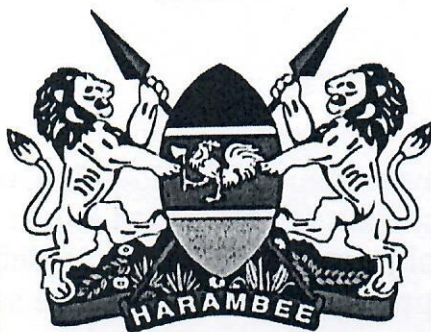


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REPUBLIC OF KENYA

**PARTICIPATION AGREEMENT
ON THE SECOND KENYA DEVOLUTION SUPPORT
PROGRAM (KDSP II)**

BETWEEN

**THE NATIONAL GOVERNMENT OF THE REPUBLIC OF
KENYA**

AND

COUNTY GOVERNMENT OF MIGORI



.....

This Participation Agreement (hereinafter referred to as "the Agreement") is made this.....23rd.....day of.....May.....2024 between the National Government of the Republic of Kenya acting through the State Department for Devolution (SDD) (hereinafter referred to as "the National Government") on the one part, and the County Government of.....MIGORI..... (Hereinafter referred to as "the County Government") of the other part (the National Government and the County Government are hereinafter collectively referred to as "the Parties" and each "a Party").

[G] **WHEREAS** the SDD, through the support of the World Bank, wishes to undertake the Second Kenya Devolution Support Program ("KDSP II" or "Program") to build on the foundations of KDSP and support the implementation of the Devolution Sector Plan with the cooperation of the County Governments.

WHEREAS by an agreement (Credit No. IDA-7447-KE) between the Republic of Kenya and the International Development Association (World Bank) (the "Financing Agreement") dated February 2nd, 2024, the World Bank has agreed to extend to the Republic of Kenya, credits in the total sum of EUR 140,700,000 to finance activities under KDSP II for the period 2023–2027.

[M] **WHEREAS** The SDD undertakes to establish activities that support;

- (a) Enhancing financing and expenditure management by Counties;
- (b) National and County Governments initiatives toward strengthening intergovernmental coordination, institutional performance, and human resource management; and
- (c) Improvements in oversight, participation, and accountability for County resources.

NOW PARTIES HEREUNTO enter into this Participation Agreement to define their roles and obligations to facilitate eligibility to KDSP II and make the following undertakings:

A. OBLIGATIONS OF THE NATIONAL GOVERNMENT

- 1. The National Government undertakes to develop:
 - (a) Frameworks and guidelines for County Revenue Mobilization;
 - (b) Policies to support financing for service delivery units;
 - (c) Structures and tools to support Counties' institutionalization of shared project management functions, that includes, the County Single Project Management Unit;
 - (d) Policy, legal, regulatory and administrative procedures for the operationalization of intergovernmental, intercity, and inter-municipality forums;
 - (e) Guidelines on County HR which may include skills audits, model organization structures for customization by Counties, and performance management;

INTRODUCTION

- [A] **WHEREAS** The Government of the Republic of Kenya developed the Devolution Sector Plan (2023–2027) aimed at accelerating the achievement of the objects of Devolution as defined in Article 174 of the Constitution, principal among them the social and economic transformation of communities; improved access by communities to decentralized services; measures to address diversity, marginalization, and exclusion; and ensuring of effective participation by communities in their own governance and socio-economic development.
- [B] **WHEREAS** the Devolution Sector Plan (2023–2027) is intended to enhance and further institutionalize the benefits of devolution that have been experienced in the last decade.
- [C] **WHEREAS** the SDD focuses on the coordination of devolution affairs to fast-track the achievement of the objects of Devolution and enhance the coordination of Intergovernmental Relations.
- [D] **WHEREAS** Article 6 of the Constitution provides that the Governments at the National and County Levels are distinct and interdependent and shall conduct their mutual relations based on consultation and cooperation.
- [E] **WHEREAS** Article 189 of the Constitution requires that Government at either level shall:-
- (a) Perform its functions and exercise its powers in a manner that respects the functional and institutional integrity of Government at the other level and respects the constitutional status and Institutions of Government at the other level and, in the case of County Government, within the County Level;
 - (b) Assist, support, and consult and, as appropriate, implement the legislation of the other Level of Government; and
 - (c) Liaise with the Government at the other level for exchanging information, coordinating policies and administration, and enhancing capacity.
- [F] **WHEREAS** The World Bank during the period 2016–2021 undertook the Kenya Devolution Support Program (“KDSP”) whereby it partially supported the National Capacity-Building Framework (NCBF) by providing grants to eligible County Governments, access to which was conditional on the performance of the Counties, measured through the Annual Capacity Performance Assessment (“ACPA”) and other details as per the requirements of KDSP.

- (f) A framework to support the management and administration of County finances;
- (g) Guidelines on project stocktaking, community-led project management committees, and climate change risk screening and preparedness (including assessment of the climate resilience of existing infrastructure assets); and
- (h) The rollout of the County Performance Improvement Management Framework.

2. The National Government will also:-

- (a) Provide support to the County Government for the establishment and operationalization of County institutional arrangements and for the initial preparation of County Infrastructure Investments through—
 - i. Providing Institutional Strengthening Grants (Level 1) and the Service Delivery Investment Grants (Level 2) to the County Government; and
 - ii. Specifying the minimum conditions for accessing the Level 1 and Level 2 Grants;
 - (b) Provide capacity building and technical assistance to Counties for the achievement of Program results; and
 - (c) Ensure sound Program management and provide support as may be required for the proper implementation of KDSP II.
3. The Principal Secretary responsible for devolution (or his or her designate), on the advice of the Program Steering Committee, and in consultation with the World Bank, may suspend and/or terminate the right to the County Government to use or benefit from the Level 1 or Level 2 Grants upon failure by the County Government to comply with the Program requirements as captured in the Financing Agreement, Program Appraisal Document, and Program Operations Manual (POM).

B. OBLIGATIONS OF THE COUNTY GOVERNMENT

4. The County Government undertakes to:-

- (a) Carry out its activities under the Program with due diligence and efficiency and in adherence to the KDSP II Financing Agreement, Program Appraisal Document (PAD), Program Operations Manual;

Code	Sector / Sub Sector / Programme / Sub Programme	2024/25 FY Budget		2024/25 FY Supplementary Budget 1		2025/26 FY Projections	
		Recurrent	Development	Recurrent	Development	Recurrent	Development
2210904	Motor Vehicle Insurance	2,000,000	0	15,000,000	-	15,750,000	0
2210910	Medical Insurance	35,000,000	0	35,000,000	-	36,750,000	0
2211016	Purchase of Uniforms and Clothing - Staff	1,500,000	0	-	-	0	0
2211103	Sanitary and Cleaning Materials, Supplies and Services	1,000,000	0	500,000	-	525,000	0
2211203	Refined Fuels and Lubricants -- Other	3,000,000	0	2,000,000	-	2,100,000	0
2220101	Maintenance Expenses - Motor Vehicles	3,000,000	0	1,000,000	-	1,050,000	0
2211310	Contracted Professional Services	2,500,000	0	500,000	-	525,000	0
2710102	Gratuity - Civil Servants	3,000,000	0	3,000,000	-	3,150,000	0
2211006	Purchase of tyres	1,200,000	0	1,200,000	-	1,260,000	0
3110302	Refurbishment of Non-Residential Buildings	500,000	0	500,000	-	525,000	0
P2	Human Capital Management & Development Services	6,355,162	0	6,355,162	-	6,672,920	0
SP1	Human Resource Management Services	6,355,162	0	6,355,162	-	6,672,920	0
2210310	Field Operational Allowance	2,000,000	0	2,000,000	-	2,100,000	0
2210701	Travel Allowance	500,000	0	500,000	-	525,000	0
2210702	Remuneration of Instructors and Contract Based Training Services	1,000,000	0	1,000,000	-	1,050,000	0
2210708	Trainer Allowance	1,000,000	0	1,000,000	-	1,050,000	0
2210711	Tuition Fees Allowance	1,855,162	0	1,855,162	-	1,947,920	0
P3	Devolved Units Administration Services	17,300,000	40,000,000	14,300,000	-	15,015,000	0
SP1	Devolved Units Administration Services	17,300,000	0	14,300,000	-	15,015,000	0
2210101	Electricity	100,000	0	100,000	-	105,000	0
2210102	Water and sewerage charges	50,000	0	50,000	-	52,500	0
2210201	Telephone, Telex, Facsimile and Mobile Phone Services	50,000	0	50,000	-	52,500	0
2210301	Travel Costs (airlines, bus, railway, mileage allowances, etc.)	500,000	0	500,000	-	525,000	0
2210302	Accommodation - Domestic Travel	600,000	0	600,000	-	630,000	0
2210303	Daily Subsistence Allowance	1,000,000	0	1,000,000	-	1,050,000	0
2210310	Field Operational Allowance	7,000,000	0	7,000,000	-	7,350,000	0
2210504	Advertising, Awareness and Publicity Campaigns	250,000	0	250,000	-	262,500	0
2210707	Project Allowance	750,000	0	750,000	-	787,500	0
2210801	Catering Services (receptions), Accommodation, Gifts, Food and Drinks	3,000,000	0	1,000,000	-	1,050,000	0
2210802	Boards, Committees, Conferences and Seminars	2,000,000	0	2,000,000	-	2,100,000	0
2211203	Refined Fuels and Lubricants -- Other	2,000,000	0	1,000,000	-	1,050,000	0
SP2	Devolved Units (Ward) Development Programme	0	40,000,000	-	-	0	0
3110202	Non-Residential Buildings (offices, schools, hospitals, etc.)	0	40,000,000	-	-	0	0
P3	Civic Education & Public Participation	3,000,000	0	35,000,000	-	36,750,000	0
SP1	Civic Education services	3,000,000	0	35,000,000	-	36,750,000	0
2210310	Field Operational Allowance	3,000,000	0	23,000,000	-	24,150,000	0
2210303	Daily Subsistence Allowance			6,000,000	-	6,300,000	0
2210309	Field Allowance			6,000,000	-	6,300,000	0
P4	Public Communication & Records Management Services	2,900,000	0	17,900,000	19,854,449	107,110,404	20,847,171
SP1	Record management programme	1,600,000	0	1,600,000	-	1,680,000	0
2210310	Field Operational Allowance	1,000,000	0	1,000,000	-	1,050,000	0
2210502	Publishing and Printing Services	500,000	0	500,000	-	525,000	0
2210504	Advertising, Awareness and Publicity Campaigns	50,000	0	50,000	-	52,500	0
2211322	Binding of Records	50,000	0	50,000	-	52,500	0
SP2	Public Communications	1,300,000	0	16,300,000	-	17,115,000	0
2210310	Field Operational Allowance	500,000	0	15,500,000	-	16,275,000	0
2210502	Publishing and Printing Services	500,000	0	500,000	-	525,000	0
2210504	Advertising, Awareness and Publicity Campaigns	300,000	0	300,000	-	315,000	0
SP3	Public Service coordination services	0	0	8,400,000	-	8,820,000	0
2210301	Travel Costs (airlines, bus, railway, mileage allowances, etc.)			2,000,000	-	2,100,000	0
2210302	Accommodation - Domestic Travel			3,600,000	-	3,780,000	0
2210303	Daily Subsistence Allowance			2,800,000	-	2,940,000	0
P5	Kenya Devolution Support Program II	37,500,000	0	37,500,000	-	39,375,000	0
SP1	Kenya Devolution Support Program II	37,500,000	0	47,500,000	-	39,375,000	0
2630201	Staff Capacity Building	37,500,000	0	37,500,000	-	39,375,000	0
2630201	KDSP II - County co-funding		0	10,000,000	-	10,500,000	0
P5	Pending Bills	0	0	21,709,909	19,854,449	3,144,084	0
SP1	Pending Bills - 2023/24FY	0	0	21,709,909	19,854,449	3,144,084	0
2210904	Motorvehicle insurance extension			2,994,366		3,144,084	0
2210904	Provision of Motor Vehicle Insurance Cover			12,218,327		12,829,243	0
2220101	Repair & maintenance of motor vehicle Reg No. KBY 496C			429,916		451,412	0
2220101	Repair and maintenance of motor vehicle			779,490		818,465	0
2211102	Supply & delivery of Office tonners			449,940		472,437	0
2211101	Supply and delivery of assorted office satationary			99,925		104,921	0
2211016	Supply and Delivery of Branded T-Shirts			299,250		314,213	0

- (b) Establish County Program implementation arrangements with composition, terms of reference, and resources as detailed in the Financing Agreements, PAD and the POM;
- (c) Ensure adherence to the minimum conditions and performance standards of the Level 1 and Level 2 Grants;
- (d) Use the funds within the eligible expenditure areas and maintain adequate records in accordance with sound accounting practices and KDSP II guidelines and properly code the revenues and expenditure of the Program resources;
- (e) Report on the utilization of the Program funds to the National Government and ensure accountability for the use of funds to the SDD, the National Treasury, and the Office of the Auditor General (OAG);
- (f) Ensure transparency and disclosure of the use of all County funds including publishing of budget and expenditure data. Counties will disclose the following documents on their County website on an annual basis:
 - i) Annual Development Plan
 - ii) County Fiscal Strategy Paper
 - iii) Approved Program-based Budget
 - iv) County Finance Act
 - v) County Budget Review and Outlook Paper
 - vi) Quarterly Budget Implementation Reports (Q1 to Q4);
- (g) Disclose the County Integrated Development Plans on the County website;
- (h) Ensure that the goods, works, and services financed from the proceeds of the Program shall be procured in accordance with the procurement procedures as provided by the laws of Republic of Kenya;
- (i) Ensure that the SDD, World Bank, and Independent Verification Agent (IVA) Performance Assessment and OAG teams shall have the right to obtain all information as they shall reasonably request regarding the administration, operation, and financial management of the Program;
- (j) Adhere with environmental and social management system and safeguard practices;

by 30th May, 2024. A scanned copy of the forwarding letter should be emailed to the secondkdsp@gmail.com.

- v) Email soft copies of the Work plan, Budget and Cash flow plan to the National Program Coordination Unit (NPCU) through secondkdsp@gmail.com by 30th May, 2024.
- vi) Submit evidence for the established of the program implementation structures to NPCU through secondkdsp@gmail.com by 30th May, 2024 as follows:
 - a. Letters of Appointment (by the Governor) for the County Program Steering Committee members, Inaugural/first meeting notification letter and minutes for the first CPSC Meeting.
 - b. Letters of Appointment for the County Program Technical Committee Members.
 - c. Letters of Appointment for the County Program Implementation Unit Members.

Please note that County Governments will be assessed on fulfilling the minimum conditions through a verification process by an independent agent. Therefore, it is also critical for the County Government to take note of the assessment and verification process, which will be undertaken. The details and the procedure for this verification are outlined in the Program Operation Manual (POM) which was shared in the previous communiqué.

The purpose of this letter, therefore, is to provide additional guidance to County Governments on the Implementation of the Second Kenya Devolution Support Program (KDSP II).

Yours *Sincerely*



Ms. Teresia Mbaika, CBS
PRINCIPAL SECRETARY

CC.
CEO - Council of County Governors
CECMs Devolution
County Program Coordinators

- (k) Ensure proper compilation and resolution of complaints on issues of environmental and social safeguards, procurement, fraud, and corruption; and
- (l) Submit any complaints or evidence of fraud involving Program expenditures to the Ethics and Anti-Corruption Commission.

C. DISPUTE RESOLUTION AND GOVERNING LAW

- 5. Any dispute between the Parties shall be resolved in accordance with Part IV of the Intergovernmental Relations Act.
- 6. This Agreement shall be governed and construed in accordance with the Laws of Kenya.

D. VALIDITY

- 7. This Agreement shall be valid from the date of the last signature by the Parties below to the end of the Program period as stated in the Financing Agreement, or such other date as may be modified by the National Government and the World Bank.
- 8. This Agreement will become invalid in the event of cancellation of the Financing Agreement by the World Bank before the end of the Program.
- 9. This Agreement may be terminated by either Party through a three-month's written notice.

E. TERM

- 10. This Agreement shall be in force for the duration of the Program unless otherwise terminated by either Party by giving a written notice.

IN WITNESS WHEREOF The Parties hereto through their duly authorized representatives have caused this Agreement to be signed the day and year first herein before written.



OFFICE OF THE DEPUTY PRESIDENT
STATE DEPARTMENT FOR DEVOLUTION
Office of the Principal Secretary

Telephone: Nairobi +254-20-3317641-7
Web: <http://www.devolutionasals.go.ke>
E-mail: ps@devolution.go.ke
When replying please quote

TELEPOSTA TOWERS
KENYATTA AVENUE
P. O BOX 30004-00100
NAIROBI

Ref: MDP/DD/ADM/II/19VOL.I (46)

16th May, 2024

To all County Secretaries

Dear *All,*

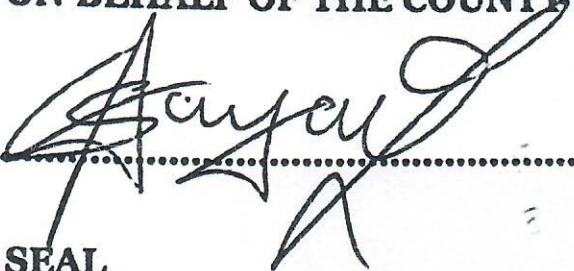
RE: ADVISORY ON IMPLEMENTATION OF THE SECOND KENYA
DEVOLUTION SUPPORT PROGRAM (KDSP II)

Reference is made to our correspondence MDP/DD/ADM/II/19VOL.I (17) dated 14th March, 2024 on advisory on preparations towards implementation of the Second Kenya Devolution Support Program (KDSP II). The State Department for Devolution notes and appreciates the incredible efforts that are being made by the County Governments in putting in place critical structures for the implementation of the program.

Further to this advisory and our earlier communications on the implementation of KDSP II, the State Department would wish to provide additional guidance to County Governments as follows:

- i) Ensure that KDSP II is domiciled in the County department in charge of devolution and the budget for the institutional grants (level 1 grant) for the FY2024/2025 is captured under this department.
- ii) Provide counterpart funding in the budgets to support the implementation of the program activities.
- iii) Ensure that not more than 30% of the institutional grant (level 1 grant) is utilized to pay the daily subsistence allowances (per diem).
- iv) Submit to the Principal Secretary, State Department for Devolution, three (3) hard copies of Participation Agreements signed by the County Governor, with County Seal,

FOR AND ON BEHALF OF THE COUNTY GOVERNMENT OF
MIGORI.


.....
OFFICIAL SEAL

NAME OF THE GOVERNOR:

.....HON. DR. OCHIWO GEORGE MBOGO AYACKO EGH.....

SIGNATURE:

DATE:

FOR AND ON BEHALF OF THE NATIONAL GOVERNMENT OF
THE REPUBLIC OF KENYA

PRINCIPAL SECRETARY STATE DEPARTMENT FOR
DEVOLUTION

OFFICIAL STAMP

NAME OF PRINCIPAL SECRETARY:

TERESIA MBATIA M

The Principal Secretary
Office Of The Deputy President
State Department For Devolution
P.O. Box 30004 - 00100, Nairobi

SIGNATURE: *T. Mbatia*

DATE: 23/5/2024