

**CONSULTATIVE FORUM ON PUBLIC FINANCE MANAGEMENT AND FISCAL DECENTRALIZATION - 3<sup>RD</sup> MAY, 2011 AT THE KENYA INSTITUTE OF ADMINISTRATION [LOWER KABETE]**

**PUBLIC FINANCE THEMATIC AREA:**

The Public Finance thematic area deals with all matters relating to the operationalization of the constitutional provisions on PUBLIC FINANCE as provided for under Chapter 12 of the Constitution.

This includes the development of new policies legislation and administrative procedures and in some cases the review of existing policies, legislation and administrative procedures required for a smooth running and implementation of the new Public Finance Management system.

**OBJECTIVES OF THE WORKSHOP:**

The Thematic area on Public Finance staged a ONE day workshop for all stakeholders in the area of Public Finance Management and Fiscal Decentralization on 3rd May, 2011. The objectives of the workshop were to:

- Give a general insight into the workings of Public Finance Management framework as spelt out in the constitution
- Give highlights of the PFM Law as currently conceptualized. The Treasury through the Ministry is working on the Public Finance Management Law.
- Devise ways and strategies aimed at overseeing the transition to Fiscal Decentralization and the roles of the various institutions therein
- Sensitize the key players on the roles that they have to play to facilitate the rollover to the new fiscal decentralization/devolution framework.

It is important to point out that this meeting was the first in a series of meetings and more shall follow with the aim of reaching out to non state actors for purposes of eliciting reactions from them on matters of Public Finance Management and Fiscal Decentralization.

**Workshop Deliberations:**

**Treasury - Ministry of Finance**

The Ministry of Finance pointed out that the provisions of Chapter 12 of the Constitution together with the devolved government set up were crucial in the attainment of Vision 2030 and the Millennium Development Goals. In this regard, the feeling was that the country cannot dispense with the need for proper resource

allocation and the Public Finance Management Framework must be formulated in a manner that is fiscally responsible for purposes of Macro Economic Stability.

As to the key issues on Fiscal Decentralization and the formulation of the bill thereto, they called for the entire budget process to be revamped so as to be accommodative of the new constitutional requirements.

The Ministry also stressed on the fact that intergovernmental fiscal relations are very important and the national treasury is expected to give overall guidance on the entire budget process. With this as a basis, they advocated for the formulation of an overall national law that spells out the Public Finance Management framework notwithstanding the fact that we have a devolved government system.

The Ministry for Finance informed the audience that the 1<sup>st</sup> Technical Draft of the Public Finance Management Law was out, and in line of the rigid timelines for the enactment of the same, they shall soon be transmitting the same to the Attorney General's office together with the Law Reform Commission. They were optimistic that by Mid June after scrutiny by the AG and the Law Reform Commission, the same should be ready for commentaries by all stakeholders.

The Finance Ministry also took the chance to reiterate their commitment to the implementation of the constitution.

#### **Task Force on Devolved Governments:**

The Task Force on Devolved Governments was of the view that we have a new system of government and the most transformative under the constitution is the chapter on devolution as well as the one on Public Finance. They were of the view that as part of attaining Macro Economic Stability in the new framework envisioned by the constitution, the national government also needs to be regulated and controlled in terms of its fiscal burdens. It is with this notion in mind that they developed the Fiscal Decentralization Conceptual Framework.

They proposed that the country should have more than one law on Public Finance and specifically argued for a law that deals with revenue allocation between National and Local Governments and another law, that spells out and deals with the wider Public Finance Management issues.

They also stressed that the fiscal decentralization that we had adopted is unique in the sense that it has implications on how both the national and county governments are structured and the policy frameworks that inform the same too.

In their view, the counties are going to be pivotal in the attainment of the Economic and Social Cultural Rights spelt out in the constitution.

The Taskforce argued for the setting up of a County Government Development Bank for Kenya for purposes of facilitating the financing and development of infrastructure and capital projects in all counties.

### **General Points Raised and Way Forward:**

It is important that there are wide consultations on this subject between the Ministry of Finance and all the other relevant stakeholders to harmonize views and thoughts on Public Finance and its management under the constitution. It was felt that the treasury and the Task Force on Devolved Governments together with other stakeholders create a synergetic relationship and by way of resultant deliberations, harmonize their respective views on the way forward for the country in terms of public finance.

In the context of the forthcoming legislation, it was agreed on the importance of isolating the most fundamental issues and proceeding to work around them as a platform on which to craft the PFM laws. Whilst engaged in the same, it was deemed important that the approach in terms of its final delivery be compliant with the provisions of the constitution.

There was the feeling that the national government should not elevate itself to the level of a prefect of the local governments though it must find a formula that enhances the fact that they are to work in a manner that compliments and gives value to each other's efforts.

We ought to interpret and adapt article 6 of the constitution to the structures that are being set up under the Public Finance Management framework.

The Ministry - Office of the President, Provincial Administration - should desist from acting like it is business as usual and bear in mind that the constitution calls for its restructuring. They must be ready to be relinquished of the public assets that they preside over by the county governments without any complications arising therefrom.

We must take cognizance of the fact that the public structures to be built at the county level are not going to be ready before the next elections due to the logistical and bureaucratic handicaps that inform government practices when it comes to developing new buildings. Thus, in the interim we need to make use of the available county infrastructure on the part of county governments without necessarily bearing or apportioning gargantuan sums of money towards new buildings and developments.

We do not have a bottomless pit of resources hence the need to come up with a methodological, well coordinated and prudent way of managing the resources that are being sent to the counties without duplication or wastages.

It is also important that the role for which the Commission for Revenue Allocation is set out to perform under the constitution is clearly mapped out in the Public Finance Management Framework that is developed.

For the discussions to be as fruitful as they were, the following institutions had representatives at the workshop.

- Commission for the Implementation of the Constitution (CIC)
- Commission of Revenue Allocation (CRA)
- Office of the Deputy PM and Ministry of Local Government
- The Treasury
- Ministry of Planning,
- Office of the President (Provincial Administration)
- Ministry of State for Public Service
- Ministry of Public Works
- Members of Parliamentary Transport, Public Works & Housing Committee
- Members of the Parliamentary Budget Committee
- Members, Task Force on Devolved Governments.