LEGAL NOTICE NO. 71

THE PUBLIC FINANCE MANAGEMENT ACT
(No. 18 of 2012)

IN EXERCISE of the powers conferred by section 24 of the Public Finance Management Act, 2012, the Parliamentary Service Commission makes the following Regulations:—

THE PUBLIC FINANCE MANAGEMENT (SENATE MONITORING AND EVALUATION) REGULATIONS, 2018

PART I—GENERAL PROVISIONS

1. These Regulations may be cited as the Public Finance Management (Senate Monitoring and Evaluation) Regulations, 2018.

2. (1) The purpose of the regulations is to guide the Senate Sessional Committee on Monitoring and Evaluation in the administration, disbursement and management of the Fund to ensure efficiency and effectiveness.

   (2) The regulations—
   (a) specify the sources of monies to the Fund;
   (b) provide guidance on the administration and management of the Fund; and
   (c) provide the financial procedures for the Fund.

3. In these Regulations—

   “Accounting Officer” means the Clerk of the Senate;
   “Administrator” means a person appointed under regulation 10 (2);
   “bank account” means an account opened at a commercial bank for the purpose of Monitoring and Evaluation under these Regulations;
   “Clerk” means the Clerk of the Senate appointed under Article 128 of the Constitution;
   “Commission” means the Parliamentary Service Commission established under Article 127 of the Constitution;
   “Committee” means the Senate Monitoring and Evaluation Committee established under regulation 12;
   “county monitoring and evaluation office manager” means the monitoring and evaluation manager appointed or designated as such for purposes of the Fund;
“county” means a county as prescribed under Article 6 (1) of the Constitution;

“Fund” means the sum allocated to Senators for purposes of carrying out monitoring and evaluation under the Commission’s budget;

“monitoring and evaluation officer” means an officer appointed or designated to advise on technical issues related to the management of the Fund;

“recipient” means a nominated or elected Senator who receives monies from the Fund;

“returns” means documentation indicating expenditure incurred during the monitoring and evaluation exercise;

“Speaker” means the Speaker of the Senate;

“staff” means an employee or employees of a Senator under these regulations.

4. (1) These Regulations shall apply to recipients of funds, the Committee established under Regulation 12 and employees of the Commission involved in the management and administration of the Fund.

(2) The application of these regulations shall be guided by Article 96 of the Constitution which requires the Senate to oversight county governments and protect their interests.

PART II—ESTABLISHMENT OF THE FUND

5. (1) There is established a Fund, the Senate Monitoring and Evaluation Fund.

(2) The Fund shall be utilized to carry out monitoring and evaluation activities in exercise of the Senate’s oversight function over county governments.

6. The Fund shall consist of —

(a) monies appropriated under the Commission’s Budget for monitoring, evaluation and impact assessment;

(b) grants and donations to the Fund received through the Commission; and

(c) any other lawful sources.

7. (1) The object of the Fund is to facilitate a Senator to carry out monitoring and evaluation activities in exercise of the Senate’s oversight role over county governments in accordance with Article 96 of the Constitution.

(2) Without prejudice to subparagraph (1), the Fund shall be utilized in—

(a) undertaking county expenditure tracking surveys;

(b) promoting citizen engagement on issues affecting the counties by undertaking civic education and community sensitization;
(c) initiating a partnership approach with stakeholders at the county level to ensure a strong and more strategic focus on community development;

(d) undertaking research, studies and surveys on various thematic areas affecting counties;

(e) undertaking social auditing of development projects being undertaken in the counties;

(f) tracking and monitoring development activities in the counties; and

(g) any other monitoring and evaluation activity relevant to the Senator’s mandate.

(3) A nominated Senator shall carry out the monitoring and evaluation activities in sub paragraph (2) at the national level in respect of the interest that the Senator represents in the Senate.

(4) Despite sub paragraph (3), a nominated Senator may perform the following functions in the utilization of the Fund —

(a) evaluate programmes that promote and protect the full enjoyment of human rights of women, youth and persons with disabilities by involving them in decision-making processes in all policies and programmes; and

(b) initiate and maintain effective public awareness campaigns designed to promote greater social awareness towards women, youth and persons with disabilities.

8. The minimum allocation to the Fund shall be one billion shillings provided under the Commission’s budget for every financial year, provided that the allocation shall be reviewed upwards from time to time.

9. The allocation to the Fund shall be utilized as follows —

(a) a one percent (1%) administration fee shall be charged on the total fund allocated and shall be retained by the Commission for purposes of facilitating administrative functions of the Fund;

(b) a one percent (1%) of the total fund allocation shall be set aside by the Commission for capacity building of the Senators and their staff;

(c) a six percent (6%) of the total fund allocated shall be set aside for the nominated Senators and this amount shall be divided equally among the nominated Senators; and

(d) the balance shall be shared among the elected Senators according to the formula provided for in Second Schedule of these regulations.

PART III—ADMINISTRATION OF THE FUND

10. (1) The Fund shall be administered through the Senate Monitoring and Evaluation Office established by the Commission.
(2) The Accounting Officer shall in writing, appoint an employee of the Commission as the Administrator of the Fund.

11. (1) The Administrator of the Fund shall—

(a) consult with the Accounting Officer and the Committee on matters relating to the administration of the Fund;

(b) cause to be kept proper books of accounts and other books and records in relation to the Fund, of all activities and undertakings financed by the Fund;

(c) consolidate the required reports under these regulations and submit them to the Committee; and

(d) carry out any other duties assigned by the Accounting Officer.

(2) The Administrator may in writing, delegate to an employee of the Commission to exercise any of the administrator’s powers or the performance of any of the functions under these regulations.

(3) The Accounting Officer shall ensure that the Senate Monitoring and Evaluation Office is resourced with requisite personnel for purposes of the day to day operations and handling of matters related to the management of the Fund.

(4) The Accounting Officer shall open, maintain and manage a separate account with a reputable bank where the monies due to the Fund shall be kept.

(5) The disbursement of monies out of the Fund to the recipients shall be bi-annual.

(6) The Accounting Officer shall with the approval of the Committee established under Regulation 12, introduce additional administrative measures from time to time for effective operation of the Fund.

PART IV—ESTABLISHMENT OF A COMMITTEE

12. The Senate shall in accordance with its Standing Orders, establish a Committee known as the Senate Monitoring and Evaluation Committee consisting of a Chairperson and not more than eight other members to oversee the kitty.

13. The Accounting Officer or the Accounting Officer’s representative shall be the secretary to the Committee.

14. (1) The Committee shall—

(a) consider the bi-annual disbursements out of the Fund;

(b) receive reports on the performance of the Fund from the Administrator;

(c) examine the monitoring programmes being undertaken by the recipients of the Fund;

(d) prepare and submit an annual report on the operations and performance of the Fund to the Senate; and
(e) perform any other function as the Senate may approve.

(2) The business and the affairs of the Committee shall be conducted in accordance with the Senate Standing Orders.

PART V—FINANCIAL PROVISIONS

15. The receipts, earnings, and accruals to the Fund and the balance of the Fund at the close of each financial year, shall be retained by the Fund for use for the purpose for which the Fund is established.

16. The Accounting Officer shall cause to be kept all proper books and records of accounts of the income, expenditure and liabilities associated with the Fund.

17. Within a period of three months after the end of each financial year, the Accounting Officer shall submit to the Commission the accounts of the Fund showing —

(a) a statement of income and expenditure during that year; and

(b) a statement of the assets and liabilities of the Fund on the last day of the financial year.

18. (1) The Administrator of the Fund shall within two months after the end of each financial year, prepare and submit to the Accounting Officer a report of the operations of the Fund for the preceding year.

(2) The Accounting Officer shall submit the report under sub paragraph (1) to the Committee for information.

19. Procurement works and services relating to activities under these regulations shall be governed by the Public Procurement and Asset Disposal Act, 2015.

20. An account approved by the Commission shall be opened with a reputable commercial bank at the nearest location from the county office.

21. At the commencement of every financial year, the county monitoring and evaluation office manager shall be issued with an Authority to Incur Expenditure by the Clerk in that financial year.

22. The signatories to the account opened pursuant to regulation 20 shall be —

(a) the county monitoring and evaluation office manager whose signature shall be mandatory; and

(b) two other signatories appointed by the Senator for that purpose.

PART VI—OFFICES AND STAFFING FOR PURPOSES OF MONITORING AND EVALUATION

23. A Senator shall utilize existing structures in the County Office for purposes of administrative activities in undertaking monitoring and evaluation.
24. (1) A Senator shall recruit for purposes of monitoring and evaluation the following staff to serve in the county office —

(a) the county monitoring and evaluation office manager; and

(b) the monitoring and evaluation officer.

(2) A Senator may recruit additional staff as may be necessary but subject to the ceiling of staff salaries approved by the Commission.

25. (1) A member of staff recruited under regulation 24 shall —

(a) not hold any position in a political party; and

(b) sign a contract of employment which shall be submitted to the Clerk.

(2) A member of staff may at any time give one month’s notice before resignation from employment or surrender one month’s salary in lieu of notice.

26. The county monitoring and evaluation office manager shall—

(a) be the officer in charge of the administrative and institutional management of the finances allocated for monitoring and evaluation;

(b) avail to the Clerk bi-annually, copies of bank statements and any other financial records from the Senator’s allocation;

(c) make purchases as may be necessary to effectively enable monitoring and evaluation;

(d) ensure that the money available is spent in conformity with existing government financial regulations to facilitate quick, efficient and effective delivery of services;

(e) in writing, keep the Senator informed about the transactions of the monitoring and evaluation bank account; and

(f) perform any other duties as may be assigned by the Senator from time to time.

27. The monitoring and evaluation officer shall—

(a) implement monitor and evaluate programs in line with the objectives of the Fund; and

(b) perform any other duties as may be assigned by the Senator from time to time.

PART VII—MISCELLANEOUS PROVISIONS

28. When the office of a Senator falls vacant pursuant to Article 103 of the Constitution, the —

(a) contract signed between the Senator and the member of staff shall become void; and

(b) the county monitoring and evaluation office manager shall be responsible for running the office until a new Senator is elected.
29. (1) Upon the gazettement of a new Senator, the county monitoring and evaluation office manager shall hand over the Commission's property to the Clerk or the Clerk's appointed representative within one month after the gazettement.

(2) The Clerk shall confirm that all handing over procedures have been complied with before making the final payment of dues, if any.

30. Upon winding up of the Fund, the cash balances, assets and liabilities shall be transferred to the Commission.

31. All assets acquired from the Fund shall remain the property of the Commission and shall vest in the Commission.

FIRST SCHEDULE

CONDITIONS FOR DISBURSEMENT

The funds shall be disbursed under the following conditions—

1. All disbursements from the Fund to the respective recipients shall be approved and minuted by the Committee;

2. All disbursements from the Fund's main account shall be made through the recipient's bank accounts maintained for every recipient by the Fund administrator;

3. The record of the amounts received by each recipient and the record of the amounts so received shall be submitted to the Committee within 30 days after the close of the financial year and no disbursements for the succeeding financial year shall be made into the accounts until the said records are duly received;

4. The Committee shall set out general conditions and requirements for release of funds from the Fund to ensure efficient and effective management of the Fund;

5. The Committee may impose reasonable requirements including restrictions on a particular recipient and such restrictions or requirements shall be reported together with the returns to be submitted to the Senate;

6. Returns from the first tranche made to a recipient in any financial year must be filed with the administrator of the Fund by the county monitoring and evaluation office manager two months after the close of the first half of the financial year;

7. Returns from the second tranche made to a recipient in any financial year must be filed with the administrator of the Fund by the county monitoring and evaluation office manager two months after the close of the financial year;

8. No disbursement to any recipient will be processed and approved until the administrator of the Fund is satisfied that the required returns have been adequately filed within the timelines set; and

9. The administrator of the Fund shall develop a schedule showing documentation to be submitted upon filing the returns.
SECOND SCHEDULE

FORMULA FOR ALLOCATING MONIES AMONG THE ELECTED SENATORS

<table>
<thead>
<tr>
<th>PARAMETER</th>
<th>WEIGHT (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Equal Share q</td>
<td>47</td>
</tr>
<tr>
<td>Population s</td>
<td>45</td>
</tr>
<tr>
<td>Size of County r</td>
<td>8</td>
</tr>
</tbody>
</table>

\[ CA = \left( \frac{q \times (\text{BES})}{47} \right) + \left( \frac{r \times (\text{SC})}{\text{TS}} \right) + \left( \frac{s \times (\text{CP})}{\text{TP}} \right) \]

Where:

- CA - Allocation due to Elected Senator
- ES - Equal Share
- CP - County population
- TP - Total Population
- SC - Size of the County
- TS - Total Size

q, r, s - parameter weights where: \( q + r + s = 1 \) or 100%

Dated the 20th March, 2018.

JUSTIN MUTURI,

Speaker of the National Assembly/
Chairperson, Parliamentary Service Commission.