



*Approved
SNA
27/6/23*

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – SECOND SESSION – 2023

DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

.....

REPORT ON:

THE VETTING OF CPA. MARY ANDEYO WANYONYI CHEBUKATI
FOR APPROVAL FOR APPOINTMENT AS CHAIRPERSON OF THE
COMMISSION ON REVENUE ALLOCATION

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 27 JUN 2023	DAY: TUESDAY
TABLED BY:	HON. JOSEPH MAKILAP, MP COMMITTEE MEMBER
CLERK AT THE TABLE:	INZOFU MWALE

CLERK'S CHAMBERS

DIRECTORATE OF DEPARTMENTAL COMMITTEES

PARLIAMENT BUILDINGS

NAIROBI

JUNE 2023

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LIST OF ABBREVIATIONS AND ACRONYMS

KRA	-	Kenya Revenue Authority
EACC	-	Ethics and Anti-Corruption Commission
DCI	-	Directorate of Criminal Investigations
HELB	-	Higher Education Loans Board
ORPP	-	Office of the Registrar of Political Parties
CBS	-	Chief of the Burning Spear
CRA	-	Commission on Revenue Allocation
KESSRA	-	Kenya School of Revenue Administration
UDA	-	United Democratic Alliance
ODM	-	Orange Democratic Movement

ANNEXURES

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CHAIRPERSON'S FOREWORD

This report contains proceedings of the Departmental Committee on Finance and National Planning during the approval hearing of the nominee for appointment as the Chairperson of the Commission on Revenue Allocation (CRA) pursuant to Article 215(2) (a) of the Constitution of Kenya and as communicated to the House by the Hon Speaker on Tuesday, 6th June, 2023.

Pursuant to Article 215(2) (a) of the Constitution and Section 5 of the Public Appointments Parliamentary Approval Act (No. 33 of 2011) and Standing Order 45(1), the Hon Speaker notified the National Assembly of the nomination of **CPA. Mary Andeyo Wanyonyo Chebukati** for approval for appointment as Chairperson of the Commission of Revenue Allocation (CRA). The Hon Speaker vide a communication made on Tuesday, 6th June, 2023 conveyed to the House the Message from the President and subsequently referred the name of the nominee, curricula vitae, and the report of the Selection Panel on her recruitment to the Departmental Committee on Finance and National Planning for approval hearing and reporting to the House.

While referring the nominee to the Committee, the Hon Speaker directed that the Committee undertakes the vetting within twenty-eight (28) days pursuant to Section 8 of the Public Appointments Parliamentary Approval Act (No. 33 of 2011). The Speaker further directed the Clerk of the National Assembly to notify the nominee and the general public of the vetting. In this regard, advertisements were placed in two newspapers of nationwide circulation and on the Parliamentary Website, of the time and place of holding the approval hearing on Thursday, 22nd June 2023.

In compliance with Article 118 (b) of the Constitution and section 6 (4) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), the Committee placed an advertisement in the print media on Tuesday, 14th June 2023 informing the public of the nomination, date, time and place of the approval hearing. The Committee also invited the public to submit memoranda by way of written statements on oath on the suitability of the nominee in conformity with section 6 (9) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011). The memoranda were to be received on or before Wednesday, 21st June, 2023 at 5.00 p.m. (East African Time). The Committee received no memoranda (affidavits) contesting the suitability of the nominee by the set deadline.

The Committee also requested information regarding the nominee from KRA, EACC, DCI, HELB, and ORPP on her suitability to hold public office.

The nominee appeared before the Committee on Thursday, 22nd June, 2023 for vetting. The Committee examined her suitability based on the criteria set out in Section 6 of the Commission on Revenue Allocation Act 2011 and Section 7 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011). In addition, the Committee examined her academic credentials, relevant experience, knowledge of sector issues and on leadership and integrity. The Committee paid due regard to the procedure used to arrive at the nominee; any constitutional or statutory requirements relating to the office in question and the suitability of the nominee for the appointment proposed having regard to whether the nominee's abilities, experience and qualities meet the needs of the Commission.

Pursuant to Article 215 (2) (a), Section 6 of the Commission for Revenue Allocation Act and Section 5 of the Public Appointments (Parliamentary Approval) Act, 2011, the Committee observed that the nominee met the integrity threshold; demonstrated knowledge of topical, administrative and technical issues touching on the portfolio to which she had been nominated; and had the requisite abilities, academic qualifications and professional experience to be approved for appointment as Chairperson of the Commission on Revenue Allocation.

Having conducted an approval hearing of the nominee and examined certificates, testimonials and other documents in its possession, the Committee was persuaded that due process was followed in the recruitment process of the nominee as provided for under Article 215 of the Constitution and the Public Appointments (Parliamentary Approval Act) (No. 33 of 2011). Given the foregoing, the Committee recommends that pursuant to Article 215(2) (a) of the Constitution and Section 6 of the Commission for Revenue Allocation Act, the House **APPROVES** the nomination of **Mary Andeyo Wanyonyi Chebukati** for appointment as Chairperson of the Commission on Revenue Allocations (CRA).

The Committee registers its appreciation to the Office of the Speaker, the Office of the Clerk of the National Assembly and the Committee Secretariat for the logistical support extended during the vetting process. The Committee thanks the nominee for her cooperation during the vetting process and while appreciating KRA, EACC, DCI, HELB and ORPP for providing references and background checks relating to the suitability of the nominee.

Finally, I wish to acknowledge and appreciate Committee Members for their patience, sacrifice and commitment to duty which enabled the Committee to complete the vetting task within the required timelines.

On behalf of the Departmental Committee on Finance and National Planning, and pursuant to Article 215 of the Constitution and Section 8 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011) and provisions of Standing Orders 45(4) and 199(6), it is my pleasant duty to present the Report of the Committee on the approval hearing of the nominee as Chairperson of the Commission on Revenue Allocations (CRA) for debate and adoption by the House.



Hon. CPA Kurfa Kimani, M.P.

Chairperson, Departmental Committee on Finance and National Planning

CHAPTER ONE

1. PREFACE

1.1. Establishment and Mandate of the Committee

1. The Departmental Committee on Finance and National Planning is one of the twenty (20) Departmental Committees of the House established under **Standing Order 216** which mandates Departmental Committees-

- i. To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
- ii. To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;*
- iii. on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
- iv. To study and review all legislation referred to it;*
- v. To study, assess and analyze the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
- vi. To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House;*
- vii. To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);**
- viii. To examine treaties, agreements and conventions;*
- ix. To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation;*
- x. To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
- xi. To examine any questions raised by Members on a matter within its mandate.*

1.2. Subjects under the Committee

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider, public finance, public audit policies, monetary policies, financial institutions (excluding those in securities exchange), economy, investment policies, competition, banking, insurance, national statistics, population, revenue policies including taxation, national planning and development, digital finance, including digital currency.
3. The Committee oversees the Ministry of National Treasury and Planning, Commission on Revenue Allocation and Office of the Controller of Budget.

1.3. Committee Membership

4. The Committee was constituted by the House on 27th October 2022 and comprises the following Members:

Chairperson

Hon. CPA Kuria Kimani, MP
Molo Constituency
UDA Party

Vice-Chairperson

Hon. (Amb.) Langat Benjamin Kipkirui, MP
Ainamoi Constituency
UDA Party

Members

Hon. Keynan, Wehliye Adan, MP
Eldas Constituency
Jubilee Party

Hon. Oyula, Joseph H. Maero, MP
Butula Constituency
ODM Party

Hon. Mboni, David Mwalika, MP
Kitui Rural Constituency
WDM Party

Hon. Okuome Adipo Andrew, MP
Karachuonyo Constituency
ODM Party

Hon. Kipkoros, Joseph Makilap, MP
Baringo North Constituency
UDA Party

Hon. CPA Rutto Julius Kipletting, MP
Kesses Constituency
UDA Party

Hon. Biego Paul Kibichiy, MP
Chesumei Constituency
UDA Party

Hon. Sunkuyia, George Risa, MP
Kajiado West Constituency
UDA Party

Hon. Joseph Kamau Munyoro, MP
Kigumo Constituency
UDA Party

Hon. Sheikh Umul Ker Kassim, MP
Mandera County
UDM Party

Hon. Ithinji Shadrack Mwiti, MP
South Imenti Constituency
Jubilee Party

Hon. Dr. Ariko John Namoit, MP
Turkana South Constituency
ODM Party

Hon. Machele Mohamed Soud, MP
Mvita Constituency
ODM Party

1.4. Committee Secretariat

5. The Committee is facilitated by the following staff:

**Mr. Benjamin Magut
Senior Clerk Assistant /Head of Secretariat**

**Mr. Nebert Ikai
Clerk Assistant I**

**Mr. Joshua Ondari
Clerk Assistant II**

**Mr. Salem Lorot
Legal Counsel I**

**Mr. Benson Kamande
Clerk Assistant III**

**Mr. George Ndenjeshe
Fiscal Analyst III**

**Ms. Terry Ondiko
Fiscal Analyst III**

**Mr. Andrew Jumanne Shangarai
Principal Serjeant-At-Arms**

**Mr. Simon Odhiambo Ouko
Assistant Serjeant-At-Arms**

**Ms. Shamsa A. Abdi
Research Officer III**

**Ms. Nelly W. N Ondieki
Research Officer III**

CHAPTER TWO

2. BACKGROUND INFORMATION

2.1 Establishment, composition and term of the Commission on Revenue Allocation

6. The Commission on Revenue Allocation, hereinafter referred to as “Commission”, is one of the Constitutional Commissions provided for in Chapter Fifteen of the Constitution. The Commission is established pursuant to the provisions of Article 215(1) of the Constitution and charged with the functions assigned to it under Article 216 of the Constitution.
7. Article 215(2) (a) of the Constitution requires that a Chairperson shall be nominated by the President and approved by the National Assembly for appointment as Chairperson of the Commission on Revenue Allocation.
8. The term of the current Commissioners of the Commission on Revenue Allocation ended on 28th February, 2023 Article 250(6) of the Constitution as read together with section 9(2) of the Commission on Revenue Allocation Act, No. 16 of 2011, provides that persons appointed as members of the Commission shall serve for six years and will not be eligible for re-appointment.

2.2 Nomination of the Nominee of Commission on Revenue Allocation

9. Article 215 (2) (a) of the Constitution provides that the Commission on Revenue Allocation shall consist of a chairperson, who shall be nominated by the President and approved by the National Assembly. The person is appointed by the President.

2.3 Speaker’s Communication and Committal to the Committee

10. The Speaker, in Communication from the Chair (No. 013 of 2023), informed the House that the term of office of the Chairperson of the Commission on Revenue Allocation (CRA) ended on 28th February, 2023 in accordance with the provisions of Article 250(6) (a) of the Constitution.

2.4 Notification to the Public

11. Section 6(9) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), provides that *“any person may, prior to the approval hearing, and by written statement on oath, provide the Clerk with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated”*.
12. The Committee on Tuesday, 14th June 2023 placed an advertisement in the print media informing the general public of its intention to conduct an approval hearing, as provided for by Article 118 (1) (a) (b) and (2) of the Constitution and section 6(4) of the Public Appointments (Parliamentary Approval) Act, 2011, which allows public participation in committee proceedings. The advertisement invited the public to submit memoranda, by way of written statements on oath (*affidavit*) on the suitability or otherwise of the nominee in conformity with section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011. The advertisement indicated that the submissions were to be received by Wednesday, 21st June 2023 at 5.00 pm (East African Time). At the close of the submission deadline, the Committee had not received any memorandum for or against the suitability of the nominee.

2.5 Notification to the Nominee

13. The Committee views an advertisement placed in the print media on Tuesday, 14th June 2023 and a letter dated 12th June, 2023 informing the nominee of her nomination by the President and requesting her to appear for vetting by the Departmental Committee on Finance and National Planning on 22nd June, 2023 at 11.00 am at Committee Room 9, Parliament Buildings.
14. The Committee further requested the nominee to appear for vetting with her clearance certificates from KRA, HELB, EACC, DCI and ORPP.

2.6 Clearance Requirements

15. On 12th June 2023, the Committee wrote to KRA HELB, EACC, ORPP and DCI requesting for tax, education loans, integrity, affiliation to political parties and criminal record status of the nominee. The following institutions wrote back to the National Assembly clearing the nominee: KRA letter Ref. KRA/5/1002/5(9138) dated 16th June 2023; DCI letter Ref. DCI/CRO/SEC/6/7/2/A/VOL.XII/164 dated 19th June, 2023; HELB letter Ref. HELB/RR/112009/253 dated 14th June 2023; ORPP letter Ref: RPP/ORG/34 VOL. VII (9) dated 15th June 2023; and EACC Letter Ref: EACC.7/10/5VOLXXIII (147).

2.7 Committee proceedings

16. The Committee having received the name of the nominee was obligated to conduct an approval hearing and make a determination of the nominee's suitability or otherwise within the constitutional timelines.
17. The Committee held two (2) sittings during which it examined and reviewed the nominee's academic certificates and testimonials as well as conducted an approval hearing.

2.8 Constitutional and statutory requirements in parliamentary approval of public appointments

18. The Constitution and various statutes provide a clear framework for the conduct of parliamentary approval of public appointments. They are listed below:
 - (a) The Public Appointments (Parliamentary Approval) Act (No. 33 of 2011);
 - (b) Article 215 of the Constitution (*establishment of the Commission on Revenue Allocation*) Chapter 6 of the Constitution (*leadership and integrity*); Article 10 of the Constitution (*national values and principles of governance*); Article 124(4) of the Constitution (*parliamentary approval of public appointments*); Article 118 of the Constitution (*public access and participation*); Article 232 of the Constitution (*values and principles of public service*);
 - (c) The Leadership and Integrity Act (Cap. 182);
 - (d) The Commission on Revenue Allocation Act (No. 33 of 2011);
 - (e) The Public Service (Values and Principles) Act (No. 1A of 2015)
 - (f) The Public Officer Ethics Act (Cap. 183)

2.9 The Public Appointments (Parliamentary Approval) Act (No. 33 of 2011)

19. Section 7 of the Public Appointments (Parliamentary Approval) Act provides for issues which the National Assembly is supposed to consider in relation to any nomination. These are:
- (a) the procedure used to arrive at the nominee;
 - (b) any constitutional or statutory requirements relating to the office in question; and
 - (c) the suitability of the nominee for the appointment proposed having regard to whether the nominee's abilities, experience and qualities meet the needs of the body to which the nomination is being made.
20. Section 6 of the Public Appointments (Parliamentary Approval) Act provides direction on the conduct of approval hearings. These are:
- (a) An approval hearing shall focus on a candidate's academic credentials, professional training and experience, personal integrity and background (section 6(7));
 - (b) The criteria specified in the Schedule shall be used by a Committee during an approval hearing for the purposes of vetting a candidate (section 6(8));
 - (c) Any person may, prior to the approval hearing, and by written statement on oath, provide the Clerk with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated (section 6(9));
 - (d) A candidate may, at any time, by notice in writing addressed to the Clerk, withdraw from the approval process and the candidate's nomination shall end (section 6(10)).
21. The period for consideration of nomination is spelt out in the Act. Section 8(1) of the Public Appointments (Parliamentary Approval) Act provides that the Committee shall consider the nomination and table its report to the House for debate and decision within twenty-eight (28) days from the date on which the notification of nomination was given. Section 9 of the Act stipulates that where the House does not meet the prescribed timelines, the nominee shall be deemed to have been approved.
22. Pursuant to section 6(8) of the Act, the criteria for vetting is comprehensively contained in the Questionnaire in the Schedule to the Act. The Questionnaire allows the Committee to obtain information on, among other things—
- (a) Name of the nominee—to enable the Committee to ascertain the regional background and ethnicity of the nominee.
 - (b) Gender of the nominee—to enable the Committee to ascertain the gender of the nominee. This is to ensure compliance with Article 27(8) that requires the State to take measures to ensure that not more than two-thirds of members of appointive bodies shall be of the same gender;
 - (c) Age of the nominee—to enable the Committee to ascertain compliance with the provisions of Article 55 of the Constitution on the inclusion of the youth in public appointments;
 - (d) Nationality of the nominee—to enable the Committee to ascertain the nationality of the nominee. This is to ensure compliance with Article 78 of the Constitution which requires certain State officers to be Kenyan Citizens;
 - (e) Educational background of the nominee;
 - (f) Employment record of the nominee;
 - (g) Honours or awards given to the nominee;
 - (h) Membership of the nominee to professional bodies;

- (i) Public office and political affiliations held by the nominee —to enable the Committee to ascertain whether the nominee holds office in a political party. This is to ensure compliance with Article 77(2) of the Constitution which precludes appointed State officers from holding office in a political party;
- (j) Information on whether the nominee has been removed from office under Article 75 of the Constitution which prohibits a State Officer who has been removed from office under Article 75 (3) of the Constitution from holding any other State Office;
- (k) Nominee’s finances;
- (l) Outside commitments that the nominee intends to undertake while in office (if appointed). Article 77(1) of the Constitution prohibits a full-time State Officer from participating in any other gainful employment;
- (m) The tax compliance status of the nominee;
- (n) Potential conflict of interest—Article 75(1) of the Constitution bars State officers from engagements or associations that may give rise to conflict between official or public duties and personal interests;
- (o) Whether a nominee has been charged in a court of law in the past three years; and
- (p) Whether a nominee has been adversely mentioned in a report of Parliament or a Commission of Inquiry in the past three years.

23. The Questionnaire is largely formulated based on Constitutional and statutory requirements for State Officers and other considerations that are of importance to make a determination on the suitability of a nominee.

2.10 Article 215 of the Constitution

24. Article 215 of the Constitution provides for the establishment and composition of the Commission on Revenue Allocation. Article 215(2)(a) of the Constitution provides as follows—

215 (2) The Commission shall consist of the following persons appointed by the President—

(a) a chairperson, who shall be nominated by the President and approved by the National Assembly;

25. Further, Article 250(2) of the Constitution provides that the chairperson and each member of a commission and the holder of an independent office shall be—

(a) identified and recommended in a manner prescribed by national legislation;

*(b) **approved by the National Assembly;** and,*

(c) appointed by the President.

2.11 Chapter Six on Leadership and Integrity

26. The Committee, in determining the suitability of the nominee, took into consideration the provisions on leadership and integrity as outlined under Chapter Six of the Constitution. In particular, the Committee took cognizance of the following provisions-

- i. Article 73(2) of the Constitution provides that the guiding principles of leadership and integrity include-
 - (a) selection on the basis of personal integrity, competence and suitability, or election in free and fair elections;

- (b) objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favoritism, other improper motives or corrupt practices;
 - (c) selfless service based solely on the public interest, demonstrated by —
 - (i) honesty in the execution of public duties; and
 - (ii) the declaration of any personal interest that may conflict with public duties;
 - (d) accountability to the public for decisions and actions; and
 - (e) discipline and commitment in service to the people.
- ii. Article 75(1) of the Constitution requires a State Officer, whether in public or private life, to behave in a manner that avoids conflict between personal interest and public official duties and Article 75(3) of the Constitution prohibits a State Officer who has been removed from office under that Article from holding any other State Office.
 - iii. Article 77(1) of the Constitution prohibits a full-time State officer from participating in any other gainful employment.
 - iv. Article 77(2) of the Constitution prohibits an appointed State officer from holding office in a political party.
 - v. Article 78 (1) of the Constitution disqualifies persons who are not Kenyan citizens and persons holding dual citizenship from appointment as State Officers.

2.12 Article 10(2) of the Constitution on national values and principles of governance

27. Article 10(2) of the Constitution provides for the national values and principles of governance which include patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people; human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized; good governance, integrity, transparency and accountability; and sustainable development.

2.13 Article 118 of the Constitution

28. Article 118 of the Constitution obligates Parliament to conduct its business openly, and that its sittings and those of its committees shall be in public; and that Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its committees. It also provides that Parliament may not exclude the public, or any media, from any sitting unless in exceptional circumstances the relevant Speaker has determined that there are justifiable reasons for the exclusion.

2.14 Article 124(4) of the Constitution on parliamentary approval of public appointments

29. Article 124(4) of the Constitution provides that when a House of Parliament considers any appointment for which its approval is required under the Constitution or an Act of Parliament, the appointment shall be considered by a committee of the relevant House; the committee's recommendation shall be tabled in the House for approval; and the proceedings of the committee and the House shall be in public.

2.15 Article 232 of the Constitution on Values and Principles of Public Service

30. Article 232 of the Constitution provides for the values and principles of public service which include high standards of professional ethics; efficient, effective and economic use of resources; responsive, prompt, effective, impartial and equitable provision of services; involvement of the people in the process of policy-making; accountability for administrative acts; transparency and provision to the public of timely, accurate information; fair competition and merit as the basis of appointments and

promotions; representation of Kenya's diverse communities; and affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service of men and women; the members of all ethnic groups; and persons with disabilities.

2.16 The Leadership and Integrity Act

31. The Leadership and Integrity Act provides a number of obligations to a State Officer. These are, among others: to respect and abide by the Constitution and the law, public trust, performance of duties in an honest and accountable manner, professionalism, financial integrity, not to engage in activities that amount to an abuse of office, not to misuse public resources, accepting gifts that may compromise the officer's duties, wrongful or unlawful acquisition of property, and conflict of interest.
32. In addition, section 10 of the Leadership and Integrity Act, 2012 in particular provides that a State officer shall, to the best of their ability—
- (a) carry out the duties of the office efficiently and honestly;
 - (b) carry out the duties in a transparent and accountable manner;
 - (c) keep accurate records and documents relating to the functions of the office; and
 - (d) report truthfully on all matters of the organization which they represent.

2.17 The Commission on Revenue Allocation Act (No. 33 of 2011)

33. Section 5(1) of the Commission on Revenue Allocation Act (No. 16 of 2011) provides that the chairperson and members of the Commission shall be appointed in accordance with the provisions of Article 215 of the Constitution and the Act.
34. Section 6 of the Act provides for the qualification for appointment of chairperson and members of the Commission. It provides as follows—

6. Qualification for appointment of chairperson and members

- (1) *A person shall be qualified for appointment as the chairperson or a member if the person—*
- (a) *holds a degree from a university or an equivalent professional qualification recognized in Kenya;*
 - (b) *has professional experience in financial and economic matters of at least fifteen years in the case of the chairperson and ten years in the case of any other member;*
 - (c) *has had a distinguished career in their respective fields; and*
 - (d) *meets the requirements of Chapter Six of the Constitution.*
- (2) *A person shall not be qualified for appointment as the chairperson or member if the person—*
- (a) *is a member of Parliament or County Assembly;*
 - (b) *is a member of a governing body of a political party;*
 - (c) *is an elected member of a local authority;*
 - (d) *is an undischarged bankrupt;*
 - (e) *has been removed from office for contravening the provisions of the Constitution or any other law;*
or
 - (f) *has not met his or her legal obligations relating to tax and other statutory obligations.*

35. Section 9 of the Act provides for the appointment procedure where a vacancy occurs in the membership of the Commission. In particular, it provides for the term of the Commissioners of six years which cannot be renewed. The section provides as follows—

9. Filling of vacancy

(1) Where a vacancy occurs in the membership of the Commission under section 8, the appointment procedure provided for under the Constitution and this Act shall apply.

*(2) A member appointed under subsection (1) shall serve for a term of **six years** but shall not be eligible for reappointment.*

2.18 The Public Service (Values and Principles) Act

36. Section 5 of the Public Service (Values and Principles) Act provides that a public officer shall maintain high standards of professional ethics, including, being honest; displaying high standards of integrity, transparency, accountability, respect to others, objectivity, patriotism, and observance of rule of law.

2.19 The Public Officer Ethics Act

37. The Public Officer Ethics Act provides for obligations to be carried out by a public officer. These include professionalism, carrying out duties in accordance with the law, prohibition from unjust enrichment, avoiding conflict of interest, not using the office as a venue for soliciting or collecting harambees; not acting for foreigners; care of the property; political neutrality, not practicing nepotism or favoritism, giving impartial advice, conducting private affairs in a way that maintains public confidence, bar from sexual harassment, and submission of the declaration of income, assets and liabilities once every two years.

CHAPTER THREE

3. APPROVAL HEARING

38. The Committee conducted an approval hearing on the nominee on **Thursday, 22nd June 2023**. In conducting the vetting exercise, the Committee was guided by, among other documents, the Constitution, the Commission on Revenue Allocation Act, 2011, the Public Appointments (Parliamentary Approval) Act, 2011, the Public Service Act, the Public Finance Management Act and the Standing Orders.
39. The Committee examined the nominee using the criteria in the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011). The Committee also considered the following in vetting the nominee:
- a. Academic qualifications
 - b. Employment record and work experience
 - c. Professional association
 - d. Public office, political activities and affiliations
 - e. Potential conflict of interest
 - f. Suitability to the position
 - g. Tax compliance
 - h. Vision and leadership
 - i. Integrity
 - j. Expectations and Key priorities
40. CPA. Mary Andeyo Wanyonyi Chebukati was orally interviewed by the Committee and responded to questions during vetting as follows:

3.1.1 Personal Background

41. She is a Kenyan citizen with identity card number 1809617 and was born in Bungoma County in 1962.

3.1.2 Educational Background

42. CPA Mary Andeyo attended St George's Primary School, Nairobi and Kenya High School where she attained her Certificate of Primary Education (CPE) and Kenya Certificate of Education (KCE) in 1974 and 1978 respectively.
43. The nominee also pursued her A levels from 1979-1980 at Kereri Girls High School before pursuing a Bachelors of Commerce Degree in Punjab University, India where she graduated in 1984.
44. Ms Andeyo graduated with a Master of Business Administration from the Eastern and South African Management Institute (ESAMI), Arusha Tanzania in 2014.
45. She is a Certified Public Accountant (CPA), Financial Analyst (FA) and Certified Professional Mediator (CPM),

46. She holds a Certificate in Tax Compliance and Emerging Issues from the Institute of Certified Public Accountants of Kenya (ICPAK).

3.1.3 Work experience/career progression

47. The nominee has worked in the public sector for 37 years in the following capacities:

- a) The nominee currently serves as a Senior Deputy Accountant General in the Ministry of Lands and Physical Planning, a position she was appointed in 2019.
- b) She worked as Assistant Accountant General, Head of the Accounting Unit Department in the Ministry of Energy and Petroleum from 2016-2018.
- c) She has served as Acting Assistant Accountant General, Head of Training and Secretary to the Corporate Governance Sub-Committee of the Public Service Accountant Standards Board (PSASB) from 2012-2016.
- d) Chief Accountant or Deputy Head of Accounting Unit Department, Ministry of Foreign Affairs from 2011 – 2012.
- e) She served as the Acting Principal Accountant, at the Ministry of Finance, District Accountant, Kwale District Treasury and Deputy District Accountant, Mombasa District Treasury between 1998 and 2012.
- f) She made her debut in public service in 1985 when she was appointed as Accountant II in the Office of the Vice President and Ministry of Home Affairs before being promoted to Accountant I, Ministry of Supply and Marketing in 1989

48. The nominee is an accountant by profession.

3.1.4 Honors and Awards

49. The nominee was awarded the 2nd runners-up (Public Sector), ICPAK Fire awards for the 2017 financial report while serving in the State Department for Petroleum and 2009 awarded top five Value Additional Tax collector by the President of the Republic of Kenya while serving as a District Accountant Kwale.

3.1.5 Professional Association

50. The nominee is a member of the Institute of Certified Public Accountants (ICPAK), Institute of Certified Investment and Financial Analysts (ICIFA) in good standing.

3.1.6 Memberships

51. The nominee is a member of Board of Cooperative University, Maasai Mara University, Kenyatta National Hospital and ICPAK as an alternate to Principal Secretary the National Treasury.

3.1.7 Pro-Bono/Charity Work/donation to charity

52. The nominee is the Chairperson, Kenya Ladies Golf Union, Treasurer, All Africa Challenge Trophy (AACT) Golf Planning Committee, Council Member Coast Province, Kenya Ladies Golf Union, Lady Captain, Nyali Golf and Country Club Mombasa and Lady Captain – Mombasa Golf Club.

3.1.8 Clearance Requirements

53. The Committee confirmed that the nominee had been cleared by KRA, ORPP, DCI, EACC and HELB, having obtained clearance certificates to that effect.

3.1.9 Other issues under consideration

54. To examine the suitability or otherwise of the nominee, the Committee posed questions to the nominee in the following thematic areas:

- a) **Regarding her net worth, the nominee indicated that she was worth Kshs. 293,392,000** composed of various assets and liabilities which she individual and jointly own with her husband.
- b) **With respect to her integrity**, the nominee averred that, if approved by the House she would discharge her duties effectively and efficiently in a similar manner to other previous postings she has served in the public service.
- c) **In relation to the CRA Mission of “No Kenyan is left behind”**, the nominee informed the Committee that the mandate of the Commission is to come up with the basis for revenue allocation. She further indicated, if approved as the Chairperson of the Commission she would ensure that the basis for revenue allocation is arrived at after intensive research and public participation. The basis should also take into consideration the needs of each county.
- d) **On the subject of Own Source Revenue (OSR)**, the nominee intimated that it was important that each county focuses on its own source revenue generation as a remedy to address exchequer delay issues that were being experienced. She noted that, the challenges counties were experiencing on own source revenue were a result of a lack of legal policy framework and manual collection of revenue which results in revenue leakages. To address the challenges, she stated that the Commission should come up with a legal framework for the collection of own source revenue and ensure that each county automates revenue collection. In addition, she proposes that the officers in charge of revenue collection at the county level are properly trained.
- e) **Regarding dealing with stalemate arising on the formula used for revenue sharing**, the nominee said that before coming up with a formula for revenue sharing for counties she would ensure that all relevant stakeholders are involved;
- f) **To maintain fiscal discipline in the National Government, Commission and Counties**, the nominee informed the Committee that the budget allocation for the Commission on Revenue Allocation was recurrent and hence the reason why 55% of their budget was going towards employee emolument and compensation. In relation to counties, she informed the Committee that if approved she would ensure that counties use their allocated resources prudently.

- g) **Public engagement on an equitable share of revenue**, the nominee said that if approved she would help the Commission in coming up with a forum from which all stakeholders would be effectively and efficiently engaged.
- h) **Regarding the implementation of the Equalization Fund**, the nominee indicated that the Commission had no role in implementing the Fund. However, the Commission's role was to develop a policy on marginalized areas and recommend revenue allocation. It was her view that the Fund should be implemented by Counties.
- i) **In relation to the increasing public debt in counties**, the nominee informed the Committee that counties were allowed to borrow 5% based on the last amount of revenue collected. If approved she would help the Commission in ensuring close monitoring of counties so that they stay within their budget. However, she pointed out that, in case of borrowing by counties, the National Government should be the one guaranteeing those loans.
- j) **On pending bills in county governments**, the nominee informed the Committee that the huge pending bills in counties was a result of loans inherited from the defunct Municipal Councils and the ones the counties had created since inception in 2013. The assessment of all pending bills should be undertaken to establish genuine ones. There was a need for counties to record pending bills as Public debt which should form the first charge. If approved she would engage the National Treasury, County Government and the Office of Auditor General to address the challenges of the pending bill. She would also ensure automation of revenue collection so that more money can be collected and made available for use.
- k) **Concerning the fight against corruption in counties**, she said that fighting corruption needed political goodwill if we must succeed and ensure prudent use of revenue collected.
- l) **In relation to A-I-A collected by County Government and other Departments not allocated an equivalent amount**, the nominee said that if approved she would ensure that the money collected is ring-fenced for use by the same departments.

CHAPTER FOUR

4. OBSERVATIONS AND FINDINGS

4.1 Committee observations on the suitability of CPA. Mary Andeyo Wanyonyi Chebukati for approval for appointment as a Chairperson of the Commission on Revenue Allocation

55. Having considered the nominee's filled Questionnaire pursuant to Section 6(8) of the Public Appointments (Parliamentary Approval) Act and the requirements of Section 7 of the Public Appointments (Parliamentary Approval) Act, the nominee's curriculum vitae, the provisions of the Constitution, Section 6 of the Commission on Revenue Allocation Act (No. 16 of 2011), and having heard her oral submission during the approval hearing. The Committee made the following observations on nominee's suitability for approval for appointment as a Chairperson of the Commission on Revenue Allocation, THAT-


- (a) in accordance with Article 78(1) (2) of the Constitution, she is a Kenyan citizen with identity card number 1809617 and does not hold dual citizenship;
- (b) nominee holds a Bachelor of Commerce (Finance Option) from Punjab University, India, a Master of Business Administration from the Eastern and South African Management Institute (ESAMI), Arusha Tanzania.
- (c) the nominee is Certified Public Accountant (CPA), Financial Analyst (FA) and Certified Professional Mediator (CPM),
- (d) the nominee has a career life spanning thirty-seven (37) years in public service working in various capacities of accountancy in various ministries.
- (e) the nominee satisfies the requirements of Article 215 (3) and (4) of the Constitution and Section 6 of the Commission on Revenue Allocation Act (No. 16 of 2011);
- (f) the nominee presented her academic credentials and professional certificates and demonstrated her experience in accordance with the provisions of Section 6(7) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011);
- (g) the nominee satisfies the requirements of Chapter 6 of the Constitution on leadership and integrity having being cleared by the KRA, DCI, ORPP, EACC and HELB ;
- (h) she has never been charged in a court of law in the last three years;
- (i) as stipulated in Article 75(1) of the Constitution, she has no potential conflict of interest;

- (j) the nominee satisfies the requirements of Article 77(1) of the Constitution in that she does not intend to participate in any other gainful employment;
- (k) the nominee does not hold office in any political party hence satisfies the provisions of Article 77(2) of the Constitution;
- (l) she has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (*conflict of interest*), 76(*financial probity*), 77 (*restriction of State Officers*) and 78(2) (*dual citizenship*) of the Constitution;
- (m) by the deadline of receipt of memoranda from members of the public, the Clerk of the National Assembly had not received any memorandum contesting the suitability of the nominee; and
- (n) the nominee's previous work experience in the field of accounting will be valuable in guiding the commission to serve the counties, especially in matters own revenue generation.

CHAPTER FIVE

5. RECOMMENDATION

83. Having held an approval hearing on the nominee regarding her suitability to hold office, the Committee recommends **THAT**, pursuant to Article 215(2) (a) of the Constitution, the House **APPROVES** the nomination of **CPA. Mary Andeyo Wanyonyi Chebukati** for appointment as Chairperson of the Commission on Revenue Allocations (CRA).

SIGNED.......... DATE 27th June, 2023.....

HON. CPA KURIA KIMANI, MP

CHAIRPERSON

DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

