QAR will be undertaken on a timeline which generates information in sufficient time to inform the Bank's determination of the achievement of the DLRs.

7. **Given the nature of this Program, a multi-disciplinary set of technical specialists along with fiduciary and environmental and social safeguard specialists will be needed to support GoK in the overall implementation of the KDSP operation.** While results and DLIs are planned to be assessed as completed annually, a 6-month approach to implementation support, where a specific one to two week implementation support mission would be carried out, will be employed. In addition, a number of technical and fiduciary specialists are based in the region/country office, which will allow timely follow-up on specific issues and/or areas of concern if needed.

8. **Key to the Bank's effective implementation support will be its coordination and timing, aligned with critical points in the planning and verification of results for disbursement requests to the Bank.** During the first year of implementation, the Bank's support will focus on strengthening the Program systems and institutional activities necessary to achieve the DLIs. The first implementation support mission will take place as soon as possible after effectiveness to provide direct and timely feedback on the quality of implementation plans (MoDP, NT, KSG, and Counties) and their timely soundness and acceptability, as well as to assess initial results emerging from 2015-2016. It is expected that at that stage initial progress will been made towards achievement of the first set of results and DLIs and achievement of many of the actions in the PAP. These will be reviewed during the initial review mission. The first mission is therefore expected to include all team members (e.g. technical, environmental, social and fiduciary specialists). Subsequent implementation support mission will have a stronger emphasis on verification/M&E skills, capacity development, and technical implementation expertise, varying according the actual needs as specified in the PAP.

9. An outline of the indicative implementation support required is shown in Tables 9.1 and 9.2 next page.

Annex Table 9.1: Main focus of Implementation Support

Time	***Focus***	***Skills Needed***	***Resource Estimate***	***LLI Role***
First twelve months	Implementing the PAP; strengthening the KDSP Secretariat and its communication to implementing technical agencies (MoDP, NT, KSG,) as well as other stakeholders (CoG, external partners), establishing arrangements for independent verification of compliance with the DLIs; enhancing he county and national planning and budgetary processes; strengthening the M&E systems at various levels.	Local govt/ decentralization experts, legal, fiscal, Financial Management, procurement, social, Environment, institutional/capacity building, M&E, implementation support/change agents.	2 implementation support missions 2x12 people 2 weeks =48 weeks Total 48 weeks over 12 months	Support to KSG and the Secretariat in institutionalizing multi-stake holder platforms and coordination, as well as institutionalizing knowledge and learning at the regional county level (including Peer to Peer platforms) Three to four workshops/learning events (3-5 resource persons for about one week)
12-48 months	Reviewing implementation progress, cross-checking linkages between planning, budgeting, and results, and providing support in case of disputes. relating to DLI verification	Local govt/ decentralization experts, legal, fiscal, Financial Management, procurement, social, Environment, institutional/capacity building, M&E, implementation support/change agents.	2 implementation support missions per year including midterm review 2x3years 10 people x2 weeks=120 weeks. Total 12-weeks over 36 months Total 80 weeks over	Support to KSG and the Secretariat on customizing training materials, e-learning, and peer to peer learning platforms 2-3 learning events (2-3 resource persons for about one week)

Annex Table 9.2: Task Team Skills Mix Requirements for Implementation Support (template)

Skills Needed	***Number of Staff Weeks***	***Number of Trips***	***Comments***
Legal	4	4	
Fiduciary Systems (FM & Procurement)	16	8 and field trips as required	
Social systems	8	8 and field trips as required	
Environmental Systems	8	8 and field trips as required	
Decentralization/local govt fiscal/planning	8	8 and field trips as required	
Capacity Building	8	8 and field trips as required	
Learning and Knowledge Management	16	8 and field trips as required	
Implementation Support	16	8 and field trips as required	

Annex Table 9.3: Role of Partners in Program implementation (template)

Name	***Institution/Country***	***Role***

Annex 9B: Potential Areas for Capacity Development and WBG/ Leadership, Learning and Innovation (LLI) Support

KENYA: DEVOLUTION SUPPORT PROGRAM

1. **The World Bank Group is well positioned to support the GoK to accelerate implementation and capacity support at scale, in collaboration with the government, other stakeholders and development partners.** The objective of this technical assistance will be to strengthen KDSP program delivery institutions at the national level. The TA will bring together the experience, expertise and value-added of the Leadership, Learning and Innovation (LLI) team and other WBG affiliates as needed, and support implementation capacity building in some pilot counties on new modalities of engaging stakeholders, fostering better coordination at various levels, inculcating culture of results based monitoring and performance measurement, exercising collaborative leadership in planning and implementation, and building organizational knowledge and learning. The new modalities, as adopted by KDSP will be tested in collaboration with KSG/MoDP and then refined and institutionalized as part of the Capacity Building Plans for the program (DLIs 3 to 5). The TA is designed to strengthen the capacity of all levels of government (National and County) to implement KDSP. It will: (i) help scale-up training, knowledge sharing, leadership capacity and integration of innovative solutions to accelerate capacity development goals; (ii) scale up training and build capacity of in-country institutions to deliver training; (iii) facilitate a collective effort so that citizens can participate in the devolution agenda; and (iv) target institutional capacity development support to systematically capture and document lessons learned.

2. **WBG/LLI Support will include the following three main pillars:** (i) Collaborative Leadership team strengthening for Planning, Coordination and Implementation Capacity at the National and County Level; (ii) Knowledge and Learning; and (iii) Pillar III: Catalyzing Innovation for Scale. The three pillars will be integrated by design and leverage each other for combined support to facilitate implementation.

3. **Pillar I: Leadership, Coordination and Implementation** will include:

   a. **Strengthen coordination capacity through customized collaborative leadership support at the national level.** Leadership capacity building and team strengthening at the national level will bring together multiple stakeholders to identify and address complex adaptive challenges to make progress in coordination through improved planning and implementation. Support will be provided to the key stakeholders (decision-makers and staff) at the MoDP, NT, and the other relevant line Ministries to enhance coordination and the capacity to plan, implement with a results-focused approach and monitor progress at the national and county level. In addition, assistance will be extended to KSG in strengthening its leadership training implementation capacity, thereby ensuring institutions, teams and individuals have the right mechanisms to effectively deliver a results-focused collaborative leadership approach.

b. Improve Coordination implementation capacity at the County level through a series of capacity support on collaborative leadership capacity development, planning, implementation and tracking of monitoring of results. This activity will engage with county officials and staff to build capacity of counties in participatory and realistic planning/prioritizing and budgeting, and help counties develop performance/results-based monitoring and tracking of milestones, rules and guidelines and service standards. When appropriate, relevant local capacity building institutions will be identified and strengthened to co-facilitate program delivery at scale in a sustainable manner.

c. The third activity will support county level community and other partner's organizations including youth leaders, to become more engaged in the planning, monitoring and policy making process. Increased participation will build momentum for project implementation, allow for shared solutions and forge collaborative teams to enhance service delivery. Collaboration will leverage local capacity, and empower youth, to engage as change agents and share knowledge to catalyze behavior change.

4. **Pillar II- Knowledge and Learning: Pillar II will include:**

a. The first activity under Pillar II will engage KSG to strengthen its organizational capacity to more systematically capture and share critical lessons learned from devolution. This platform will support systematic identification, documentation, validation and brokering of in-country and international development solutions on devolution.

b. The second activity will focus on enhancing the capacity of KSG staff to use a systematic, evidence based approach to designing and delivering structured learning. This will include advisory support on adult learning pedagogy, needs assessment, curriculum development, use of e-learning technology to scale up and approaches to accreditation and certification. Support will include: (i) an increase in the integration of local content to learning offerings and curriculums; (ii) an introduction of approaches and tools that allow for systematic documentation and integration of local expertise and curriculums; (iii) training of trainers (ToT) as faculty of KSG and departments in charge of design and delivery of structured learning offering; (iv) advisory services on e-learning and blended learning to KSG, including the effective use of learning management system (LMS) such as Moodle and other e-learning tools, integration of existing KSG and World Bank e-learning offerings and support to the development of new offerings.

c. The third activity under Pillar II will support peer-to-peer learning and introduce global/local good practices and technical assistance based on need of the counties and national government. Peer learning interventions include but will not be limited to study tours, joint workshops and meetings, and mentoring and twinning arrangements. The activity will provide a range of learning and support offerings that will facilitate KSG's role as the central coordinator and facilitator for peer learning.

5. **Pillar III- Catalyzing innovation for scale: Pillar III will include:**

a. The first activity under Pillar III will scan and surface existing national and county level private practices that can improve service delivery to the poor and assist with scaling these up. To harness local knowledge and innovations, given Kenya's rich and vibrant social enterprise sector and ICT culture, it is important to scan and surface local level models that have proven effective in improving service delivery and assist with scaling them up, for example through developing a more conducive regulatory environment. These models could prove a viable and economical way to achieve results outcomes for the poorest.

b. The second activity under Pillar III will scan innovations and connect national and county officials to innovative social entrepreneurs that can be scaled up especially for national and county services. The Bank has an extensive knowledge of successful enterprises and models, both in Kenya and globally. The utilization of social enterprises within Kenya and globally, along with crowdsourcing applications and competition platforms will introduce some pro-poor models and innovations that can fill a service gap in a cost-effective manner.

c. The third activity set will leverage Open/Big Data for Transparency and Monitoring at the national and county level. This engagement will utilize big data analytics to strengthen accountability mechanisms, transparency and facilitate more targeted delivery of services. Utilizing real time data from various sources, the team will have relevant information to analyze social, scientific and behavioral evidence to better plan and implement programs.

Annex 10: Capacity and Performance Grant Investment Menu

KENYA: DEVOLUTION SUPPORT PROGRAM

1. The Investment Menu for the Capacity and Performance Grant has two parts:

- Capacity Building Investments; and
- Sectoral investments

2. Counties that meet Minimum Access Conditions for ‘Level 1’ of the Grant and Minimum Performance Conditions for ‘Level 2’ of the Grant can fund investments from both parts of the investment menu.

3. Counties that meet the Minimum Access Conditions but do not meet the Minimum Performance Conditions are limited to the Capacity Building Investment Menu.

4. In the first year of the Grant (FY 2016/17) all counties will be limited to Capacity Building Investments.

Capacity Building Investments

Modalities of Capacity	Description	Eligible Areas
Guidelines and Regulations	Making available all existing policies, regulations and operational guidelines relating to Devolution, Developing and disseminating operational manuals	• Display Boards • Wall paintings • Small Brochures • Instructional Posters • Information and Web-improvement
Systems Development and Rollout	Improvements in the existing systems by introducing innovations redesign and new systems	• Capacity gap mapping/Training Needs Assessment • Assessment of IT needs, automation systems • Organizational culture change-one stop shop, client orientation, contracting out, etc. • Social accountability & behavior change assessment • Filing and archive system assessment • Tax revenue (eg. Automation) systems

Modalities of Capacity	Description	Eligible Areas
		• Land management & administration system assessment • Financial systems (IFMIS, revenue modules, etc.) • Management information & decision making systems • HR systems, e.g. appraisal organization restructuring etc.
Structured Learning Event	Class Room based face-to-face training by subject matter experts and workshops for detailed knowledge support using accredited ToT.	• Short-term courses-up to duration of 3 months (no longer term training, e.g. maters and PHDs) • Training e.g. in PFM, governance, management, project management (design, procurement, implementation and supervisions of projects), operation of infrastructure investments (both existing and new ones), and environmental and social management. (The areas of training have to be within the counties; mandated working areas.) • Workshops • Knowledge Dissemination sessions
Technical Assistance and on the Job Learning	Direct in country TA from an accredited pool, accreditation list to be provided by KSG, and verified by KDSP technical committee before the start of FY 2016/17	• Purchase of technical assistance within planning (development of country development strategy), integrated planning and management, physical planning, surveying, budgeting, PFM, procurement and project supervision , e.g. in form of consultancy input and support; hands on support on the job assistance, including consultancy fees are related expenditures.
Learning and knowledge exchange platform	Learning from other counties experience	• Support to county to county reviews and exchanges • Monthly/quarterly learning and sharing reviews • In-county study tours • Documenting lessons from implementation
Equipment	Office and training equipment to enhance efficiency of the working of the counties and improve the effectiveness of the CB activities. Expenditure for vehicles and building are not included in the costs, which can be	• Server (computing) • Networking and ICT equipment and software • Computers and accessories • Printer, photocopy machine, scanner

Modalities of Capacity	Description	Eligible Areas
	covered.	• Binding machine • Air conditioner/fan • Filing cabinet/shelf
Note: (i) The areas are limited to areas covered by ACPA MACs/MPC/PMs 5 thematic areas, see the Capacity and Performance Assessment Manual, 2015; (ii) training has to take place in country and by use of qualified training provides; (iii)The resource persons and trainers are to be from the accredited ToTs.		

5. Limitation on training activities:

- Capacity Building activities funded by the capacity and performance grants must be clearly linked to KDSP result areas, as measured by the ACPA.
- Training has to take place in-country and by use of qualified training provides.
- A system of accredited service provides may be put in place, and the counties will be informed by MoDP in due course.

Sectoral Investments

6. Development Projects to be financed from the capacity and performance grants funds must meet the following criteria:

   - A proposed project must be drawn from the approved County Integrated Development Plan, and included in the Annual Development Plan and Annual Development Budget.
   - A project description/report of the proposed investment must be submitted to the NEMA office at the County level for review and advice/clearance.
   - As required, a project report, that may include a resettlement action plan and an environmental and social management plan must also be submitted to NEMA in cases where land take or relocation is likely to occur.
   - The proposed project will not be financed from CPG funds if according to NEMA it requires the preparation of a full Environmental Impact Assessment (EIA) and an Environmental Management Plan prior to NEMA awarding an environmental license to the project.
   - The proposed project will not be eligible for financing if it is likely to result in the relocation of more than 200 people. For all investments, the country systems for land acquisition must be followed, including the preparation and full

implementation of a resettlement action plan (RAP). On public lands, occupants or encroachers will have to be fully compensated for losses of assets and their livelihoods restored before the proposed projects could become eligible.

  - In exceptional cases, where the county deems the investment to be critical, a project may be financed from the C&P Grant if unanimous consensus has been achieved with all people to be affected or displaced by the proposed investment. Furthermore, there should be proof/evidence that there has been a broader public consultation and engagement of all the relevant land acquisition institutions, and also that land take is in accordance with the legal framework on land acquisition in Kenya.

- KDSP investments will be implemented on communal land only when broad consensus and consultation is demonstrated to have taken place with affected communities unanimously agreeing to have the land used for that investment without compensation. In such cases, the consultations would have to be properly documented, including an attendee list, dates, photos, minutes of meetings, issues raised, agreements reached, mode of consensus building, etc. Any agreements of land gift should be endorsed by all and better still thumbprinted or signed.
- All public, private or communal land identified and determined to have issues related to historical injustices (e.g., historical claims over those lands) will be ineligible for implementing a KDSP investment.
- Finally, the grant cannot be used for salary costs of regular staff and activities related with micro-credits, loans and financing schemes.

Annex 11: Summary of Minimum Access Conditions, Minimum Performance Conditions, and Performance Measures

KENYA: DEVOLUTION SUPPORT PROGRAM

Minimum Access Conditions

No.	Indicator of Performance	Scoring Guide	Information Source and Assessment Procedure
1	County signed participation agreement	All MACs must be met in full to qualify for any C&P Grant funding	Signed confirmation letter/expression of interest in being involved in the Program
2	Capacity Building plan developed		Capacity Building plan developed according to the format provided in the Program Operational Manual
3	Compliance with investment menu of the grant		Planned and implemented capacity building activities (as per CB Plan and CB Implementation Report) comply with investment menu
4	Implementation of Capacity Building plan		Counties implement threshold level of planned capacity building activities (as assessed through CB Implementation Reports) – threshold level = 70% of FY 2016/17 plans, 75% of FY 2017/18 plans and 80% of subsequent plans

Minimum Performance Conditions

No.	Indicator of Performance	Scoring Guide	Information Source and Assessment Procedure
1	Compliance with minimum access conditions	All MPCs must be met in full to qualify for Level 2 C&P Grant funding	As described above
2	Financial statements submitted		Financial Statements with letter on documentation submitted to the Kenya National Audit Office by 30th September and National Treasury with required signatures (Internal auditor, heads of accounting unit etc.) as per the PFM Act Art.116 and Art. 164 (4).
3	Audit opinion does not carry an adverse opinion, or a disclaimer on any substantive issue		The opinion in the audit report of the financial statements for county legislature and executive of the previous fiscal year cannot be adverse or carry a disclaimer on any substantive issue (for transitional arrangements for audit of FY 2015/16 financial

No.	Indicator of Performance	Scoring Guide	Information Source and Assessment Procedure
			statements, see POM).
4	Annual planning documents in place		CIDP, Annual Development Plan and budget approved in line with PFM Act, Art 126 (4), and published (on-line)
5	Adherence with the investment menu		All planned and executed activities funded by C&P Grant funds, as demonstrated by financial accounts and implementation reports, comply with investment menu
6	Consolidated Procurement plans in place.		Up-dated consolidated procurement plan for executive and for assembly (or combined plan for both).
7	County Core staff in place		The following staff positions should be in place: the country secretary; chief officer of finance; planning officer; internal auditor; procurement officer (minimum a qualified/degree holder for each designated procuring entity); qualified accountant for each designated procuring entity; Focal Environmental and Social Officer designated to oversee environmental and social safeguards for all sub projects; M&E officer. Staff acting in positions may also fulfill the conditions if they comply with the qualifications required in the schemes of service.
8	Functional and Operational Environmental and Social Safeguards Systems (i.e. screening/vetting, clearance/ approval, enforcement & compliance monitoring, grievance redress mechanisms, documentation & reporting) in place.		Counties endorse and ratify the environmental and social management system to guide investments. All proposed investments screened* against set of environmental and social criteria/checklist, safeguards instruments prepared. (sample 5-10 projects). Prepare relevant Resettlement Action Plan for investments. Project Reports for investments for submission to NEMA. Sample 5-10 projects. Establishment of County Environment Committee.
9	Citizens' Complaint system in place		Established an operational Complaints Handling System, including a complaints/grievance committee to handle complaints pertaining to fiduciary, environmental and social systems. A designated a Focal Point Officer to coordinate implementation of the Framework and a grievance committee is in place.

Performance Measures

No.	Indicator of Performance	Scoring Guide	Information Source and Assessment Procedure
Public Financial Management			
1.1	Program Based Budget prepared using IFMIS using SCOA	2 points if both are achieved 1 point if only one is achieved	Check that all versions of budget submitted to parliament are printed from Hyperion in Program Based format, using SCoA (submissions can be accompanied by line item budgets, as long as figures match between versions)
1.2	Budget process follows clear budget calendar	If all 5 milestones (a-e) achieved: 3 points If 3-4 items: 2 points If 2 items: 1 point If less than 2 items: 0 points.	Review budget process against PFMA timelines
1.3	Credibility of budget	2 points if aggregate expenditure is within 10% of original budgeted expenditure 1 point if aggregate expenditure is between 10% and 20% of original budgeted expenditure 0 points if aggregate expenditure deviates from original budgeted expenditure by more than 20% plus 2 points if deviation between sectors between actual and budgeted expenditure is less than 10% 1 point if deviation is between 10% and 20% 0 points if deviation is greater than 20%	a) Aggregate expenditure out-turn compared to original approved budget. b) Expenditure composition for each sector matches budget allocations (average across sectors).
1.4	Automation of revenue collection, immediate banking and control system to track collection.	Over 80% = 2 points Over 60% = 1 point	Compare revenues collected through automated processes as % of total own source revenue

No.	Indicator of Performance	Scoring Guide	Information Source and Assessment Procedure
1.5	% increase in own source (local) revenue from last fiscal year but one (year before previous FY) to previous FY	1 point if increase is greater than 10%	Compare revenue collections between the two preceding fiscal years
1.6	Timeliness of in-year budget reports (quarterly to Controller of Budget)	2 points if reports submitted on time AND published on website 1 point if submitted on time but not published	a) Quarterly reports submitted no later than one month after the quarter (consolidated progress and expenditure reports) as per format in CFAR, submitted to the county assembly with copies to the controller of budget, National Treasury and CRA. b) Summary revenue, expenditure and progress report is published in the local media/web-page.
1.7	Quality of financial statements	1 point if financial statements submitted on time and to required standards	Financial Statements complies with requirements published by IPSAS board.
1.8	Monthly reporting and up-date of accounts	If all three reports produced: 2 points If one or two reports produced: 1 point No monthly reports produced: 0 points	Internal monthly management reports are produced, including (1) income and expenditure statements, (2) budget execution reports and (3) monthly financial statements
1.9	Asset registers up-to-date	1 point if asset register up to date	In the first assessment, register need only contain assets acquired since county governments established In subsequent years, registers must include all county assets, including those inherited
1.10	Effective Internal audit function	1 point if 4 quarterly audit reports are submitted for the year	Internal audit in place with quarterly IA reports submitted to IA Committee (or if no IA committee, in place, then reports submitted to Governor)
1.11	Effective and efficient internal audit committee.	1 point if Internal Audit Committee established and reports reviewed by Committee and evidence of follow-up available	Review composition of IA/Audit Committee, minutes etc. for evidence of review of internal audit reports. Review evidence of follow-up, i.e. evidence that there is an ongoing process to address the issues raised from last FY.
1.12	Value of audit queries	Value of queries <1% of total expenditures: 2 points Value of queries <5% of total expenditure: 1 point	The value of audit queries as a % of total expenditure
1.13	Reduction of audit queries	Audit queries (in terms of value)	The county has reduced the value of the audit queries (fiscal

No.	Indicator of Performance	Scoring Guide	Information Source and Assessment Procedure
		have reduced from last year but one to last year or if there are no audit queries: 1 point	size of the area of which the query is raised).
1.14	Legislative scrutiny of audit reports and follow-up	Tabling of audit report and evidence of follow-up: 1 point.	Minutes from meetings and review of previous audit reports reveal evidence of scrutiny and follow-up
1.15	Improved procurement procedures including use of IFMIs, record keeping, adherence to procurement thresholds and tender evaluation	The following points are assigned to each part of the measure (see next column): max available = 6 points	a) 25 steps in the IFMIS procurement process adhered to. (2 points) b) County has submitted required procurement reports to PPRA on time (1 point) c) Adherence with procurement thresholds and procurement methods for type/size of procurement in a sample of procurements (1 point) d) Secure storage space with adequate filing space designated and utilized – for a sample of 10 procurements, single files containing all relevant documentation in one place are stored in this secure storage space (1 point) e) Completed evaluation reports available for a sample of 5 large procurements (1 point)
Planning and M&E			
2.1	County M&E/Planning unit, and frameworks in place.	3 points available, one for each measure (see next column)	a) Planning and M&E units (may be integrated in one) established. b) There are designated planning and M&E officer and each line ministry has a focal point for planning and one for M&E c) Budget is dedicated for both planning and M&E.
2.2	County M&E Committee in place and functioning	1 point available	County M&E Committee meets at least quarterly and reviews the quarterly performance reports.
2.3	CIDP formulated and up-dated according to guidelines	3 points available – one for each measure (see next column)	a) CIDP adheres to structure of CIDP guidelines, b) CIDP has clear objectives, priorities and outcomes, reporting mechanism, result matrix, key performance indicators included; and c) Annual financing requirement for full implementation of CIDP does not exceed 200% of the previous FY total county revenue.

No.	Indicator of Performance	Scoring Guide	Information Source and Assessment Procedure
2.4	ADP submitted on time and conforms to guidelines	4 points available: 1 point awarded for compliance with required formats *plus* 3 points awarded if all issues mentioned in PFM Act 126.1 numbers A-H; *or* 2 points awarded if only 5-7 issues are covered; *or* 1 point awarded if 3-4 issues are covered	a) Annual development plan submitted to Assembly by September 1st in accordance with required format & contents b) ADP contains issues mentioned in the PFM Act 126,1, number A-H
2.5	Linkage between CIDP, ADP and Budget	2 points available	Linkages between the ADP and CIDP and the budget in terms of costing and activities. (costing of ADP is within +/- 10 % of final budget allocation)
2.6	Production of County Annual Progress Report	5 points available: points against each of the three measures in next column: a) 2 points b) 1 point c) 2 points	a) County C-APR produced; b) Produced timely by September 1 and c) C-APR includes clear performance progress against CIDP indicator targets and within result matrix for results and implementation.
2.7	Evaluation of CIDP projects	1 point available	Evaluation of completion of major CIDP projects conducted on an annual basis.
2.8	Feedback from Annual Progress Report to Annual Development Plan	1 point available	Evidence that the ADP and budget are informed by the previous C-APR.
Human Resource Management			
3.1	Staffing plans based on functional and organization assessments	In the first AC&PA (sept 2016), points available as follows: a = 2 points, b = 1 point c= NA. Future AC&PAs, points available as	a) Does the county have an approved staffing plan in place, with annual targets? b) Is there clear evidence that the staffing plan was informed by a Capacity Building assessment / functional and organizational assessment and approved organizational structure. c) Have the annual targets in the staffing plan been met?

No.	Indicator of Performance	Scoring Guide	Information Source and Assessment Procedure
		follows: a= 1 point, b = 1 point, Pc = 1 point	
3.2	Job descriptions, including skills and competence requirements	All a, b and c = 4 points. Two of a-c = 2 points One of a-c = 1 point	a) Job descriptions in place and qualifications met for Chief officers / heads of departments in the first ACPA, and for all heads of units in the second ACPA, and for all staff for all subsequent ACPAs b) Skills and competency frameworks and Job descriptions adhere to these (AC&PA 1: Chief officers / heads of departments; 2nd AC&PA: all heads of units; future AC&PAs: all staff (sample check) c) Accurate recruitment, appointment and promotion records available
3.3	Staff appraisal and performance contracting operationalized in counties	a) Staff appraisal for all staff in place: 1 point. b) Performance Contracts in place for CEC Members and Chief Officers: 1 point c) Performance Contracts in place for the level below Chief Officers: 1 point d) Service delivery process re-engineered: 1 point e) RRI implemented: 1 point	a) Staff performance appraisal process developed and operationalized. b) and c) Performance contracts developed and operationalized d) Process re-engineering report available for review e) RRI report available for review
Civic Education and Participation			
4.1	CEU established	CEU fully established with all criteria (a)- (e) complied with: 3 points. 2-4 out of the five criteria (a-e): 2 points Only one: 1 point.	Civic Education Units established and functioning (5 criteria defined in the POM)
4.2	Counties roll out civic education activities	2 points available	Evidence of roll-out of civic education activities (minimum 5 activities).
4.3	Communication framework and engagement.	2 points available, 1 point for each of part a) and part b) in next column	a) System for Access to information/ Communication framework in place, operationalized and public notices and

No.	Indicator of Performance	Scoring Guide	Information Source and Assessment Procedure
			user-friendly documents shared In advance of public forums (plans, budgets, etc.) b) Counties have designated officer in place, and officer is operational.
4.4	Participatory planning and budget forums held	All issues met (a-f): 3 points. 4-5 met: 2 points. 1-3 met: 1 point.	a) Participatory planning and budget forums held in previous FY before the plans were completed for on-going FY. b) Mandatory citizen engagement /consultations held beyond the budget forum, (i.e. additional consultations) c) Representation: meets requirements of PFMA (section 137) and stakeholder mapping in public participation guidelines issued by MoDP. d) Evidence that forums are structured (not just unstructured discussions) e) Evidence of input from the citizens to the plans, e.g. through minutes or other documentation f) Feed-back to citizens on how proposals have been handled.
4.5	Citizens' feed back	1 point available	Citizens feed back solicited on the findings from the C-APR/implementation status report.
4.6	County core financial materials, budgets, plans, accounts, audit reports and performance assessments published and shared	All 9 specified documents: 5 points 7 specified documents: 4 points 5-6 specified documents: 3 points 3-4 specified documents: 2 points 1-2 specified documents: 1 point 0 specified documents: 0 point.	Publication on county web-page of documents specified in PFM Act Art 131. County Act, Art. 91 and detailed in the POM
4.7	Publication of bills	2 points available	All bills introduced by the county assembly have been published in the national and in county gazettes or county web-site, and similarly for the legislation passed.
Investment implementation & social and environmental performance			
5.1	Output against plan – measures of levels of implementation	More than 90 % implemented: 4 points (6 points in the first two AC&PAs). 85-90 %: 3 points 75-84%: 2 points 65-74%: 1 point Less than 65 %: 0 point.	The % of planned projects (in the ADP) implemented in last FY according to completion register of projects

No.	Indicator of Performance	Scoring Guide	Information Source and Assessment Procedure
		If no information is available on completion of projects: 0 point will be awarded.	
5.2	Projects implemented according to cost estimates	More than 90 % of the projects are executed within +/5 of budgeted costs: 4 points (5 points in the first two AC&PAs) 80-90%: 3 points 70-79%: 2 points 60-69%: 1 point Below 60%: 0 points.	Percentage (%) of projects implemented within budget estimates (i.e. +/- 10 % of estimates).
5.3	Maintenance budget to ensure sustainability	Maintenance budget is more than 5 % of capital budget and sample projects catered for in terms of maintenance allocations for 2-3 years after: 3 points (4 in the first two AC&PA). More than 5 % but only 3-4 of the projects are catered for: 2 points. More than 5 % but only 1-2 of the specific sampled projects are catered for: 1 point.	Maintenance cost in the last FY (actuals) was minimum 5 % of the total capital budget and evidence in selected larger projects (projects which have been completed 2-3 years ago) have been sustained with actual maintenance budget allocations (sample of min. 5 larger projects).
5.4	Mitigation measures on ESSA through audit reports	All 100 % of sample done in accordance with framework for all projects: 2 points (3 points in the first two AC&PAs) 80-99 % of projects: 1 points	Sample 10 projects and ascertain whether environmental/social audit reports have been produced.
5.5	EIA/EMP procedures from the Act followed.	All 100 % of sample done in accordance with framework for all projects: 2 points 80-99 % of projects: 1 points	Sample 5-10 projects
5.6	Value for the money (to be introduced in 3rd ACPA)	To be developed during implementation based on the TOR for the VfM.	Percentage (%) of projects implemented with a satisfactory level of value for the money, calibrated in the value for the money assessment tool.

No.	Indicator of Performance	Scoring Guide	Information Source and Assessment Procedure
		Points: maximum 5, calibration between 0-5 points. E.g. more than 90 % of projects Satisfactory: 5 points, more than 85 % 4 points, etc.	