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SIAYA COUNTY BILLS, 2019

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The Siaya County Projects Management Bill, 2019

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THE SIAYA COUNTY PROJECTS MANAGEMENT BILL, 2019

A Bill for

AN ACT of the County Assembly of Siaya to give effect to Article 176 (2) and 185 of the Constitution of Kenya 2010, Section 91 and 115 (2) of the County Governments Act 2012, and to provide for the establishment of and operationalization of county project management committees and for connected purposes

ENACTED by the County Assembly of Siaya as follows—

PART I — PRELIMINARY

Short Title

1. This Act may be cited as Siaya County Projects Management Act, 2019.

Interpretation

2. In this Act unless the context otherwise requires—

"PMC" means Project Management Committee established in line with Section 5 of this Act;

"County" means Siaya County;

"Executive Committee Member" means the County Executive Committee Member responsible for the management of the specific project upon which a PMC unit is established.

Object and Purpose

3. The object and purpose of this Act is to provide for legal and systematic structures for proper and appropriate management of all county Government development projects within the unit of the PMC.

The other specific objectives of the Act include—

(a) to further devolve the County Government services to the community levels

(b) to give the people enhanced responsibility and roles in the management of County Government projects and services in their communities or areas of jurisdictions

(c) to establish County Project management units at various levels

(d) to provide for legal and appropriate mechanisms of operations and management of PMC affairs
PART II—ESTABLISHMENT OF COUNTY PROJECT MANAGEMENT UNITS

Establishment of the PMCs

4. Establishment of the Project Management Committee (PMC) Units—
   
   (a) There is established a county project management committee (PMC) unit for each County Government funded project in Siaya County.
   
   (b) The project management committee shall be appointed by the County Government department of public works who are the managers of all county government funded projects. All the appointments of the PMC members shall be in line with the provisions of this Bill.
   
   (c) No contractor shall take over a project site for any project in the County without evidence of the existence of and a first meeting of the project management committee for the said project.

Composition of the PMCs

5. Composition of the PMCs—
   
   (a) Every project management committee shall comprise of a minimum of 5 members and a maximum of 9 members.
   
   (b) The area ward administrator—in consultations with the area MCA, shall submit a list of a minimum of 5 and a maximum of 9 vetted community members to the CECM in charge of project management for appointment as the PMC members for a specific project.
   
   (c) The list of PMC membership—developed by the ward administrator and the area MCA—shall consider and factor the representations from; the youth, women and persons with disability.
   
   (d) All the members of the PMC shall be members of the community in which the project is to be implemented—except for the Ward Administrator and the area MCA—who shall be an ex-officio member and the patron respectively.
   
   (e) The appointed PMC members shall have preliminary meetings in which they shall elect their office holders and submit the list of the elected officials to the relevant CECM for issuance with appointment letters. The elections shall be as guided below—
(i) The Chairperson shall be elected from members of the PMC and appointed by the County Executive Member. The chair shall be expected to be of sound knowledge of community development matters and preferably having served in community positions of leadership.

(ii) A vice chairperson who shall be of the opposite gender as the chairperson and of similar qualities.

(iii) The Secretary; shall be the officer In Charge of the Facility in case of a Health Facility or a school or the manager of the specific County Government project who shall be the custodian of all the Committee documents. In respect of new projects, the committee shall elect an interim secretary from among its membership.

(iv) The Project Treasurer shall also be elected by the members amongst themselves and shall be expected to have basic knowledge of finance and administration matters.

(v) The area Ward Administrator shall be an ex officio member to all the PMC units for all the County Government projects in his/ her ward of jurisdiction

(vi) The area member of County Assembly shall be the Patron to all the PMC units for all the County Government projects in the ward.

Cessation of PMC membership

6. Cessation of PMC Membership—

(a) The executive member in charge of project management may remove any member of the PMC unit in writing —through a letter written to the specific member and copied to the PMC Unit, the patron and the ex-officio member detailing the specific charges upon which the decision is made.

(b) The CECM responsible for project management can stripe off any PMC member of his/ her PMC unit membership on the recommendations of the PMC patron based on—

(i) On petition by the members of the public addressed to the PMC patron

(ii) In case of the petition referenced in (ii) above, the petition shall be heard by the patron in a comprehensive
consultations with the ward administrator and witnesses from both parties.

(iii) Upon hearing the accused member and satisfied of the breach of the ethics and standing required of his membership that makes him not suited to serve.

(iv) Upon satisfactory evidence of breach of the values and principles of the Constitution of Kenya 2010, this Act or any other relevant legislations

(c) Unless as provided for in Section (6) (a) & (b) above, members of a PMC unit shall hold office until the completion of the specific project whose management the PMC unit existed.

Functions of the PMCs

8. Functions of the PMCs—

(a) To undertake grassroots management of specified development projects.

(b) Receive and handover proposed project sites to the qualified and procured project implementation personnel/ contractors;

(c) Ensure that the projects are implemented in line with the planned and provided project specifications as provided for in the project BQs and the contract documents

(d) Receive and manage such project implementation plans, funds as shall be allocated by the county treasury, such direct donations and grants;

(e) Ensure that projects are only approved and paid for once they are executed in line with the project specifications and payments made in line with relevant legislations

(f) Receive and manage all the activities of the project implementation personnel as shall have been procured and awarded works by the County Government

(g) To assess, review, consider and approve all project implementation stages for payment considerations by the responsible County department

(h) Prepare work plans based on estimates and cause to be kept books of accounts and records of income, expenditure and liabilities of the project
(i) To supervise and control the administration of all funds allocated to the specific project subject to approval by the county treasury to undertake development projects.

(j) Ensure good project workmanships

(k) Ensure that there is good relationship between the contractors and the community and foster good socio-political environment conducive for project implementation

(l) Be the eye of the community/ the people in the implementation of the project.

(m) Ensuring linkages between County plans and the project

(n) Ensure proper community participation and civic education on the project.

Principles of Project Management and Development

9. The PMC units in discharging their functions, shall be guided by the following principles—

(a) integrate community, county and national values in all processes and concepts;

(b) protect the right to self-fulfillment of the communities within the county and bear responsibility to future generations;

(c) promote good corporate governance principles in all procurement and implementation of development projects;

(d) Ensure effective resource utilization for sustainability

(e) promote the pursuit of equity in resource allocation

(f) provide a platform for unifying project management, budgeting, financing, program implementation and performance review;

(g) Serve as a basis for engagement between county governments and the citizenry, other stakeholders and interest groups.

(h) National values and principles of public service and governance as enshrined in the Constitution of Kenya 2010

PART III—ALIGNING COUNTY PROJECTS TO THE COUNTY INTEGRATED DEVELOPMENT PLANS

Ward level project planning

10. Project planning at the ward level—
(a) All County Government projects shall be initiated at the ward level

(b) Project initiation shall be spearheaded by the Ward Administrators and the area

(c) MCAs through public participation barazas

(d) During the public participation barazas referenced in (b) above, the public shall propose and prioritize various projects guided by their leaders led by the area MCA and the same shall be noted and recorded by the Ward Administrators for escalation to the County Government for consolidation and planning

(e) Despite the provisions of section 10 (c) above, all projects proposed at the ward level shall be documented and records made available at the ward offices for reference purposes

(f) Project prioritization at the ward level shall be done by the area MCA in consultation with community development experts and village leaders.

(g) Project prioritization provided for in section (e) above shall be guided by the

(h) County development policies, national and International policies

(i) No project shall be approved if it is not in line with the provisions of Section (f) above.

Projects identification, Generation of BQs and budgeting

13. Technical and professional project—

(a) Upon the conclusion of the project identification as provided for in section (10), planning the County Government of Siaya shall dispatch technical officers to conduct technical verifications and project needs of all the projects identified

(b) The technical verifications provided for in section (a) above shall then be used to generate professional and technically approved project BQs according to the needs of each prioritized project.

(c) The BQs generated in (b) above shall then be used to inform the County budgeting process.

(d) Despite the provisions of (c) above, all the other County Government budgeting processes as provided for in the relevant
County and National Government legislations shall be followed conclusively.

(e) The Project Management Committees shall be expected to be in possession of professionally generated project BQs before the start of each project implementation.

Policy planning tools; Sector plans, CIDP, Budgeting

14. Policy planning tools—

(a) All the County Government projects identification, planning and budgeting processes shall be guided by the various Sector Plans, the County Integrated Development Plan, other County Government development policies, the prevailing National and International policies.

(b) All the County Project Management Committees shall ensure that only budgeted projects are implemented in a given financial year.

Procurement processes and County Project Management

14. Procurement and project—

(a) All the procurement activities related to County Project Management and all the management activities of the PMCs shall be guided by the Public Procurement and Assets Disposal Act and other related laws.

PART IV — OPERATIONS AND ACTIVITIES OF THE PMCs

PMC Meetings

15. Meetings—

(a) The life-time of a Project Management Committee shall be tied to the project lifetime.

(b) All PMCs shall be expected to hold a minimum of four meetings during the lifetime of the project and a maximum of 6 meetings depending on the lifetime and other emerging issues on the project.

(c) The four PMC meetings referred to in (b) above shall be distributed into: 1st meeting upon the project site-takeover by the contractor; 2nd meeting upon completion of the 1st Phase of the project; 3rd meeting upon the completion of 2nd phase of the
project and the 4th meeting upon completion and handing over of the project.

(d) All PMC meetings shall be minuted, properly signed, dated and records kept in the office of the Ward Administrator and in the PMC project file kept by the PMC secretary.

(e) The area MCA—in exercising their oversight roles—shall be at liberty to constantly check the minutes of all PMC meetings and any records therefore as kept by the Ward Administrators.

(f) The minutes referred to in (d) above shall be the sole proof of PMC meetings.

(g) Each project shall have a PMC project file kept by the PMC secretary in which all PMC documents and deliberations shall be kept.

(h) Upon the completion of each project, the PMC project file shall be handed over to the office of the ward admin for escalation to the project user department for safe keeping.

(i) The quorum for PMC meetings shall be two-thirds of PMC membership for all the meetings.

(j) The area MCA and the ward administrators as the PMC patron and ex-officio PMC members shall not take part in cases of voting on matters before the PMC meeting.

**PMC project management fees and allowances to members**

16. Allowances—

(b) All County Government projects shall be deducted a 5% projects management fee from the total cost of each project.

(c) The PMC members shall be paid allowances for each meeting attended at a rate that shall be set by regulations of this act.

(d) All the PMC payments shall be paid directly to the appointed PMC members through legal and authorized public expenditure mechanisms as provided for by this law and any other laws regulating public expenditures.

(e) All PMC payment requests shall only be processed and paid upon receipt of an approval of: (a) evidence of meetings, (b) evidence of meeting attendance, (c) justifiable meeting agenda, (d) evidence of satisfactory completion and project handover.
(f) Notwithstanding the provisions of (d) above, all PMC payment requests shall be prepared by the PMC secretary, verified by the PMC chairperson, approved by the PMC patron, and the area ward administrator.

(g) Despite the provisions of (e) above, all PMC payment requests shall additionally be guided by the other provisions of this law and any other legislations guiding the expenditures of public funds.

(h) No PMC payment shall be made before the satisfactory completion and handover of the project for which it was formed.

Records of PMC activities

17. (a) All records of PMC activities shall be prepared by the PMC secretary, verified by the PMC chair and approved by the PMC patron.

(b) PMC records shall be kept by the PMC secretary and the area ward administrator.

(c) All PMCs shall be expected to keep a distinct file for all the records of the project for which it was formed.

(d) Upon the satisfactory completion and handover of the project, all PMC records shall be handed over to the project user department for safe custody and for reference purposes.

Powers of the PMCs

18. (a) No contractor or service provider shall take over a project site without the express authority of the PMC through a joint site meeting.

(b) No contractor or service provider shall take over a project site without having supplied and adequately enlightened the PMC members on the project BQs and project needs.

(c) The PMCs shall have the power to reject any unauthorized changes on the original project designs and BQs.

(d) All changes to project designs and BQs shall have to be discussed and approved in a PMC meeting.

(e) Pursuant to (a) above, the PMC shall be expected to issue an express letter of approval to the contractor/service provider in order for the works to begin.
(f) No project shall be handed over upon completion without express written authority of approval by the PMCs

(g) The PMCs shall have the power to reject any project if in their considered and documented opinion, the project has not been implemented in line with the project needs and the professional BQs

**PART V — MISCELLANEOUS**

**Regulations**

19. Regulations necessary to effective operations/implementation of the bill. The County Executive Committee Member for public works shall develop appropriate regulations for proper implementation of this act

**Offences**

20. Any person, body or entity that shall contravene any part of or all provisions of this act shall commit a crime liable for a fine of a two hundred thousand shillings or a six months imprisonment or both.
MEMEORANDUM OF OBJECTS AND REASON

The Bill seeks to provide for legal and systematic structures for proper and appropriate management of all County Government development projects within the unit of the Project Management Committees (PMC). It seeks to properly embed the concept of PMCs in law by giving effect to Article 176 (2) and 185 of the Constitution of Kenya 2010, Section 91 and 115 (2) of the County Governments Act 2012, and to provide for the establishment of and operationalization of county project management committees (PMCs) and for connected purposes.

This Bill is divided into three parts as follows—

Part I—Provides for preliminaries including short title, interpretation, object and purpose of the Act while

Part II—Provides for the Establishment of county project management units including; the levels of project management, composition and functions of the PMCs and the principles guiding the concept of project management.

Part III—Provides for aligning of county projects to the county integrated development plans; including the technical and professional generation of BQs and how to use policy planning tools in project planning, budgeting and management.

Part IV—Provides for the operations and activities of the PMCs; including how the meetings are to be conducted, their activities, allowances and powers.

Part V—Contains miscellaneous provisions including; general provisions, offences and penalties, and the transition clause.

The Bill respects the separation of powers of national and county governments and is not a money Bill.

AMBROSE AKUNO,
Member of County Assembly.