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FUND ACCOUNTS IN KENYA: MANAGING COMPLEXITIES OF PUBLIC FINANCIAL MANAGEMENT

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LIST OF ACRONYMS AND ABBREVIATIONS

AIA	Appropriations in Aid
AIE	Authority to Incur Expenditure
C&A.G	Controller and Auditor General
CDF	Constituency Development Fund
CSHSF	Civil Servants Housing Scheme Fund
C-WES	Constituency Women Enterprise Scheme
DC	District Commissioner
EABL	East Africa Breweries Limited
FY	Financial Year
IDPs	Internally Displaced Persons
IOU	I owe you
KEMSA	Kenya Medical Supplies Agency
KPLC	Kenya Power and Lighting Company
KTDA	Kenya Tea Development Authority
LATF	Local Authority Transfer Funds
NCPB	National Cereals and Produce Board
NOCK	National Oil Corporation of Kenya
PAC	Public Accounts Committee
PMG	Paymaster General Account
REP	Rural Electrification Programme
REPLF	Rural Electrification Programme Levy Fund
WEF	Women Enterprise Fund

EXECUTIVE SUMMARY

Fund accounts are single purpose closed accounts that are ring-fenced within the government accounts to provide specific services. The need for autonomy over public resource use in some crucial areas has somewhat led to creation of fund accounts. The budget system has for a long time failed to look into the very financial management shortcomings it was ideally designed to address among them equitable distribution of resources at national level. Underfunding of some key programs has therefore necessitated the establishment of fund accounts. Fund accounts may exist to cushion some important programs from budget cuts or other short term considerations in the context of the annual budget cycle (Allen and Radev, 2010).

Ideally, fund accounts should operate under finances approved and allocated by parliament. They should record and report accounts within the same time frame and frequency as the national budget and should meet common internal control, accounting, internal audit and reporting requirements. At the end of the financial year, proper accounting records should be submitted for audit in line with international financial reporting standards (IFRS). However, an overview of sampled fund accounts from the Appropriation accounts of the Controller and Auditor General Reports for the FY 2002/03-2008/09 highlights poor record keeping for several fund accounts and numerous anomalies, omissions and discrepancies in entries which make it difficult to ascertain the veracity of some balances as reflected in the balance sheets. Some of the funds identified as having failed to uphold to high standards of record keeping include the Government press fund, Humanitarian fund, Healthcare services fund and Kenya local loans support fund among others.

Fund accounts are typically created to address a specific need in society which requires special focus and must endeavor to do so using the share of national resources allocated to them. However, according to the C&AG reports for FY 2002/03-2008/09, various sampled fund accounts have recorded minimal or no meaningful activities for a number of years, which essentially means that they are not serving their intended purpose. The Funds include:- Provident Fund, Asiatic Widows and Orphans Pensions Fund, Rural Development Fund, District Development Fund Planning, Rural Enterprise Fund and Hides and Skin Cess Fund. However, even though these funds continue to register very little operations for years, they continue to be recognized, tying up resources that would otherwise been channeled to other key development areas. Nevertheless, some accounts like the Hides and Skins Cess Fund have been wound up but no follow up formalities have been undertaken to formalize such actions

Fund accounts utilize public funds and should therefore measure up to the general principles of transparency and accountability in reporting as well as operation. However, a review of the fund accounts sampled in this study reveal a lack of transparency and accountability in their management. In most of these funds, some expenditures and cash balances cannot be accounted for and there is continued failure in submitting documentary evidence on various transactions for audit purposes in consecutive years. This can be attributed to lack of a single institution to coordinate the funds projects across the country and the lack of vertical and horizontal accountability by implementing agencies and government ministries.

Of concern is that, even though fund accounts are audited after every financial year, the similar queries recur every year with seemingly no significant follow up action. Ideally funds accounts are to be subjected to the same degree of scrutiny as the national budget, even though that is currently overlooked. Fund Accounts are ultimately a government/parliament responsibility given that both organs are responsible for the laws establishing them. It is important therefore, for both government and parliament to strengthen mechanisms capable of enforcing sound financial management practices that encompass strong monitoring and evaluation tenets to ensure that they meet their initial goals for their set up and reverse any leakages in the scarce resources.

1. INTRODUCTION

1. Funds are government entities created to ring-fence resources for a particular purpose. They are separately organized from other financial obligations of the government, hold their assets and liabilities separately and engage in financial transactions on their own account, usually to serve specific functions related to public services. Thus Fund Accounts are therefore statements derived from the transactions from such entities. Some Fund Accounts fall under the category of devolved funds that are set up with the aim of bringing public services closer to the people, improving service delivery, addressing developmental needs and inequalities, enhancing decision making at the grass root on development initiatives and improving community involvement in meeting their development needs.

2. Sources of finance for the fund accounts include earmarked revenues typically provided for by law, transfers from budget, user charges and borrowing or donor funds. They may be managed by the Ministry of Finance, line ministries, local government or autonomous agencies (Allen and Radev, 2010).

3. The existence of Funds Accounts can be attributed to several shortcomings of the budget system such as failure to address specific needs that may require more attention failure to fully or adequately fund some activities which are very important. Fund Accounts may also exist to protect some important programs from budget cuts or other short term considerations in the context of the annual budget cycle (Allen and Radev, 2010).

4. Oftentimes, for an increasing number of fund accounts there's lack of clarity on and overlap of roles and responsibilities (Cabri, 2005). Furthermore, too many funds whose totality is not known makes it difficult to achieve a comprehensive view of government revenue and spending necessary to sustain fiscal discipline and bring about contestability in public resource use.

5. Bagaka (2008) asserts that fiscal decentralization in the form of devolved funds has brought about allocative efficiency as well as equity but in the process, increased tax burden to the central government in form of operations and maintenance. CDF has been noted as a good example of a fund that has exported serious tax burden to the central government with serious policy implications. Reforms of the CDF programme will be needed to reflect a benefit-expenditure structure.

1.1. WHAT IS THE ISSUE?

6. The government of Kenya has set up several funds aimed at serving specific functions including easier access to public services. In as much as the current legal framework provides for specific criteria for establishing funds, the terminating side is not adequately provided for. In some cases these funds have not adequately served the purposes they were created and hence minimal impact on livelihoods. Further, the said funds have remained inactive yet they continue to receive funding thereby denying other deserving sectors the much needed resources. A fragmented and weak framework in public finance management encourages the creation of numerous funds which once established; continue to exist indefinitely and without proper monitoring and evaluation.

7. Various issues have been raised concerning the management of fund accounts. The Controller and Auditor General has been preparing reports on Appropriation Accounts for every financial year as required by the Constitution of Kenya and has continuously raised queries on their operation. However, despite the preparation of these reports, and the subsequent preparation and tabling in the House of the Public Accounts Committee reports, no substantial action has been taken

1.2. STUDY OBJECTIVES

8. The study seeks to establish the extent and status of fund accounts as reported by Controller and Auditor General. In addition, it also establishes the level of compliance of the government Ministries/Departments and Agencies to the recommendations as per the Public Accounts Committee report.

1.3.WHY FUND ACCOUNTS?

9. With a number of funds being created through either government directive or an Act of parliament, it would be necessary for the funds to be scrutinized by Parliament so as to ascertain that they serve the purposes they are constituted for. Only Parliament has the power and authority to approve public spending and as the representatives of the people, Members of Parliament need to ensure that the principle of upholding value for money in government expenditure is adhered to.

10. The new constitution provides for creation of funds and as has been the practice before this new window will be created through an act of Parliament to provide for creation of a fund for its resources.

2. METHODOLOGY

11. The study was carried out through a desk review and the following key documents were reviewed:

a) The government of Kenya Constitution (both previous and the current one).
b) Government financial management act 2004, and
c) Controller and auditor general reports, (various years), (d) other relevant documents.

3. LEGAL FRAMEWORK FOR FUND ACCOUNTS

12. Preparation, execution and reporting on Funds were provided for in the old constitution under Chapter VII, Articles 99 to 104. In the new constitution, it is provided for in chapter Twelve.

In the old Constitution under article 99, all public revenue must be paid into the Consolidated Fund. Withdrawals from this Fund can only be done as authorized by the Constitution or by an Act of Parliament. In the old constitution, Article 99 (2) empowers Parliament to authorize payment of public revenue into other public funds,

> ***"…established for a specific purpose or to be retained by the authority that received them (funds) for the purpose of defraying the expenses of that authority."***

13. These provisions enables the government to;

- Allow agencies to collect and retain funds from earmarked taxes and charges.
- Set aside funds from and transfer the same to accounts of the agencies, and
- Retain balances in such funds after expiry of financial year.

14. Article 100 of the old constitution requires the Minister for Finance to prepare and table before Parliament, Annual Estimates of revenues and expenditures which are contained in the Finance Bill and once approved, become the Finance Act. Similarly, Annual Estimates of Expenditure are tabled as Printed Estimates and on approval, the Minister tables the Appropriation Bill which when approved, becomes the Appropriation Act.

15. In addition, the Finance Act authorizes imposition of taxes, levies and charges which are used to mobilize revenues for the public sector, including revenues which are transferred to Fund Accounts. On its part, the Appropriation Act authorizes withdrawals of funds from the Consolidated Fund to finance government operations. The Constitution further authorizes some expenditure to be charged directly to the Consolidated Fund, which include;

- debt payments, both principal and interest,
- public servants' pension,
- wages and salaries for constitutional office bearers.

16. Article 105 empowers the Controller and Auditor General (C&AG) to audit all public funds operations and report to Parliament as appropriate. C&AG is therefore mandated to audit all government agencies with details of reporting and procedures for accounting of the public funds provided for under the Exchequer and Audit Act.

17. The new constitution allows for the creation of such funds, for instance, Article 173 creates the judiciary fund while Article 204 creates the equalization fund. It is apparent that the creation of funds will continue to proliferate. Indeed, a number of bills introduced in Parliament in the recent past have a provision that allows the creation of a fund. If this is allowed to continue without any checks, there s high likelihood of introducing inflexibility in resource allocation making scrutiny of expenditures limited.

4. KEY FINDINGS

18. The management of the fund accounts in the governments' endeavor to deliver public goods and services is faced with diverse challenges. These include:-

Lack of scrutiny and approval of budgets: Beyond the one line reflected in the estimates, fund accounts budgets are not scrutinized by Treasury and parliament as is the case with national Budget since the details are withheld. This makes such funds susceptible to accountability challenges.

- **Problems of outlived mandates (policy lock-in):** There is a tendency for agencies, to continue existing once established regardless of whether their services are needed. Agencies are therefore created but rarely dissolved thereby denying the much needed funding to programs that require immediate attention. Evidently, it is important to note that the necessary formalities for winding up were never developed at the time of inception. For instance, despite the recommendation by the C& DG in 2002/2003 that the Asiatic Widows and Orphans Pensions Fund be wound up due to its inactivity it is inexistent. Other funds in a similar position include the Hides and Skins Cess fund which was abolished in 1986 through legal notice No. 129 of 11th June 1986.

- **Balkanizing the budget:** This occurs when agencies compete for budget resources seeking to have their revenues or receipts earmarked to protect themselves from budget changes, leading to ring-fencing of the allocations. Any accruing balances to these funds at the end of the financial year do not form part of the overall resource envelope which makes them unavailable to finance more urgent needs. In such cases, the government is no longer able to utilize available revenues strategically in accordance with current and emerging policy priorities. This is as is the case with Local Authorities Transfer Fund, The CDF, the rural electrification fund and the Kenya Airports Authority fund among others. This also creates a burden to the exchequer through earmarking revenues and subsidies transferred for funding the operations of the fund accounts.

- **Duplication of roles**: Funds were established with specific functions but with expansion of government and adoption of new policies, their functions are not clearly aligned

- .Studies indicate that there are cases where funds are used to fund projects that are already financed by other sources resulting in fund leakages (IEA, 2006). In addition there are no clear cut functions among related funds such as the Petroleum development fund vis-à-vis the Petroleum development levy fund where functions and objectives are blurred.

- **Reduced room for flexibility by the central government to shift resources**, occasioned in this case by earmarked resources. This leaves little fiscal space for prioritization and trade off in the allocation of available resources. Indeed with the current constitutional changes in public finance which already creates funds with fixed minimum targets hence limits the ability to make tradeoffs within central government when it comes to resource allocation will be constrained.

Poor accounting records as seen in the numerous accounting anomalies, omissions and discrepancies in entries which make it difficult to ascertain the accuracy of the balances reflected in the fund's balance sheet. These include humanitarian fund, medical supplies fund and petroleum development fund among others.

- **Lack of transparency and accountability in the management of the funds.** This is in view of the continued failure to submit documentary evidence on various transactions for audit, and the lack of accountability in some expenditures and cash balances. The fact that C & AG has continued to report on this issue year in year out shows that there are major weaknesses in the management of funds.

- **The totality of fund accounts:** Every year the Minister presents the totality of budgets but not those from fund accounts thus their totality is not known. The Controller and Auditor General audits but is there a tally of the funds in form of fund accounts?

19. Despite the above noted complexities in the management of the fund accounts coupled with inadequate accountability and management challenges, the new Constitution provides for the formation of more Fund accounts. Among them, the Judiciary Fund, Equalization fund, the Revenue fund for county governments and others that may be created with the enactment of legislation. There is need therefore for a legal framework which provides mechanisms of monitoring and oversight of public funds to be set up in order to ensure that these fund accounts are subjected to adequate budget controls as other public expenditures and that the principles of public finance as outlined in Article 201 of the Constitution are adhered to.

5. FINDINGS FROM ANALYTICAL REVIEW OF SELECTED FUND ACCOUNTS

20. The following are the findings from an analytical review of sampled fund accounts for Financial Years 2002/2003- 2008/2009 from the reports of the Controller and Auditor general.

5.1. WOMEN ENTERPRISE FUND

21. The Women Enterprise Fund (WEF) was conceived by the Government of Kenya in 2006 and officially launched in 2007. The principal objective of the fund is economic empowerment of women through loans. The loans reach the target beneficiaries through partner financial intermediaries and directly through Constituency Women Enterprise Scheme (C-WES). The funds initial capital was Kshs.1 billion.

22. A review of the Controller and Auditor general reports for the years 2007/2008 and 2008/2009 indicates that there are no records to show the selection criteria for eligibility for micro finance intermediaries used for lending women enterprises and groups. In addition, the balance of money lend to constituencies in 2009 could not be verified due to lack of proper/relevant supporting documents.

23. As regards the preparation of the fund accounts, the Controller and Auditor General Report for 2008/2009 noted that it was not compliant with the international public sector accounting standards that requires that on presentation of financial statements, accounting policies need to be disclosed and changes in Net assets/Equity prepared.

5.2. CIVIL SERVANT HOUSING SCHEME FUND

23 The Civil Servants Housing Scheme Fund (CSHSF) was established vide Legal Notice No.98 of 15th September 2004 which also stipulates the rules and regulations governing the administration and operation of the Fund. The objectives of the fund include the provision of housing loan facilities to civil servants for the purposes of either purchasing or constructing a residential house, development of housing units for sale and for rental by civil servants, and to raise funds for the implementation of the objectives stated above.

24 In terms of mortgage recoverable as per the Controller and Auditor General report for 2007/2008, there was no analysis for the balance sheet figure of Kshs.1,507 million hence the details of the individuals the mortgage was recoverable and could not be determined. The capital reserves totaling Kshs.499 million were not analyzed.

25 In the same light, there were no analyses and other related documentation provided for the Work-In-Progress balance of Kshs.250 million reflected in the Balance Sheet. This reflects inadequate and weak auditing, monitoring and evaluation of projects and programmes.

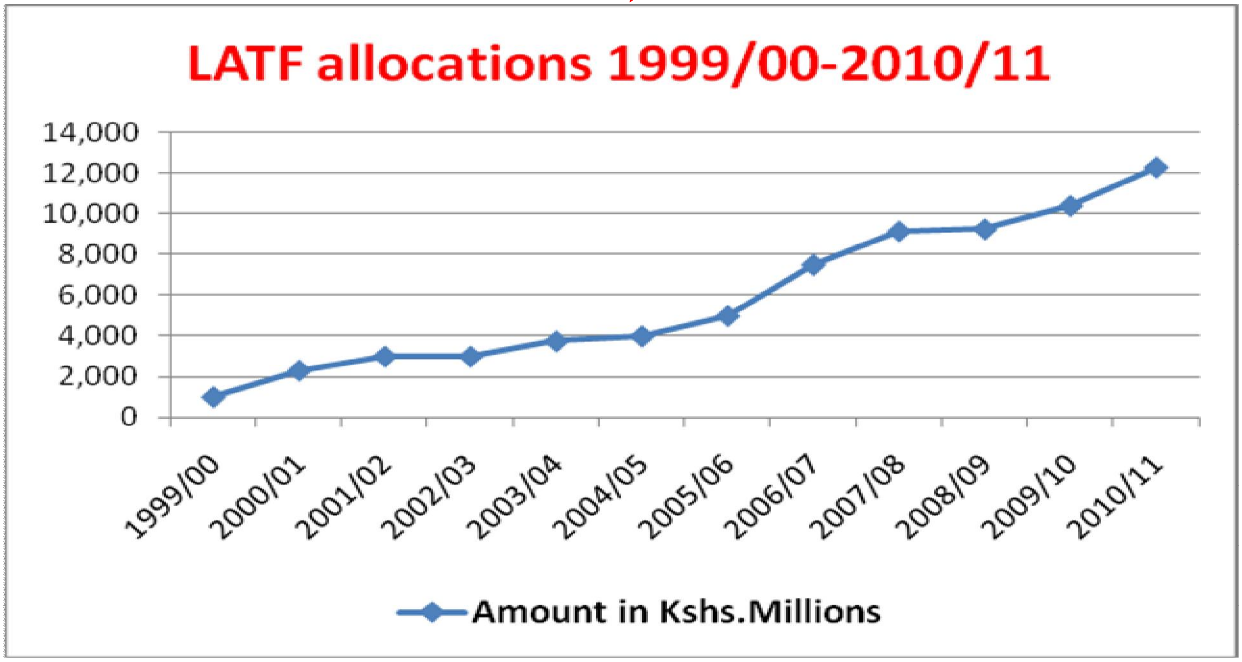
26 Further, the deposits accounts payable (unclaimed 10%) balance brought forward of Kshs.520.8 million was not reconciled with 2006/2007 audited accounts figure of Kshs. 148.6 million.

27 As noted in the Controller and Auditor General report of 2008/2009, there is lack of reconciliation of various accounting documents. For instance, the balance sheet reflects work-in progress balance that varies with the value in the certificates of work done. Also, the capital reserve as well as Accounts Payable balance brought forward vary with the closing figure shown in the audited accounts for 2007/2008.

5.3. LOCAL AUTHORITY TRANSFER FUND (LATF)

28 LATF is an intergovernmental transfer system that provides resources to local authorities to supplement their own resources in the financing of services and facilities required by citizens. The fund was formed through LATF Act No.8 of 1998 and operationalised in 1999. It constitutes 5% of the income tax which is allocated to Local authorities based on basic amount of Kshs.1.5 million per Local authority, 60% based on relative general population of a local authority and the balance on relative urban population of a local authority.

The figure below indicates the LATF allocations since financial year 1999/2000(Kshs. Millions)



29 In the period between 2002/2003 to 2008/2009 the report of the Controller and Auditor General observed the following issues in relation to the LATF.

- Under-expenditure of the LATF resources as observed in the 2002/2003 Controller and Auditor General Report due to failure by some councils to meet LATF regulations to qualify for LATF grants. In improving financial management and accountability for LATF in the financial year 2003/2004, Local Authorities could utilize part of funds in preparation and submission of abstracts of accounts for audit. However there were arrears of years of accounts with some in respect to periods 1998/1999 to 2003/2004 and prior years. This makes it hard to know whether the funds were utilized for the intended purposes.

- The Controller and Auditor General report for 2006/2007 indicates inconsistencies in record keeping in relation to current grants to Government Agencies and other levels of Government as depicted by the Recurrent Appropriation Account figures that varies with the LATF disbursement schedules and 2006/2007 LATF accounts prepared by the Ministry for audit. This depicts lack of reconciliation of accounts and hence need for a strengthened accountability mechanisms.

- The Controller and Auditor General reports for 2007/2008 and 2008/2009 indicate that the Ministry failed to maintain a LATF Deposits Register and this makes it impossible to verify the level of deposits. In addition, for the financial year 2008/2009, the statement of assets and liabilities shows a debit balance in respect to

LATF deposits which had remained the same for three consecutive years with no schedules/analyses to support the balance.

5.4. AGRICULTURAL INFORMATION CENTRE REVOLVING FUND

30 The fund came into force via the Exchequer and Audit (Agricultural Information Centre Revolving Fund) regulations of 1993. The fund saw initial disbursement of up to Kshs.1 million appropriated by Parliament in the financial year 1993/94. Its aims at providing funds for the development of agricultural information centers to meet the demand for agricultural training and media materials within and outside the Ministry of Agriculture.

31 Failure of submission of audit of the Fund Accounts for the 1993/1994 financial year by the Ministry as noted by the Controller and Auditor General report for 2008/2009 has made it impossible to ascertain accuracy of carried forward balances for subsequent years.

32 The funds financial statements are not prepared and presented in accordance with generally Accepted Accounting principles and Government Financial regulations and procedures hence do not provide relevant, reliable and understandable information as noted by the Controller and Auditor General Report for 2005/2006.

33 The Agricultural Information Centre appears to have under collected the AIA. For instance, the approved budget for 2003/2004 shows an estimated income of Kshs.11.6 million against expenditure of Kshs.7.5 million. However, the actual income realized was Kshs.6 million against actual expenditure of Kshs.5 million.

5.5. ASIATIC WIDOWS AND ORPHANS PENSION FUND

34 The Asiatic Widows and orphans Pension Fund came into being on 1st May 1942, and further amended on 26th May 1966, through an act of parliament and can be cited as The Asian Widows' and Orphans Pensions Act (CAP 193).The purpose of the fund is to make provisions for granting pensions to widows and children of deceased Asian public officers. The pensionable age for children in the case of a male child is under the age of 18 years while in the case of a female child is under the age of 21 years.

35 A review of the Controller and Auditor General report for 2008/2009 indicates lack of preparation and submission of the Fund's audit accounts as was the case in 2007/2008 for the period 1973/1974 to 1995/1996. This led to the accounts for the subsequent periods including those under review being prepared on basis of unaudited brought forward balances.

36 However, it is worth noting that since 2002/2003, the fund has not recorded any transactions yet it continues to exist despite recommendation by the PAC for the fund to be wound up.

5.6. ASIAN OFFICERS FAMILY PENSION FUND

37 The fund was created through an act of parliament (Cap 194) to make provisions for granting pensions to widows and orphans of Asian Officers appointed to the service of the government or after the commencement of this act.

38 In reviewing the 2008/2009 Controller and Auditor General Report, it was established that as of the previous year's reports, the proceeds amounting to Kshs.76 million in respect of Kenyan stocks redeemed in 2001,2004 and 2007 were not re-invested and as such lay unutilized in Pensions Department's Deposit Account.

39 Also, the Balance sheet reflects an investment portfolio balance of Kshs. 276 million of which it is not possible to verify existence, ownership and valuation of the investment balance as at 30th June 2009. In addition, as was reported in the previous Controller and Auditor General reports, the Asian Officers Family Pension Fund Accounts for 23 years (1973/74 to 1995/96) were not prepared and submitted for audit as provided for by the Act. As a result, the accuracy of the opening balances of the Fund Accounts for the subsequent years to could not be confirmed.

40 The Widows and Orphans Act Cap (192), the Asian Widows and Orphans Pensions Act, Cap (193) and the Asian Officers Family Pensions Act (Cap 194) provide for contributions through Crown Agents. Since it is difficult to authenticate the actual dependants of the Britons and Asians living in United Kingdom, the Director of Pensions should ensure that life certificates for the pensioners and dependants paid through crown agents are submitted annually to the department so as to act as a basis for continued payment

5.7. MEDICAL SUPPLIES FUND

41 This fund was established by the Treasury under section 32(1) of the Exchequer and Audit Act (cap 412) and came into operation on 1st July 1984 for the purpose of procuring drugs, sera and vaccine, surgical equipment and surgical dressings, x-rays and x-ray supplies, laboratory equipment, reagents and chemicals, dental and orthopedic equipment and other medical supplies and equipment that may be authorized by the Officer administering the Fund and the Treasury. The fund comprises of money appropriated by parliament for the aforementioned purpose and was initially administered by the accounting officer responsible for the vote of the Ministry of Health or any other person appointed by him in writing to administer the Fund on his behalf. However, Kenya Medical Supplies Agency (KEMSA) established under Legal Notice No.17 of 11 February 2000 was expected to take over all assets and liabilities of the Medical Supplies Fund existing as at that date. Institutions which can obtain their medical supplies from this fund are government health institutions, mission hospitals and any other medical institutions that the officer administering the fund and the Treasury may permit.

53. A review of this fund for fiscal years 2002/2003 through to 2008/2009 revealed the following issues.

Absence of accurate and reliable accounting records

54. Throughout the aforementioned fiscal years, the ministry did not provide documentary evidence in support of balances appearing in the statement making it difficult to confirm the accuracy of these balances and if the overdraft was authorized by Treasury. Instead, the ministry submitted the same statement of Assets and Liabilities for audit year after year.

Credit balances excluded

55. According to C&AG the Statement of Assets And Liabilities for Funds, Schemes and Deposits does not show credit balances totaling to Kshs.217.2 million in respect to Medical Supplies Fund. This represents Fund Capital of Kshs.180.7 million and Fund Surplus of Kshs.36.5 million appearing in the Medical Supplies Fund's Statement of Assets and Liabilities as at 30 June 2005, 30 June 2006 and 30 June 2007.

5.8. PETROLEUM DEVELOPMENT FUND

57. The petroleum development fund was established through the Petroleum Development Fund Act no. 4 of 1991 with the purpose of developing common facilities for the distribution or testing of oil products and for matters relating to the development of the oil industry as the Minister may direct. It consists of money appropriated by Parliament for that purpose. A subsidiary legislation, Petroleum development levy order established under the Petroleum Development Act, imposes a levy on all petroleum fuels consumed in Kenya and money thus received is paid into the fund. Any expenditure on development programs financed from the fund is based on and restricted to the annual budget which is submitted to the Treasury for approval before the beginning of the financial year in which the expenditure is supposed to be made. All receipts, savings, accruals as well as balance of the Fund at the close of each financial year are not paid to the consolidated fund, but are retained for purposes of meeting the fund's objectives.

58. The fund is administered by the accounting officer of the ministry for the time being responsible for matters relating to energy or any person appointed by him in writing for that purpose and this officer is responsible for keeping proper records of account. However, according the C&AG an analysis of the 2007/2008 and 2008/2009 revealed lack of reconciliation of accounts and unexplained discrepancies between the income receipts recorded fund's income statement and the Appropriation account for Vote D.30; the total expenditure reflected in the Income statement vis-à-vis the Appropriation account; and the Cash at Bank balance reflected in the Fund's balance sheet vis-à-vis that reflected in the Cashbook. The Balance Sheet also showed a payables balance of Kshs.59.5 million under Current Liabilities, relating to various unrepresented cheques.

5.9. RURAL ENTERPRISE FUND

59. The fund was established under section 34(1) of the exchequer and audit act and deemed to have come into operation on 1st March 1992. Its purpose is to give loan facilities to individuals in rural areas so as to assist them in the expansion and growth of informal and small scale enterprises through provision of financial resources for initial investment and working capital. However, reports of the Controller and Auditor General for FY 2007/2008 and 2008/2009, indicate that the Rural Enterprise Fund is dormant and has not recorded any meaningful activities for a number of years yet it continues to tie up funds.

60. Further scrutiny of the fund Accounts in previous years reveal that there has been minimal and insignificant action to address the issues as is summarized in the following paragraphs:

Loan Beneficiaries

61. As stated in the C&AG reports 2002/2003-2008/2009, various District Commissioners failed to submit to the Ministry Headquarters lists of beneficiaries of the Fund, including names of the borrowers, amounts borrowed and dates of loan disbursement. This has made it impossible to ascertain with certainty the total loan balance of Kshs.394.55m actually represents the entire loan portfolio issued out of the Fund.

Unbanked Cash

62. According to C&AG the Statement of Assets and Liabilities reflects unbanked cash balances totaling Kshs.3.35m, brought forward from 2007/2008 and earlier years. Apart from failure to clarify why the cash balances had not been banked as at 30 June 2009, there was also no evidence to confirm actual existence of the amount of Kshs.3.35m at the DCs' Offices.

Irregular advances

63. In addition, the figure of Kshs.1.95m under DC (Loans Repaid) includes advances amounting to Kshs.0.21m in form of IOU's, issued in 1997/98 from the Fund to some five officers working at the DC's Office Kisumu, which had been surrendered or made good of as at 30 June 2009. Available information indicates that part of the IOUs may not be recoverable as some of the officers have since died.

Unreconciled balances

64. The statement of Assets and Liabilities further reflects a debit balance of 770,125.15 against the Fund, while the Fund Accounts under review show a figure of Kshs.397.91 million against the item. The difference of 397.14 million has not been reconciled or explained.

5.10. PETROLEUM DEVELOPMENT LEVY FUND

65. The Petroleum Development Levy fund was established by the Petroleum Development Fund Act of 1991 for purposes of financing programmes necessary to supplement fuel distribution in areas inadequately served by the oil marketing companies as well as cater for other expenses relating to the development of the petroleum industry.

66. From the C&AG reports 2002/2003-2008/2009, concern has been expressed with regards to the following issues:-
   (a) Use of funds as relates to the initial objective
   (b) Irregular retention of funds by National Oil Corporation
   (c) Incomplete financial system

5.11. PROVIDENT FUND ACCOUNT

67. An act of Parliament, Provident Fund Act *(*Chapter 191*) (No. 12 of* 1st April 1951*)*, established the Provident Fund to provide terminal benefits to government employees who were not covered under Pensions Act cap. 189.

68. A review of funds accounts for the year(s) ended 07, 08 and 09 show that this fund recorded nil or zero activity. In addition for close to 23years, that is from 1973/74 to 1995/96 the Provident Fund Accounts were not prepared and submitted for audit hence the accuracy of the opening balances of the Fund Accounts for the subsequent years including 2008/2009 could not be confirmed.

69. The Fund Balance Sheet as at 30 June 2009 reflects a balance brought forward investments portfolio of Kshs.18.3m held in the Kenya Power and Lighting Company (KPLC) and in the East African Breweries Ltd (EABL). However, these investments have not been supported by investment certificates and adequate documentary evidence. C&AG therefore could not verify the ownership existence and valuation of the total investment portfolio of 18.3m.

70. Further, the C&AG indicates that Sundry Debtors and Accumulated Interest receivable from Cereals and Sugar Finance Corporation, respectively, and which had been reflected in the Fund Accounts for 2002/2003 was, as in the previous financial year, omitted from the Accounts for 2008/2009.

5.12. PRISON FARMS REVOLVING FUND

71. This fund came into operation on 1st July 1992 and was established under the Exchequer and Audit Act, 1987. Its purpose was to provide funds required for the development and running of prison farms for the training and rehabilitation of prisoners and inmates.

72. As stated in the C&AG reports 2002/2003-2008/2009, the fund Balance Sheet reflects an increase of the amounts owed to the fund. According to C&AG the significant increase in debtors in particular 2008/2009 and subsequent years is indicative of inadequate efforts by the Ministry in the collection of debts as and when they fall due.

73. According to C&AG there has also been a constant understatement of the fund's assets in the balance sheet In the report for year 2004/2005, reference was made to non disclosure of investment of Kshs.0.25m by the Fund through some 2758 shares valued at Kshs.20.00 each by Kericho Prison in Kenya Tea Development Authority (KTDA) Farmers Company

Ltd. as evidenced under a certificate dated 25 June 1997. This investment has similarly not been disclosed in the Accounts for 2008/2009 with the result that the Fund's assets have been understated by an equivalent amount.

74. Similarly, the C&AG reports of 2002/2003-2008/2009 shows that, authorization was not sought from Treasury to raise the share capital of the Fund from a ceiling of Kshs.4.2m initially provided by the Legal Notice which created the Fund in 1992, to an amount of Kshs.26,702,180.00 as reflected in the 2003/2004 accounts.

5.13. PRISON INDUSTRIES REVOLVING FUND

75. The prisons industries fund was established by the Treasury under section 32(1) of the exchequer and audit act and came into operation on 1st July 1987. The main purpose and objective of the fund is to train and rehabilitate prisoners and inmates and procure necessary raw materials, tools, plants and equipments required thereof; and offer for sale finished products in the open market.

76. As stated in the C&AG reports 2002/2003-2008/2009, the Prisons Industries Fund financial statements for the year ended 30 June 2009 are drawn from manual analyses and not from accounting records and ledgers and with no journal entries the completeness and accuracy of the sales, expenses and profit figures for the year could not be confirmed. Also, the Balance Sheet reflects a Suspense Account balance of Kshs.73.55m that has not been cleared for several years.

5.14. THE STRATEGIC GRAIN RESERVE TRUST FUND

77. The Strategic Grain Reserve Trust Fund was established under Legal Notice No.55 of 15 April 2002 and came into operation on 1 April 2002. The purpose of the Fund is to provide a strategic grain reserve in physical stock and cash equivalent.

78. From the C&AG reports, examination of the Financial Statements of the Strategic Grain Reserve Trust Fund and related records has revealed an absence of a signed Agency Agreement between the Office of the President and the National Cereals and Produce Board hence there does not seem to exist a regulatory framework which guides the business relationship between the Government and N.C.P.B. As a result, the charges, fees and commissions levied by NCPB cannot be confirmed as a proper charge to the assets of the Strategic Grain Reserve Trust Fund.

5.15. RURAL ELECTRIFICATION PROGRAMME (REP) FUND ACCOUNTS

79. The Rural Electrification Programme (REP) was established in 1973 to support the electrification of rural areas and other areas considered economically unviable for electricity by the licensees. Its funds are obtained from the Rural Electrification

Programme Levy Fund (REPLF) - one of the 7 decentralized operation funds in Kenya aimed at alleviating socio-economic disparities at the local level.

80. As stated in the C&AG reports 2002/2003-2008/2009, Rural Electrification Programme (REP) fund accounts for the year ended 30 June 2009 were prepared on cash basis contrary to Electric Power (Rural Electrification Levy) Order 1998, which requires the accounts to be prepared on accrual basis. The financial statements as at 30 June 2008 do not therefore recognize Kshs.1552.87 Million, being 5% levy collected by the Kenya Power and Lighting Company Limited (KPLC) but not remitted to the fund and Kshs.13,098.92 Million capital contributions to the Rural Electrification Programme Fund by the Government since inception.

6.0. POLICY OPTIONS/ WAY FORWRD

81. The following are policy options that if adopted could improve the management of fund accounts:

- **Closure of some Fund Accounts:**
  Some fund accounts are defunct and have for a long time recorded minimal or no activity and should be scrapped. Funds like the Hides and Skins Cess Fund have already been abolished yet the necessary formalities for winding up have never been undertaken. There is also need to review the relevance of other funds such as the European widows and orphans pension scheme fund as well as the Asiatic widows and orphans pension fund among others.

- **Improve institutional framework:**
  There is need for a thorough restructuring of some of these funds in order to ensure that they are in line with the needs of the targeted beneficiaries and that all resources are actually reaching these targets. Above all there is need for improved institutional framework that would enhance administration of the funds and alleviate barriers to effective project implementation. Specifically, based on the challenges of the sampled funds, there is need a clear process of setting up, accounting for and abolishing of fund accounts to be provided for through appropriate legislation.

- **Enhance mechanisms of Transparency and Accountability:**
  Proper mechanisms of transparency and accountability will go a long way in enhancing management of the funds and plug resource leakages.

- **Consolidation of some Fund Accounts:**
  Some fund accounts such as the Petroleum Development Fund and the Petroleum Development Levy Fund, or the mechanical transport and plants maintenance fund and the mechanical transport and plant renewals fund may have an overlap of functions and can be consolidated into one fund to enhance service delivery and reduce duplication of functions which also creates a loophole for misuse of funds.

- **Establish totality of Fund Accounts:**
  Treasury should be asked to publish the total number of funds that have been set up including the status of their finances.

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ANNEX: LIST OF FUND ACCOUNTS[1]

1. Women Enterprise Fund
2. Civil Servant Housing Scheme Fund
3. Local Authority Transfer Fund (LATF)
4. European Widows and Orphans Pension Scheme Fund
5. F.T.C Demonstration Farms Fund
6. Agricultural Information Centre Revolving Fund
7. Government Clearance Agency Fund
8. Asiatic Widows and Orphans Pension Fund
9. Asian Officers Family Pension Fund
10. Government Press Fund
11. Health Care Services Fund
12. Hides And Skins Cess Fund
13. Humanitarian Fund
14. Kenya Local Loans Support Fund
15. Kenya Missions Float Fund
16. Management Supervision And Liquidation Fund
17. Mechanical and Transport Fund
18. Mechanical Transport And Plant Maintenance Fund
19. Mechanical Transport And Plant Renewals Fund
20. Medical Supplies Fund
21. Petroleum Development Fund
22. Rural Enterprise Fund
23. Treasury Main Clearance Fund
24. Petroleum Development Levy Fund
25. Provident Fund Account
26. Prison Farms Revolving Fund
27. Prison Industries Revolving Fund
28. The Strategic Grain Reserve Trust Fund
29. Township Roads and Drains Account
30. Rural Electrification Programme (REP) Fund
31. Constituencies Development Fund (CDF)
32. Cereals and Sugar Finance
33. Civil Contingency Fund
34. Rural Development Fund
35. Exchange Risk Assumption Fund
36. District Cash Fund
37. Consolidated Fund
38. Training Fund
39. Stores and Services Fund
40. Veterinary Services Development Fund
41. Pre-Shipment Inspection Fund

[1] This list is not exhaustive

42. Civil Servants Accident Claim Fund
43. Government Coast Agency Fund
44. Issue of New Stock Fund Account
45. Sinking Fund
46. The Kenya Airports Authority Fund