IGRTC
INTERGOVERNMENTAL
RELATIONS TECHNICAL
COMMITTEE

Consultation, Cooperation & Coordination in Devolution

MANUAL FOR THE ESTABLISHMENT AND OPERATIONALIZATION OF INTERGOVERNMENTAL SECTOR FORUMS

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2024

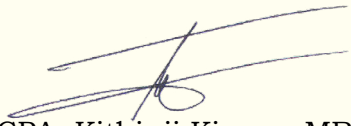
FOREWORD

The Constitution of Kenya, 2010 (COK) introduced a transformative devolved system of government, delineating a two-tier structure comprising the national and county governments. Article 6(2) provides that the two levels of government are functionally distinct and interdependent and shall conduct their mutual relations based on consultation and cooperation. Similarly, Article 189 requires the two levels to perform their functions and exercise their powers in a manner that respects the government and institutions of the other level.

The Intergovernmental Relations Act, of 2012 (IGRA), operationalises the constitutional provisions and provides mechanisms for fostering harmonious interaction between the two levels of government. Notably, section 13 provides for the establishment of "sectoral working groups or committees" and "consultative forums" on sectoral issues of common interest to the national and county governments. These forums are instrumental in promoting unity and fostering a harmonious working relationship between the two levels of government, aligning with the overarching goal of the devolution framework.

The establishment of Intergovernmental Sector Forums (IGSF) as stated in this manual is a critical step towards operationalising the constitutional provisions and achieving devolution objectives. These forums serve as structured platforms for dialogue, cooperation, and joint decision-making, essential for ensuring that citizens receive the quality services envisioned by the principles of devolution.

This manual provides a comprehensive framework and systematic guide for national and county governments to establish efficient intergovernmental sector forums. Defining clear processes and guidelines facilitates the establishment of forums that not only promote consultation and collaboration but also serve as the first port of call in managing and mitigating conflicts in intergovernmental relations.



CPA, Kithinji Kiragu, MBS, OGW
Chairman
Intergovernmental Relations Technical Committee

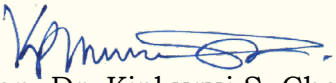
MESSAGE FROM THE CHIEF EXECUTIVE OFFICER

The publication of this manual marks a significant step forward in enhancing intergovernmental relations within Kenya's devolved governance structure. The establishment of Intergovernmental Sector Forums (IGSFs) has emerged as a critical mechanism to promote consultation, cooperation, and coordination between the national and county governments. The forums provide avenues for shaping decisions on policies, strategies, and programs aimed at achieving sector goals. They also serve to coordinate and harmonise the development of policies, legislations and sector priorities, as well as promote peer learning by sharing experiences and best practices.

However, over the years, the challenges and gaps in the establishment and operations of sector forums have been identified. A study conducted in 2018 by the IGRTC on the "Status of Sectoral and Intergovernmental Forums in Kenya" identified challenges in the operationalisation and management of the forums. The challenges included inconsistencies in their formation, weak accountability systems, lack of monitoring and evaluation mechanisms, infrequent meetings, and inadequate funding. As a result, it became clear that a framework for institutionalising the forums was necessary.

The IGRTC has therefore developed this manual to bridge the existing gaps outlining the principles and institutional structures necessary for the successful functioning of the IGSFs.

I thus encourage institutions at both levels of government to embrace the guidance within the manual to ensure inclusive and effective governance as envisaged in the constitution.



Hon. Dr. Kipkurui S. Chepkwony, MBS
Chief Executive Officer
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ACKNOWLEDGEMENTS

The IGRTC presents the Manual for Establishment of Intergovernmental Sector Forums to serve as a systematic guide for both national and county governments to create efficient intergovernmental sector forums. This manual provides essential guidance to both levels of government as they navigate the dynamics of intergovernmental relations.

We appreciate the members of the IGRTC for their unwavering commitment to providing direction and advice throughout the development of this manual. Your expertise and diligence have ensured that the framework presented in this manual is comprehensive and represents the goals and aspirations of every stakeholder.

The IGRTC extends special appreciation to Act Change Transform (Act!), which is implementing the Kenya Devolution Programme (KDP) – Timiza Ugatuzi, funded by the United Kingdom International Development (UKID), for their unwavering dedication and support. The partnership with the IGRTC was instrumental in bringing this manual to completion. The support in its publication is indispensable, reflecting a shared commitment to advancing intergovernmental relations within Kenya's governance framework. This collaborative effort underscores the shared goal of ensuring that the principles contained in this manual catalyse meaningful dialogue, cooperation, and development among all stakeholders involved in the process of devolution.

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ABBREVIATIONS AND ACRONYMS

CECM	County Executive Committee Member
CEO	Chief Executive Officer
CIDP	County Integrated Development Plan
COG	Council of Governors
COK	Constitution of Kenya, 2010
CS	Cabinet Secretary
ICT	Information, Communication, and Technology
IGRA	Intergovernmental Relations Act, 2012
IGRTC	Intergovernmental Relations Technical Committee
IGSF	Intergovernmental Sectoral Forum
JS	Joint Secretariat
MDAs	Ministries, Departments and Agencies
M&E	Monitoring and Evaluation
PS	Principal Secretary
SDD	State Department of Devolution

DEFINITION OF TERMS

Committee means *a group of people who are appointed, usually by a larger group*, to make decisions or to deal with a particular subject or function. It should be more administrative than technical. It should be mainly for considering reports, proposals, recommendations and decision-making. The decisions of committees should be presented for ratification or adoption by the relevant institution or appointing authority for implementation.

Concurrent Function refers to a function that is assigned by the constitution to be performed by both levels of government.

Dispute means an intergovernmental dispute as provided for under section 30 of the Intergovernmental Relations Act, 2012.

Exclusive Function refers to a function that is assigned by the constitution to either level of government.

Forum means a location, gathering, or medium where ideas and perspectives on a specific topic can be shared. Forums should be primarily for policy dialogue, with a balanced representation of experts, policymakers, and administrators. They should also promote capacity building, experience sharing, and the dissemination of best practices.

Intergovernmental Sector Forum means a place, platform, meeting, or medium where the two levels of government consult and make decisions to harmonize their approaches to mutually important sectoral issues.

Intergovernmental Framework means a mechanism for consultation, cooperation, and coordination between the national and county governments on matters of mutual interest.

Intergovernmental Sector Working Group means *a team of officers from various institutions at both levels of government assigned to focus on a specific sector task or project*, with a view to providing recommendations or solutions. It should largely focus on technical issues and should be led by sector subject experts.

DEFINITION OF TERMS

Joint Secretariat means an administrative organ of the Forum thus responsible for the day-to-day management and processing of the resolutions of the forum for transmission to the relevant authorities.

Sector means *a part or general segment of the economy that contains similar industries or activities.*

Sector Forum means a platform for facilitating the exchange of information between the various stakeholders impacted by, involved in or interested in the activities of a particular sector.

Technical Committee means the Intergovernmental Relations Technical Committee.

CHAPTER 1: INTRODUCTION AND BACKGROUND

This chapter discusses the statutory relevance and significance of intergovernmental sector forums, it also highlights the progress of the establishment of sector forums.

The Constitution of Kenya, 2010 (COK) under Article 6 provides that *'the governments at the national and county levels are distinct and inter-dependent and shall conduct their mutual relations based on consultation and cooperation'.* Article 189 further requires that *'government at either level shall perform its functions and exercise its powers in a manner that respects the functional and institutional integrity of the government at the other level, and respects the constitutional status and institutions of government at the other level and in the case of the county government, within the county level'.*

The Intergovernmental Relations Act 2012 (IGRA), establishes a framework for consultation and cooperation between the national and county governments and amongst county governments.

1.1 Statutory Relevance and Significance of Intergovernmental Sector Forums

In order to enforce Chapter 11 of the COK, critical laws were enacted namely; The Urban Areas and Cities Act, 2011, County Government Act, 2012, Transition to Devolved Government Act, 2012 (now defunct), Public Finance Management Act, 2012, and Intergovernmental Relations Act, 2012. Performance of devolved functions requires adherence to the spirit of consultation, cooperation and coordination with the exercise of powers in a manner that respects the functional and institutional integrity of government at the other level (Art.189). The Intergovernmental Relations Act (IGRA) 2012, establishes the Intergovernmental Relations Technical Committee (IGRTC) as the secretariat of the National and County Government Coordinating Summit (Summit) responsible for the day-to-day administration of the Summit and the Council, particularly facilitating activities and implementing Summit decisions.

Section 13 (1) of the IGRA, empowers the Technical Committee to establish sectoral working groups and committees for effective intergovernmental relations. Section 13 (2) further provides that nothing precludes cabinet secretaries from convening consultative forums on sectoral issues of common interest to both national and county governments.

The IGRTC has developed this manual to standardise the operations of the intergovernmental sector forums/working groups or committees. This manual outlines the process and procedures to be followed during active engagement, consultation, and cooperation between the national and county governments. It also describes the structure of the intergovernmental sector forums, key functions, conduct of business, and monitoring and evaluation for sustainability of the intergovernmental sector forums.

This manual is based on the roles and responsibilities of the various intergovernmental structures as outlined in the IGRA, and the relevant sectoral (national government laws) including the County Government Act, 2012 (particularly, sections 30 & 36). It defines the criteria and framework for intergovernmental consultations, resolution of issues of concern to either or both levels of government and agreements for joint implementation of projects that may involve both levels of government.

1.2 Progress on the Establishment of Sector Forums

The establishment of sector forums has been challenging, due to the subjective assessment of which organisations within intergovernmental structures should have the explicit mandate to establish and convene intergovernmental sector forums. This is against the background that section 13 which provides the function is within the section of the IGRTC in the IGRA, (where sections 7-10 refer to the Summit; sections 11 -18 refer to the IGRTC, and sections 19 – 22 refer to the COG). It is believed that this manual will clarify the roles in establishing and convening sector forums.

The IGRTC has achieve milestones in establishing working groups on an ad-hoc basis. The sector working groups were set up to resolve issues in betting and casinos; cooperatives; meat inspection; and disaster management amongst others. Additionally, efforts have also been made and progressed to the advanced stage in establishing sector forums including; Trade, Industry and Investment; Energy; and Roads and Transport. Other advanced sectors are ICT; Public Service; Tourism and Water; and Mining. Initial sector consultative meetings were held with these sectors and the need for their establishment was identified. However, due to the challenges mentioned, there hasn't been much development.

CHAPTER 2: STATUTORY PROVISIONS AND PRINCIPLES OF SECTOR FORUMS

This chapter examines the statutory provisions and principles of the sector forums as envisioned in the COK and other intergovernmental policies.

Laws are developed from policies that are in tandem with the constitution of the land.

Constitutional provisions are thus enforced through Acts of Parliament. The COK created two levels of government; the national and county government. Chapter Eleven of the constitution is dedicated to devolved government and its relationship with the national government as provided in Part 5 of the Chapter, in Articles 189 to 191. This relationship is also guided by Article 6 (2), *"The government at the national and county levels are distinct and inter-dependent and shall conduct their mutual relations based on consultation and cooperation."*

2.1 Intergovernmental Relations Act, 2012 Provisions

The IGRA, sections 7 to 23 provide the three main intergovernmental structures aimed at managing intergovernmental relations namely; the Summit, the IGRTC and the COG. They are delineated in their specific sections as follows; The Summit matters are provided in sections 7 to 10 while the IGRA, provides for the IGRTC from sections 11 to 18. Finally, the COG is provided for in sections 19 to 23.

The Summit represents a platform for both national and county governments as an apex body to deliberate and provide direction on matters relating to devolution governance. Section 13 (1) provides that the Technical Committee (IGRTC) *"may establish sectoral working groups or committees for the better carrying out of its functions"* and section 13 (2) provides that *"nothing in this section may be construed as precluding a cabinet secretary from convening consultative fora on sectoral issues of common interest to national and county governments".*

Section 13 (2) is an entry point of other intergovernmental relations structures, that is the national government ministry through a cabinet secretary to convene a sector forum other than the IGRTC.

2.2 Principles Governing Sector Forums

The overarching principle of sector forums is to foster a participatory approach to governance of devolution where both levels of government recognise the importance of intergovernmental relations as part of devolution, and national and county governments commit to providing vision and leadership for a sustainable and results-oriented system of enhanced intergovernmental relations. The specific principles are:

(i) Consultation, cooperation, and coordination amongst all stakeholders;

(ii) Accountability and transparency;

(iii) Participation and inclusivity;

(iv) Cooperative governance; and

(v) Mutual respect and recognition.

In adherence to these principles, the sector forums which are platforms for structured dialogue will be guided by the spirit of consultation, cooperation, coordination, consensus and commitment.

CHAPTER 3: MECHANISMS FOR INTERGOVERNMENTAL RELATIONS

This chapter details the mechanisms for intergovernmental relations with the Summit at the apex level. Other levels designed to foster harmonious relations, particularly when dealing with sectoral issues, include the establishment of committees or authorities and sector forums.

3.1 National and County Government Coordinating Summit

The Summit is established under section 7 of the IGRA as the apex body for intergovernmental relations. It is the highest of the intergovernmental relations structures. The other structures are the Intergovernmental Relations Technical Committee (IGRTC) established by section 11 of the IGRA; the Council of County Governors (IGRA, 2012 section 19); and the Intergovernmental Budget and Economic Council (IBEC) established by section 187 of Public Finance Management Act, 2012.

The Summit is a forum for the promotion of consultation and cooperation between the national and county governments. Its functions are defined in section 8 of the IGRA, which among others is to consider matters of intergovernmental relations, acts as the highest organ for alternative dispute resolution on matters affecting intergovernmental relations; promotion of national values and principles; and promotion of national cohesion and unity.

The Summit also reviews reports from other intergovernmental forums and other bodies that affect the national interest. It evaluates and monitors the performance and implementation of national or county governments' plans thus recommending appropriate action. The apex body is also responsible for considering issues of intergovernmental relations referred by members of the public and recommending measures to be undertaken by the respective county government.

It facilitates and coordinates the transfer of functions, power or competencies from and to either level of government. The Summit is the national custodian of Kenya's consultative and cooperative nature of its devolved system of governance.

Given the functions of the Summit, it is understandable that many intergovernmental concerns would arise during its meetings. The framers of the COK, 2010 envisaged consultative and cooperative intergovernmental relations in articles 6 (2), 189 (1) and 189 (4). Article 6 (2) refers to the distinctness and interdependence of the two levels of government which must conduct their mutual relations based on consultation and cooperation. Article 189 (1) emphasises the respect for functional and institutional integrity as well as the constitutional status of each level of government. The two levels must assist, support and consult as appropriate and be able to implement legislation of the other level of government. Article 189 (4) provided that, *"National legislation shall provide procedures for settling intergovernmental disputes by alternative dispute resolution mechanisms, including negotiation, mediation and arbitration."*

The IGRTC, as the secretariat of the Summit, taking into account that the Summit is physically organic when sitting, must be the institution to ensure that the functions of the Summit are carried out. The IGRTC administration may therefore require the formation or establishment of sectoral working groups, committees or forums largely on an issue basis for the efficiency and efficacy of its functions and to a large extent, those of the Summit. This is further complemented by the provision of section 13 (2) of the IGRA which allows a Cabinet Secretary to also convene a sector forum, *"Nothing in this section may be construed as precluding a cabinet secretary from convening consultative fora on sectoral issues of common interest to the national and county governments."*

3.2 Committees and Authorities

The COK article 189 (2) provides, *"Government at each level, and different governments at the county level, shall cooperate in the performance of functions and exercise of powers and, for that purpose may set up joint committees and joint authorities."* This further confirms the cooperative nature of Kenya's devolution system.

The article is enforced by the IGRA section 23 which stipulates, *"The national or a county government may establish a joint committee with a specific mandate where such a committee is necessary for the achievement of; (a) the objects and principles of devolution provided in articles 174 and 175 of the Constitution; and (b) the objects and purposes of this Act" (IGRA).* The committees or authorities are key establishments in creating a harmonious environment for the delivery of services to the public since they provide opportunities for sharing knowledge, expertise and resources.

3.3 Sector Forums

A sector forum is a platform for facilitating the exchange of information between the various stakeholders impacted by, involved in or interested in the activities of a particular sector. The sector forum or working groups may be ad-hoc or standing organ. In Kenya's devolution architecture, sector forums serve as the first line of defence in resolving potential intergovernmental disputes by providing a forum for debating issues impacting a specific sector.

It supports the functions of the Summit whereby only issues that remain in a stalemate are filtered into the Summit for final direction. The establishment, convening or implementation of sector forums are provided for in the IGRA, 2012 section 13 (1) and (2). Section 13 (1) states, *"The Technical Committee may establish sectoral working groups or committees for the better carrying out of its functions."*

On the other hand, section 13 (2) states, *"Nothing in this section may be construed as precluding a cabinet secretary from convening consultative fora on sectoral issues of common interest to the national and county governments."*

The import of section 13 is that the IGRTC as the secretariat to the Summit has the mandate to establish the working groups or forums and where it (IGRTC) does not establish the forum, the Cabinet Secretary for the relevant sector especially where there are existing issues that require attention may convene the forum.

CHAPTER 4: ESTABLISHMENT OF SECTOR WORKING GROUPS, COMMITTEES AND FORUMS

This chapter describes processes and framework for the establishment and convention of sector working groups, committees and forums. It highlights the purpose, rationale and operationalisation of the Intergovernmental Sector Coordination Framework and other key coordinating bodies such as the Summit.

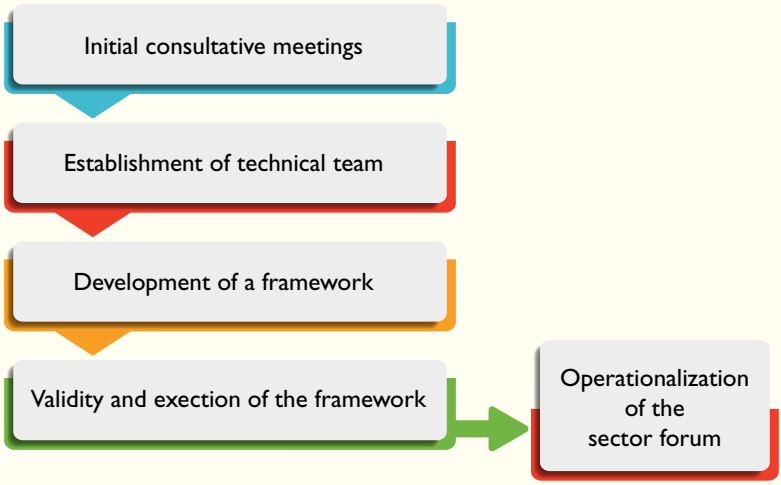
4.1 Process

The foundation of the establishment of a sector forum is in the COK, articles 6 (2) and 189 (1 & 2) and IGRA, as provided in its citation, *"An Act of Parliament to establish a framework for consultation and cooperation between the national and county governments and amongst county governments; to establish mechanisms for the resolution of intergovernmental disputes under articles 6 and 189 of the Constitution and for connected purposes."* Indeed, intergovernmental sector working groups, committees or sectors provided for in section 13 of the IGRA, are the first platforms for the resolution of intergovernmental disputes for harmonious intergovernmental relations.

The process of establishing an intergovernmental sector forum, working group or committee is outlined in **Diagram 1** and explained in the subsequent paragraphs. The IGRTC may initiate the process after receiving an interest or request from either level of government through the COG or a national government ministry regarding matters that may necessitate intergovernmental consultations. It could be about issues that are causing outright conflict in the devolution space and need to be resolved through mediation or intervention.

The process of establishing a sector working group, committee or forum is thus a complete stakeholder participatory exercise as envisaged in the COK, and relevant laws.

Diagram 1: Process of establishing intergovernmental sector forums



(i) Initial Consultative Meetings

The preliminary stage of establishing an intergovernmental sector forum requires consultations between the two levels of government, as well as key stakeholders including sector leadership at both the national and county levels. The initial consultative meetings will be convened in response to an identification or request from one level of government with issues of concern to the other level, or on issues that are widely perceived to deserve consultation. The goal of these initial meetings is, therefore, to first identify the mutual need or issues that call for the establishment of a sector intergovernmental forum, working group or committee. The meeting will then resolve the next course of action.

(ii) Establishment of Technical Team

A technical team is established to develop working modalities and mechanisms, including the development of an intergovernmental coordination framework for conducting the business of the forum. The team coordinated by the IGRTC as a neutral body will be composed of sector experts from the ministries, departments and agencies (MDAs), county governments and the COG.

(iii) Development of Intergovernmental Sector Coordination Framework

The technical team is responsible for spearheading the development of an intergovernmental sector coordination framework that provides the operational guidelines for the forum using the conceptual framework detailed in **Diagram 2** in Section 4.2.

(iv) Validation and Operationalisation of the Sector Coordination Framework

Once the development of the coordination framework is complete, it will be subjected to validation by the relevant sector stakeholders from both levels of government before being executed. The framework is implemented by both levels of government after signing a mutual agreement for the intergovernmental sector forum. A template of the agreement is attached as **Annex 1.**

4.2 The Intergovernmental Sector Coordination Framework

The outline of the intergovernmental framework is as follows:

(i) Purpose of the framework
(ii) Rationale for the sector inter-governmental consultation and cooperation framework
(iii Operationalisation of the coordination Framework
(iv) Key sector coordination and cooperation tools
(v) Financing

(vi) Progress reporting, monitoring, and evaluation

(vii) Dispute settlement

4.2.1 Purpose of Coordination Framework

The framework intends to guide the establishment of strong and long-lasting intergovernmental sector forums that serve as a practical platform for improving consultations and dialogue between the two levels of government and with key stakeholders. The primary purpose of the framework is to provide a mechanism for national and county governments to consult and cooperate on issues of mutual interest and concern.

4.2.2 Rationale for Sector Inter-Governmental Coordination Framework

The need for an intergovernmental sector forum framework has become increasingly critical to ensure structured relations and the sustainability of sector forums. As a result, an agreed-upon framework and criteria for establishing and operationalising intergovernmental sector forums should be devised to avoid duplication of effort and waste of public funds. This would further enhance collaboration, synergy, and shared decision-making at various levels of government within specialised sectors, promoting amicable intergovernmental relations.

4.2.3 Operationalisation of Coordination Framework

The coordination framework shall be operationalised according to the provisions in the COK, specifically Article 6(2) and 189 of the COK as read together with sections 13(1) and (2) and 20(2) and (3) of the IGRA. These sections clarify the role of each level of government and the technical committee in the establishment and convening of intergovernmental sector forums.

(i) Section 13(1) of IGRA, 2012 provides that the IGRTC *"may establish sector working groups or committees for better carrying out of its function".*

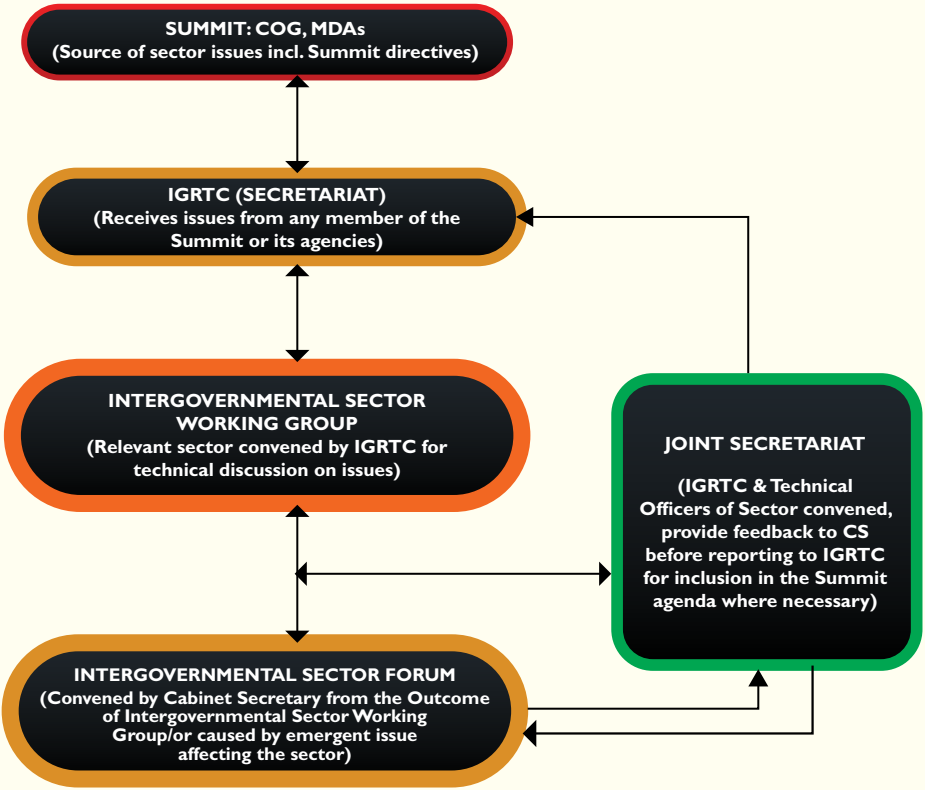
(ii) Section 13 (2) provides that "*Nothing in this section may be construed as precluding a Cabinet Secretary from convening consultative fora on sectoral issues of common interest to the national and county governments".*

(iii) Section 20 (2) and (3) of the IGRA, 2012 provides that the COG shall have powers to establish other intergovernmental forums including inter-city and municipality forums and establish sectoral working groups or committees for the better carrying out of its functions respectively.

4.3 Structure for Intergovernmental Sectoral Forum Coordination Framework

The intergovernmental sectoral forum coordination structure is shown in **Diagram 2.** The structure includes the Summit, the IGRTC, the Intergovernmental Sector Technical Working Groups, the Intergovernmental Sector Forum and the Joint Secretariat. The structure of the coordination framework is illustrated and explained in subsequent paragraphs.

Diagram 2: Framework for the Coordination of Working Groups, Committees and Sector Forums



4.3.1 The National and County Government Coordinating Summit

The IGRA, establishes the Summit as the apex intergovernmental relations structure. Section 8 of the Act outlines the functions of the Summit, which include providing a forum for consultation and cooperation between national and county governments. The Summit is made up of the President and 47 county governors. The President serves as the chairman, and the Deputy President takes over in his absence. The IGRTC as the secretariat of the Summit may send recommendations from sector forums to the Summit for decision, approval or direction.

4.3.2 Inter-Governmental Sector Forum

The Intergovernmental Sector Forum (IGSF) is the 2nd tier and the highest governance level of the Intergovernmental Sector Forum. The legal mandate of the IGSF is rooted in Intergovernmental Relations Act, 2012; Section 13, 1&2. It empowers the IGRTC to establish sectorial working groups or committees, underscoring the mandate of a cabinet secretary to convene consultative forums on sectorial issues of common interest to the national and county governments. The sector forum brings together national and county governments, as well as sectoral partners. The forum provides a platform for stakeholder consultation and cooperation, as well as recommendations on sector policy issues. Its members may include:

(i) Cabinet Secretary responsible for the sector;

(ii) Chairperson at the COG committee responsible for the sector;

(iii) Cabinet Secretary responsible for The National Treasury;

(iv) Cabinet Secretary responsible for Intergovernmental relations matters;

(v) Chairperson of the IGRTC;

(vi) The 47 County Executive Committee Members in charge of the sector; and

(vii) Other key sector stakeholders may be co-opted.

Terms of Reference for IGSF

(i) Identify issues for discussion during the intergovernmental consultative mechanisms and establish systems to address these issues.
(ii) Coordinate and harmonise the development of sector policies, standards and laws.
(iii) Evaluate the performance of the national or county governments in realising the sector goals, and recommend appropriate action.
(iv) Monitor the implementation of national and county sectoral plans.
(v) Promote governance and partnership principles across the specific sector system.
(vi) Follow up on implementation of recommendations from the Summit.
(vii) Consider the sector issues that may be referred to the forum by members of the public and other stakeholders and recommend measures to be undertaken.

Mode of Operation

(i) Chairing arrangements

The IGSF shall be co-chaired by the Cabinet Secretary responsible for the sector and the Chairperson of the sector committee at the COG. The co-secretaries for the sector forum shall be the Principal Secretary responsible for the sector and the CECM caucus chair for the sector.

(ii) Scheduling Intergovernmental Sector Forum meetings

An annual schedule of meetings for the IGSF aligned to the sector calendar shall be prepared by the secretariat in consultation with the co-chairs and circulated to all stakeholders.

The forums may be convened by the co-chairpersons provided that it shall be done in consultation with the IGRTC. The IGSF meets at least twice a year, but additional meetings shall be convened by the co-chairs or the IGRTC as may be required. A Joint Secretariat shall be established by the co-chairpersons of the sector forum. The secretariat shall include representation from the IGRTC.

(iii) Convening Intergovernmental Sector Forum meetings

The co-chairs will convene meetings based on the annual schedule. Participants should be invited two weeks in advance through a letter signed by the convenor. The invitation shall contain the date, venue and the proposed agenda for the meeting, and shall be sent together with the report of deliberations from the previous meeting. The invitation shall be sent to all members through the agreed communication channels. The meeting venue shall be selected based on convenience in terms of participants, alignment with other sector activities and the available resources.

(iv) Agenda setting for meetings and venue selection

The meeting agenda may vary based on emerging priority issues within the sector. The IGSF secretariat solicits agenda items from the CEC executive committee, the Ministry or state departments and then shares them with the IGSF co-chairs for concurrence. The secretariat shall then draft the agenda for the proposed IGSF meeting and circulate it to all participants together with other materials containing the necessary information to be discussed during the meeting two weeks in advance.

(v) Decision making

The IGSF decisions shall be made by consensus but depending on the nature of the issue, other decision-making rules may be applied.

(vi) Procedure for conducting meetings

The following steps shall be followed in conducting meetings:

(a) Establish quorum (1/3 plus 1 of all the 47 CECs plus Chairperson of the relevant sector committee at the COG and relevant sector Cabinet Secretary at the national government)

(b) Opening formalities

(c) Confirmation of report of the previous meeting

(d) Status report on matters referred

(e) Presentation of issues requiring decision making

(f) Consensus on action points through a signed way forward or communique.

4.3.3 Inter-Governmental Sector Working Groups

The Intergovernmental Sector Working Group is the 3rd tier and the technical arm of the intergovernmental sector forum that provides a standardised platform for intergovernmental technical level consultation based on the principle of equitable representation at both levels of government. The composition of the sector working group will be determined by the relevant sector thematic areas. The overall mandate of the working group is to deliberate on technical thematic issues about the sector including holding quarterly sector review meetings and submitting quarterly thematic group reports to the Secretariat for deliberation by the Intergovernmental Sector forum.

The rationale for this is based on the need for a comprehensive coordinated information flow to reshape national priorities, policies, and actions.

The members of this committee will include the following:

(i) Principal Secretary in charge of intergovernmental relations matters;

(ii) Principal Secretary in charge of the sector at the national government;

(iii) County Chief Officers in charge of the sector;

(iv) Chief Executive Officer at the COG;

(v) Chief Executive Officer at the IGRTC;

(vi) CECs Caucus chair responsible for the sector;

(vii) The National Treasury; and

(viii) Others as may be co-opted.

Mode of operation

The technical working group will be co-chaired by the Principal Secretary in charge of the sector and the chair of the county chief officers caucus, in charge of the sector at the county government.

Terms of reference for the Sector Working Group:

(i) Identify technical issues for attention by both levels of government.

(ii) Monitor and evaluate sector plan implementation.

(iii) Conduct evidence-based policy analysis.

(iv) Receive and distribute progress reports from government entities.

(v) Prepare intergovernmental reports on sector-related topics.

(vi) Build capacity in national and county bodies to promote effective intergovernmental governance, consultation, and partnership practices.

(vii) Coordinate events and functions between national and county governments, such as IGSF meetings and ad-hoc multi-stakeholder consultation bodies.

(viii) Hold quarterly sector working group meetings.

4.3.4 Joint Secretariat to Intergovernmental Sector Working Groups, Committees or Forums

The Intergovernmental sector forum/working group will be supported by a Joint Secretariat established by the co-chairpersons. The Joint Secretariat will provide secretarial support to the Intergovernmental sector forum and sector working groups. The IGRTC will be part of the Joint Secretariat and will receive reports of the IGSF of a substantive nature for submission to the Summit.

4.4 Key Sector Cooperation and Coordination Tools

The Intergovernmental Sector Forum will lead the development of key tools for effective coordination and management of the sector for which the framework is designed. The ultimate goal of the coordination and management tools is to ensure that the forum adequately supports the sector's transformation and development. The forum shall support the development of sector management tools, including:

(i) The sector policy development strategy;

(ii) The sector planning framework;

(iii) The sector performance monitoring and evaluation system;

(iv) An intergovernmental communications strategy; and

(v) A partnership Code of Conduct.

4.5 Reporting

The Intergovernmental Sector Forum reports shall be prepared by the secretariat and submitted to the co-chairs for their input and approval.

The sector issues that are not resolved at the IGSF will be escalated to the Summit through the IGRTC for further deliberation and consultation.

4.6 Financing

The activities of the forum and programs may also be funded according to mutual agreement between the Ministry responsible for the sector and the county governments.

4.7 Dispute Resolution

The disputes shall be resolved using the alternative dispute resolution (ADR) mechanism as follows:

(i) Any dispute that may arise out of the implementation of the sector matters will be settled amicably through mutual consultations between the Parties; and

(ii) Where no such settlement is reached within thirty (30) days of the commencement of such consultation, the Parties will refer the dispute to the Intergovernmental Relations Technical Committee for resolution, by Articles 189 (3) and (4) of the Constitution as read with Section 33(2) of the Intergovernmental Relations Act.

CHAPTER 5: CONVENING AND CONDUCTING A SECTOR FORUM

This chapter discusses in detail, the general steps involved in convening and conducting a sector working group, committees and forum meetings. It also provides general guidance on conducting the meetings including the meeting code of conduct.

5.1 Convening meetings

The section explains the stepwise activities towards convening a meeting of the sector working groups, committees, and forums. The steps involve determining the purpose of the meeting, creating the agenda, sending out invitations, and organising meeting logistics. It also details the process of conducting meetings including the code of conduct during the meeting.

(a) Determine the purpose of the meeting

The IGRTC or the sector convening the meeting will identify and initiate the need for the meeting guided by the potential issues or a follow-up meeting. The purpose must take into account the value of the potential participants' time.

(b) Create Agenda

Once the purpose of the meeting is justified, the convener(s) will develop the agenda proposal in consultation with sector key stakeholders (especially the chairperson). The agenda should address the anticipated outcome. The convener(s) may draft the agenda such that key stakeholders can get involved early by giving them something to do right away, allowing them to arrive on time.

This may include topical presentations on the sector issues to be deliberated on. The agenda may therefore be annotated with what action is needed, and the type of output expected, for example, decision, action assignment, and time estimates for addressing each topic. Ensure items on the agenda are manageable to avoid very long meetings.

(c) Send out invitations

The convener(s) after the justification for the meeting and drafting of the agenda in consultation with key stakeholders will send out invitation letters including the proposed agenda, time and venue of the meeting.

Standard agenda items may include:

(i) Prayers

(ii) Introduction

(iii) Apologies

(iv) Declaration of Conflict of Interest

(v) Adoption of the Agenda

(vi) Confirmation and Matters arising from Previous Minutes (Though current practice is to have the item towards the end of the meeting just before closing remarks)

(vii) Business of the day (main agenda of the meetings. May be or often more than one item)

(viii) Date of next meeting

(ix) Closing remarks (Current meeting practice does not allow "Any Other Business" to avoid introduction of substantive items).

(d) Organise meeting logistics

Before the date of the meeting, the convener(s) will among other activities:

(i) Make follow up with invited officers to ensure full attendance during the meeting;

(ii) Organise the venue, refreshments and transport (if applicable); and

(iii) Agree on tools to be used during the meeting such as audio recording, screen sharing; attendance list; meeting program; and secretariat for the meeting to take minutes and management of the logistics.

5.2 Conducting meetings

This section provides details on opening meetings, actual deliberations, protocols for closing meetings, and meetings code of conduct.

(a) Opening the meeting

The Chairperson calls the meeting to order and follows the agenda items as was presented to invitees. The meeting through the Chairperson must:

(i) Always start on time: This is necessary as a respect to those who kept time and reminds late-comers that punctuality must be observed.

(ii) Welcome attendees and thank them for their time.

(iii) Review the agenda to give participants a chance to understand all proposed major topics, where they make changes before adoption.

(iv) Ensure meeting minutes are taken for subsequent circulation to each participant shortly after the meeting.

(b) Deliberations

During the meeting, the Chairperson must:

(i) **Manage time**: One of the most difficult facilitation tasks is time management, as it generally runs out before all agenda items have been discussed. As a result, the most difficult problem is maintaining momentum to move the process forward. The Chairperson may ask attendees to assist in keeping track of the time, and members must stay on track and avoid deviating from the topic under discussion thus helping in effective time management. Sectors may agree on the meeting time to allow participants to plan accordingly and avoid sideshows at the meeting.

(ii) **Evaluate Meeting Process:** Quiet often, after the meeting, people complain about a meeting being a waste of time. It is therefore important for the participants to always evaluate themselves during the meeting to improve the process and also for future effective engagements.

The Chairperson may conduct about 5 to 10 minute "satisfaction checks" for each participant to indicate how they think the meeting is progressing.

(iii) **Evaluate the Overall Meeting**: The Chairperson should set aside 5 to 10 minutes at the end of the meeting to assess the overall opinion of the participants on the meeting. Have each person rank the meeting on a scale of 1 to 5, with 5 being the highest, and explain their ranking. The convener should present the rankings last.

(c) Closing Meetings

The meeting should end on time and on a pleasant note so that participants may look forward to the next meeting. Call for consistency of participation to avoid repeating issues discussed at past meetings. At the end of a meeting, review activities and assignments, schedule the next meeting and ask each participant whether they will attend (to get their commitment). Clarify that meeting minutes and/or actions will be shared with members within a week from the date of the meeting. This will ensure the trust of the participants and also fast-track the implementation of the resolutions by action points.

(d) Meeting Code of Conduct

This section of the manual covers the code of conduct during specific meetings. The conduct expected includes how to manage issues of attitude, processes, and protocols to be observed during the meeting.

(i) Attitudes

The meeting will:

a) maintain an open communication style while respecting privacy. Issues discussed at the meeting should be kept confidential, therefore people's opinions should remain at the meeting;

b) show respect for diverse perspectives and avoid dismissing them;

c) be supportive rather than judgmental;

d) give feedback directly, openly and on time;

e) provide information that is specific focusing on the task and process and not on personalities;

f) have the resources to address any issues that may occur. This means that all participants will contribute and share responsibility for the team experience. During the meetings, the team will exercise self-respect and mutual respect, as well as promote self-esteem and respect for each other;

g) focus on analysing ideas and approaches rather than individuals. Throughout the process, each member may contribute to the facilitation, critique, and evaluation of the meeting. Everyone is required to engage, respect and support the right to be heard, be willing to forgive, share airtime, and recognise that everyone is unique;

h) watch for "trigger words" as language is important in presenting ideas so that participants may agree to disagree. However, the meeting must be open to new concepts and their presentation in new ways;

i) encourage participants to take ownership of the meeting's success, viewing themselves as "adventurers" rather than "prisoners" and team players;

j) encourage participants to ask questions and participate honestly; and

k) accept responsibility for team outcomes.

(ii) Process

The meeting will:

a) respect participants' time by starting on schedule, returning from breaks, and ending promptly;

b) agree on the quorum;

c) publish agenda and outcomes;

d) review and agree on the agenda at the start of the meeting and then stick to it;

e) encourage attendance by all participants;

f) keep an attendance list and record apologies for absenteeism from meetings;

g) keep all members up to date;

h) maintain focus on goals to prevent distractions, disagreements, and hidden concerns; and

i) identify and address problems.

(iii) Meeting protocols

The meetings of the sector working groups, committees or forum shall be conducted with adherence to the following protocols by the organisers, chairperson and participants or team members:

a) Communicate before, during and after meetings to ensure action items are documented, resolved, assigned to appropriate individuals and given a due date.

b) Ensure all participants feel included in meeting discussions.

c) Participate enthusiastically.

d) One person speaks at a time. To avoid cross-talk, don't interrupt someone who is speaking.

e) Avoid "killer" statements hence no ideas should be brought down.

f) Allow everyone to have their own 'think time' and everyone must be heard during the meeting.

g) Practice active and reflective listening. Before making a point, confirm to the meeting that you have understood the views of others by restating their point in your own words thus seeking agreement that you truly understand the prior points.

h) Differences or conflicts should be handled openly and positively.

i) The Chairperson should check for understanding by summarising and paraphrasing to ensure comprehension.

j) The Chairperson should work towards explaining consensus, and allow participants to ask questions.

k) Commitment is demonstrated when members understand and accept responsibilities, and tasks are achieved.

l) Provide key point notes to participants.

m) Phones should be on "stun" (vibrate, instead of ring or beep) during the meetings. Unless necessary, turn them off if not on standby for recall or make or receive phone calls outside the meeting[1].

1 Authenticity Consulting, LLC. McNamara, C. nd.

CHAPTER 6: MONITORING, EVALUATION, REPORTING AND IMPLEMENTATION

This chapter examines the monitoring, evaluation, and reporting of activities implemented by the intergovernmental sector forums, sector working groups and committees.

Monitoring and Evaluation (M&E) is the process of continuously and closely checking and keeping track of programs, projects, policies or activity for a specific period or at specified intervals to assess its program and performance[2]. The IGRTC has a critical role in monitoring and evaluating activities with reports to the Summit. The objectives of the M&E concerning the activities of sector working groups, committees or forums,

Where the issues are related to the determination of the performance of sectoral resolutions or agreements, will be to:

(i) monitor the status of implementation of the resolutions of the sector working groups, committees, and/or forums;

(ii) enhance efficiency and avoid duplication of roles, and functions and reduce wastages;

(iii) determine the progress of intergovernmental relations (IGR) programs and policies;

(iv) avail data necessary for dispute resolution at the sectoral level;

(v) enhance accountability and transparency between the levels of government; and

(vi) facilitate appropriate feedback for improved performance.

2 A framework for Monitoring and Evaluation of Performance of National and County Governments and Intergovernmental Relations in Kenya (2018) p.4

The implementation of the sector forum decisions/resolutions shall therefore be monitored, and evaluated periodically. Technical working group (s) shall create an implementation matrix plan with specific objectives, activities, outputs, and indicators to aid in monitoring the implementation of the sector resolutions. Reports of both monitoring and evaluation will form part of working documents during the meetings of the sectors when required for aiding the deliberations on progress.

The M&E process shall be supported through:

(i) annual and quarterly reports during the period under review;

(ii) reports of research and studies commissioned by the forum;

(iii) activity completion reports prepared by departments and agencies assigned by the forum to undertake the implementation; and

(iv) evaluation process conducted annually by examining the relevance, effectiveness, efficiency, and impact (both expected and unexpected) of the developed implementation plan matrix.

Sector stakeholders will be expected to provide accurate information during the evaluation exercise on the status of implementation of agreed resolutions and to adhere to the tenets of the principles and objects of devolution as envisaged in the COK and IGRA.

CHAPTER 7: REVIEW OF INTERGOVERNMENTAL SECTOR FORUM FRAMEWORK, KEY ASSUMPTIONS, RISKS AND MITIGATION MEASURES

This chapter provides for the review of the manual to ensure it responds to any operational changes. The assumptions are that every operating environment will be conducive and in support of the activities of the manual and that mitigation measures will be in place to address any risk that may occur.

7.1 Review of Intergovernmental Sector Forum Framework

The framework will be subject to review and adjustments done following the prevailing environment around sector forums. The review will aim to ensure that the management of the working groups, committees and forums is relevant at all times.

Changes in government structures, particularly reorganisations that may result in the reshuffling of ministerial or departmental mandates and transfers, may trigger the review. Framework review will help internalise any challenges in its application and make improvements to make it robust.

7.2 Key Assumptions

In applying this manual, it is assumed that:

(i) all relevant intergovernmental structures involved in the management or operationalisation of the sector working groups, committees or sectors shall consult, cooperate and coordinate themselves with diligence and harmony;

(ii) resources for implementation shall be availed when needed;

(iii) institutions shall allow their relevant and competent officers to diligently participate in the activities;

(iv) officers assigned to attend the meetings shall be consistent for seamless progress;

(v) officers shall treat each other with respect and decorum; and

(vi) institutions shall respect the mandate of each other as envisaged in the COK, 2010 and enabling legislation.

7.3 Risks and Mitigation Measures

The following matrix provides the potential risks that may inhibit the successful implementation of working groups and forums as designed in this manual. The matrix rates the risks and recommends possible mitigation measures.

No.	Risk	Level	Mitigation
1.	Readiness for the two levels of government to engage at policy and technical levels	M	Establish strong-result oriented trustworthy engagement model to mitigate suspicion and mistrust
2.	Lack of budgetary provision due to low priority over sector working groups or forums	H	Have the establishment of standing sector forums together with working groups gazetted for clarity of purpose and budgetary justification
3.	Failure to adhere to operational principles of joint and harmonised approach to the activities of the Forum or working groups	M	a) Ensure adherence to the code of conduct and self-regulation b) Encourage joint, consulted and harmonized planning of forum and working group activities
4.	Leadership changes especially in the event of a change of government or reshuffles	H	Establish a self-regulating system that survives any changes
5.	Resistance among MDAs or county government establishments to respect the rules or code of conduct of sector working groups or forum	M	Insist on high-level representation, participation and buy-in of the sector working group or forum for constructive engagement
6.	Capacity challenges in technical staff	H	Ensure competent staff who understand the spirit and commitment to devolution are assigned roles and responsibilities

7.4 Code of Conduct

In the implementation of their mandate, all public service officers in the sector working groups, committees and forums shall be expected to adhere to:

(i) Article 10 of the COK – National Values and Principles of Governance

National values and principles of governance bind both state and public officers to embrace patriotism, national unity, sharing and devolution of power. It binds the officers to observe the rule of law, democracy and participation of the people. These values are guided by the principles of respect for human dignity, equity, social justice, inclusiveness, equality, human rights and protection of the marginalised. The sector working groups, committees or forums will be expected to observe these values and principles while transacting their business. Officers must therefore avoid personal or institutional interests that may compromise these values and principles that put the nation first before any interest.

(ii) COK Chapter Six - Leadership and Integrity

This chapter calls for public officers to conduct themselves in a dignified, responsible and respectful manner while performing public service duties. The officers must be honest, accountable and driven by objectivity and impartiality while delivering services to the public. The officers who will be participating in the sector working groups, committees or forums will be expected to apply these values.

(iii) Article 232 of the COK – Values and Principles of Public Service

This article outlines the values and principles that public servants are expected to adhere to. Officers are expected to uphold high standards of professionalism and apply efficient, effective and economic use of resources when participating in the sector working groups, committees or forums.

Service delivery in resolving sector issues will be anchored on responsiveness, promptness, impartiality and equity. All administrative actions will be transparent and accountable.

(iv) Public Officer Ethics Act 2003 (Revised 2009)

The law requires a public officer to carry out his/her duties in a manner that draws public confidence in the integrity of the office. Such officials should be respectful and courteous to their fellow public servants. Services should be of high quality, professional, and accountable. The stakeholders in the sector working groups, committees or forums will be expected to observe the provisions of this Act.

ANNEX 1: TEMPLATE OF MUTUAL AGREEMENT FOR THE INTERGOVERNMENTAL SECTOR FORUM

REPUBLIC OF KENYA

MUTUAL AGREEMENT FOR THE INTERGOVERNMENTAL SECTOR FORUM

Between the Ministry, and Council of Governors (COG) representing the county governments

Parties agree: -

i. That there shall be the establishment of an Intergovernmental Sector Forum, the purpose of this forum will be to adopt policy recommendations for consideration by the Summit.

ii. That there shall be the establishment of a sector working group. The purpose of the sector working group will be to deliberate on technical thematic issues about the sector including holding quarterly sector review meetings and submitting quarterly thematic group reports to the Secretariat for deliberation by the Intergovernmental Sector forum.

iii. That there shall be the establishment of a Joint Secretariat responsible for the implementation of the decisions made by the sector working groups and the Intergovernmental Sector Forum. The Joint Secretariat will also be responsible for the provision of secretarial support and actualising decisions of the Intergovernmental Forum, and Sector Working Groups. This will include but is not limited to; planning and convening meetings for the Intergovernmental Forum, Joint Sector Steering Committee and Intergovernmental Sector Working Groups.

This mutual agreement will become effective on the date of execution by the parties.

EACH PARTY has executed this Intergovernmental Agreement with the understanding that they are bound by it.

IN WITNESS WHEREOF the parties hereto, being authorised representatives, duly affixed their signatures the day and year first herein before written.

Title: Cabinet Secretary

Signature:

Date:

Title: Chair of the Sector Committee, Council of Governors

Signature:

Date:

Witnessed by:

Title: Chairperson, Intergovernmental Relations Technical Committee

Signature:

Date:

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KENYA DEVOLUTION PROGRAMME
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